



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS—REGION VII

MAY -7 2007

Allen G. Glendenning
Law Offices of Watkins Calcara
1321 Main, Suite 300
Post Office Drawer 1110
Great Bend, Kansas 67530

Re: OCR Docket # 07072009

Dear Mr. Glendenning:

On November 8, 2006, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint alleging discrimination on the bases of disability and sex against the Northwest Kansas Technical College (College), Goodland, Kansas. This letter is to inform you of our determination regarding this complaint.

The complainant alleged the College discriminated against her because of her disability (hearing loss) and her sex (female). Specifically, the complainant alleged: (1) the College treated her differently than similarly situated male students by excluding her from work assignments and not allowing her to have contact with customers because she is a woman; (2) the College treated her differently than similarly situated nondisabled students by excluding her from work assignments and not allowing her to have contact with customers because she speaks loudly (due to her hearing loss); (3) she was subjected to disability harassment based on comments instructors made to her regarding her hearing loss; and (4) she was subjected to sexual harassment when male students and a teacher exposed themselves to her (the only female in the program) by refusing to close the men's restroom door while using the restroom. The complainant alleged that after she reported the harassment to College officials, the College failed to address her concerns and she was subjected to further harassment.

OCR is responsible for enforcing:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance (FFA).

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Our mission is to ensure equal access to education and to promote educational excellence throughout the nation.

- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities.
- Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106. Title IX prohibits discrimination on the basis of sex in any education program or activity operated by a recipient of FFA.
- Age Discrimination Act of 1975 (Age Act), 42 U.S.C. § 6101, and its implementing regulation, 34 C.F.R. Part 110. The Age Act prohibits discrimination on the basis of age by recipients of FFA.

As a recipient of FFA from the Department and a public entity, the College is subject to Section 504, Title II, Title IX, and the Age Act. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

During the course of the investigation, OCR interviewed the complainant, students, and College staff. In addition, OCR reviewed and analyzed relevant College policies and procedures, as well as information submitted by the complainant and the College. Based on a careful analysis of this information, OCR has made the following determinations.

Allegation 1

The College treated the complainant differently than similarly situated male students by excluding the complainant from work assignments and not allowing her to have contact with customers because she is a woman.

Legal Standard

The regulation implementing Title IX at 34 C.F.R. § 106.31(a) requires that no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient of FFA.

Additionally, the regulation implementing Title IX at 34 C.F.R. § 106.31(b)(2) prohibits recipients of FFA from providing different aids, benefits, or services, or from providing aid, benefits, or services in a different manner on the basis of sex in their programs and activities. The regulation at 34 C.F.R. § 106.31(b)(3) prohibits recipients of FFA from denying any person any aid, benefits or services on the basis of sex in their programs and activities.

OCR applies a different treatment analysis under Title IX when investigating allegations of sex discrimination such as allegation 1. Under the different treatment analysis, OCR will determine whether the College treated the complainant differently than male students regarding work assignments. If different treatment exists, then the College must provide a legitimate, non-discriminatory reason for the different treatment. If the College provides a legitimate non-discriminatory reason for its actions, OCR will determine whether the reason cited by the College is a pretext for discrimination.

Findings of Fact

The complainant enrolled at the College on August 22, 2005, in the Electrical Technology Department. She obtained a 3.2 cumulative grade point average in her first year of study. The complainant enrolled at the College in August 2006 for her second year of study but her student records indicated she was withdrawn in October 2006.

The complainant was the only female in the first year Electrical Technology Program and College records indicated there were 24 males. She was also the only female in the second year Electrical Technology Program and College records indicate there were 30 males.

The complainant alleged she was excluded from work assignments in the community because she is a woman. The complainant stated she was told that she could not have contact with customers because she is a woman. The complainant stated her teachers gave her assignments such as changing light bulbs while the males in the class were involved in large work assignments. She alleged her teachers gave her manual labor projects to finish up, but she was not allowed to get involved with more difficult projects such as wiring schemes, work at the bean processing plant, work at the sunflower plant, or work on the cooler on campus.

The complainant's instructors provided OCR written statements, and OCR interviewed them regarding these allegations. Regarding work assignments, the complainant's first year instructor informed OCR that he places students in a circle and has them work in teams of two to five students from left to right. One person on the team is assigned to be the foreman by the team. The instructor indicated that he would assign specific work to specific students only if no students volunteered for a project. The first year instructor described the complainant as an average to above average student, and indicated he had received calls from two or three clients complimenting her work. He stated the complainant did not ask him to be excluded from attic work.

The complainant's second year instructor described her as an average student. Regarding work assignments, the second year instructor stated that in his class work assignments are determined on a volunteer basis. He indicated he only assigns students to work particular projects if no one has volunteered for the job or he thinks a student needs work on a

particular task. Sometimes if a student completes one assignment, he might give that student another assignment. The instructor stated the complainant excluded herself from some aspects of jobs such as attic work, and he did not have a problem with that. The complainant disputed the instructor's statement that she asked to be excluded from some aspects of jobs such as attic work.

The complainant provided the names of male students in her class who could verify her allegations. OCR interviewed the students who could be reached and were willing to be interviewed. One male student informed OCR that the complainant received the same work assignments that he received, and that she was often the foreman on the jobs they worked together. He stated the assignments were determined by students volunteering for them. This student indicated that as far as he knew, the complainant did the same number of assignments and did the same work, and she was not excluded from work assignments. He said he had no knowledge of the complainant excluding herself from jobs such as attic work.

A second student witness informed OCR that the complainant received the same work assignments that he received. As far as this student knew, the complainant was not excluded from work assignments and she was not told she could not have contact with customers because she is a woman.

A third student witness the complainant identified explained to OCR that students were asked to volunteer for work assignments. If there were no student volunteers, the teachers assigned the work to students. He stated that the complainant had the same work assignments as other students. He stated as far as he knew, the complainant was not excluded from any work assignments, or told she could not have customer contact because she is a woman.

OCR reviewed 164 invoices for labor and materials from the student work assignments for the complainant's classes during the time she attended the College. Of those 164 invoices, 19 were for materials only. Of the remaining 145 invoices, 36 did not identify the students responsible for the work and 109 did identify the students assigned to the job. Using the 109 invoices that identified the students responsible for the work, OCR counted the number of jobs to which each student in the complainant's class was assigned during the time the complainant attended the College. Six students had between one and five assignments; ten students had between six and ten assignments; five students had between 11 and 15 assignments; and five students had between 16 and 20 assignments. The records indicated that the complainant had 15 work assignments while at the College. The invoices indicate the complainant performed duties such as: installing lighting, ceiling fans, chandeliers, closet outlets, hot water dispensers, a computer room light switch, range outlets, dryer outlets, receptacles, and trouble shooting outlet incorrect voltage. These tasks are similar to most of the tasks noted on the invoices and performed by the male students in the classes. Using the invoices provided, OCR could only identify with certainty two jobs that involved working on

a wiring scheme. According to these invoices the complainant did not work on either of these jobs. The records provided to OCR included two invoices for the bean processing plant during the time the complainant attended the College and they were for materials only. Similarly, OCR found only one invoice involving the walk-in cooler in the kitchen on campus, and it was just for materials. OCR could not identify any invoices reflecting work at a sunflower plant during the time the complainant attended the College. OCR attempted to contact the complainant on numerous occasions to determine if she had more information regarding work opportunities. However, the complainant did not respond to OCR's repeated attempts to contact her.

Legal Analysis and Conclusion

As noted above, under the different treatment analysis, OCR first determines whether the complainant was treated differently than similarly situated male students in the Electrical Technology Program. The available evidence does not establish that the complainant was treated differently than male students with regard to work assignments. Generally, the instructors and student witnesses agree that all students in the complainant's class had the opportunity to volunteer for any work assignment they wanted. Both the instructors and the student witnesses indicated they were unaware of any assignments from which the complainant was excluded for any reason, including being female. Evidence provided by student witnesses the complainant identified confirmed that the complainant completed a number of assignments with tasks comparable to those completed by these male students. The available invoices for labor and materials indicated the complainant completed more work assignments than many of the male students in her class and she performed tasks similar to those of male students. The available evidence confirmed the complainant did not work on jobs that involved wiring schemes, the cooler on campus, or jobs at the bean processing plant or sunflower plant. However, the evidence does not establish that all of these work opportunities existed, or if they did exist, that the complainant volunteered for them, and the instructors refused to let her work on them.

The available evidence does not support a finding that the College treated the complainant differently than similarly situated male students in the Electrical Technology Program regarding work assignments. Therefore, OCR concludes there is insufficient evidence to find the College discriminated against the complainant on the basis of sex by excluding her from work assignments and not allowing her to have contact with customers because she is a woman. OCR is closing allegation 1 as of the date of this letter.

Allegation 2 and Allegation 3

The College treated the complainant differently than similarly situated non-disabled students by excluding her from work assignments and not allowing her to have contact with customers because she spoke loudly (due to her hearing loss). The complainant alleged she

was subjected to disability harassment based on comments instructors made to her regarding her hearing loss.

Legal Standards

The following legal standard is applicable to both allegation 2 and allegation 3. The Section 504 regulation at 34 C.F.R. § 104.3(j)(1) defines an individual with a disability as any person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

Findings of Fact

OCR reviewed the complainant's student file from the College. On her August 2005 enrollment Student Data Sheet when asked if she had a handicap/disability or if she was hearing impaired/deaf, the complainant indicated she was not. The following year, on her August 2006 enrollment Student Data Sheet, the complainant indicated she was hard of hearing and hearing impaired when asked if she had a handicap/disability. There is no other documentation that the complainant has a hearing loss or that it is a disabling condition in her student file.

According to the complainant's first year instructor, during the 10-month program from August 2005 until June 2006, the complainant never told him she had a hearing disability. On two occasions he recalled talking to the complainant about how loudly she was speaking because it was disrupting class. However, he stated the complainant never told him she had a hearing loss. The complainant's second year instructor also informed OCR that the complainant did not disclose to him that she had a hearing loss, or ask for any assistance because of it. He stated he was aware of the complainant's situation only because the complainant had indicated on her 2006 Student Data Sheet that she had a hearing loss. The complainant did not appear to him to have a problem hearing in class.

The complainant explained to OCR that she did not disclose her hearing loss on the August 2005 Student Data Sheet, but did report it on the August 2006 Student Data Sheet because she was not being affected by the problem when she enrolled at the College her first year. The complainant acknowledged that she did not ask for any accommodations for her hearing loss. However, the complainant stated she did tell her instructor that she had a hearing loss, and as a result of the hearing loss, she talks loudly. The complainant stated within a few days of class beginning in August 2006, her instructor asked the class if any student had any disabilities, and she told him she had a hearing problem. The complainant said the instructor told her, if she could not hear what he was saying, she could move closer to the front in class, or she could tell the instructor and he would speak louder.

The complainant has not provided OCR with any documentation that she has a hearing loss or that it is a disabling condition. The complainant stated her loss of hearing caused her not to be able to distinguish how loudly she was speaking. The complainant stated she does not need a hearing aid, because there are only certain sounds/pitches she cannot hear. OCR attempted to contact the complainant on numerous occasions to determine if she had more information about the severity of her hearing loss and the affect it has on her ability to engage in major life activities. However, the complainant did not respond to OCR's repeated attempts to contact her.

OCR interviewed three students the complainant identified to verify her hearing loss. One student stated the complainant told him she had a hearing loss, but he did not notice it or know about it until she told him. This student said the complainant may have spoken loudly in class, but he thought it was because she came from a large family and had to speak loudly to be heard. The second student stated he was not aware of the complainant's hearing loss, and he did not notice she had a hearing loss. This student indicated on one occasion the complainant spoke loudly in class, but he thought it was because she was not being heard so she spoke louder. The third student said the complainant told him she had a hearing loss.

Legal Analysis and Conclusion

Before OCR can consider the complainant's allegations of disability discrimination, OCR first must determine whether she is a qualified individual with a disability. As noted above an individual with a disability is any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

The available evidence indicated the complainant did not request any accommodations in the College's program as a result of her hearing loss. Investigative evidence suggested the only reason the complainant's instructors and other students became aware of her hearing loss was that she told them and she noted her hearing loss at the beginning of her second year on the program on her Student Data Sheet. The complainant asserted that her lack of hearing causes her to be unable to distinguish how loudly she is speaking, and there are only certain sounds and pitches she cannot hear and that her hearing loss did not require her to use a hearing aid.

The complainant has not provided OCR or the College with documentation showing she has a hearing loss or that it substantially limits one or more major life activities. Based on this information, OCR concludes there is insufficient evidence to support a finding that the complainant is a qualified individual with a disability as defined in the Section 504 regulation

at 34 C.F.R. § 104.3(j)(1) and § 104.3(l)(3). As a result, OCR is closing allegations 2 and 3 as of the date of this letter¹.

Allegation 4

The complainant alleged she was subjected to sexual harassment when male students and a teacher exposed themselves to her (the only female in the program) by refusing to close the men's restroom door while using the restroom. The complainant alleged that after she reported the harassment to College officials, the College failed to address her concerns and she was subjected to further harassment.

Legal Standard

The Title IX regulation at 34 C.F.R. § 106.31(a) prohibits discrimination on the basis of sex. Sexual harassment of students can be a form of sex discrimination prohibited by Title IX. Sexual harassing conduct can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. A sexually hostile environment can exist if conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program or creates a hostile or abusive educational environment. A school will be liable for sexual harassment under Title IX if the school has notice of the harassment and fails to take appropriate steps to end the harassment, remedy its effects, and prevent further incidents of harassment.

Findings of Fact

The complainant told OCR that when she began class at the College in August 2005, she was the only female in the class, and the men's restroom was located between the carpentry and electrical departments. The complainant stated the male students would not close the restroom door between the two departments. She stated that when she went past the restroom, she could see the men using the restroom. The complainant asked the men to pull the restroom door shut, but they would not. The complainant asked College officials to correct the problem with the door, but they told her it would cost too much money to put in a mechanical door. The complainant stated the last incident of the open restroom door was in June 2006 before the last day of the school year.

OCR has reviewed photographs of the men's restroom in question. The photographs showed the door to the restroom is located on the wall across from the urinals. As a result, individuals using the urinals would be standing with their backs to the door.

¹ OCR finding should not be considered to be a finding whether or not the complainant is an individual with a disability. OCR has concluded that the evidence presently available does not establish the requisite factual basis to support a conclusion that the complainant is an individual with a disability under Section 504.

OCR interviewed the complainant's first year instructor. He stated that one day in the first few weeks of school (August 2005), the complainant told him the boys should start closing the bathroom door while in the bathroom. The instructor told the complainant he would take care of it. The boys made a sign that was put on the men's restroom door, which states, "Keep door closed please." According to the instructor, he and some of the male students in the first year class put screws in the door and put a bungee cord on the door so that it would close. According to the instructor immediately after the complainant complained to him about the problem, the bungee cord was placed on the door to close it. The first year instructor stated the bungee works fine, and it was cheaper than a mechanical door shutter.

Student witnesses confirm that a bungee cord was put on the restroom door to keep it closed and the bungee cord has remained on the door. One student witness stated that because the restroom is located between the carpentry and electrical departments, discussions were held with students in both departments about closing the door and showing more respect for women by closing the door. OCR reviewed pictures of the restroom door, the sign on the men's restroom door, and the bungee cord showing that it does keep the men's restroom door closed.

The complainant acknowledged that during June 2006 one of her friends put a bungee cord on the door so it would close, but she did not consider the issue resolved. The complainant believed the instructors and male students harassed her because they said she made a big issue of the open door.

The complainant informed OCR that on October 4, 2006, her second year instructor told her to go home because she was talking too loudly. The complainant was sent to the president's office and then suspended. The complainant told OCR that on October 6, 2006, she and her mother tried to talk to the president and he threw them out of his office, off the College grounds, and threatened to call the police after her mother told the president she was going to contact the human rights commission. According to the complainant, this situation caused her to have a mental breakdown, and she had to be transported to a hospital. The complainant stated she was still receiving counseling.

According to the instructors, on or about October 2, 2006, the complainant began speaking very loudly in a conversation with them. One of the instructors asked the complainant if she realized she was turning on the trumpets. According to the instructors, the complainant accused one of them of having made over 40 remarks to her about speaking loudly and the other of making three remarks about it. The complainant told them she speaks loudly because she is hard of hearing and they should never say anything to her about it again or it would be sexual harassment. One of the instructors acknowledged having asked the complainant to lower her voice or gesturing with his hand for her to lower your voice a couple of times during the 2005-06 school year, but denied making repeated, harassing remarks to the complainant about speaking loudly. The other instructor stated the October

2 incident was the first time he had ever addressed the complainant's speaking volume with her. Student witnesses identified by the complainant stated they had not heard these instructors make repeated, harassing remarks to the complainant about speaking loudly.

The president informed OCR that on October 4, 2006, the director of instructional services informed him that the complainant was refusing to leave the classroom after the instructor asked her to leave, and he ordered the complainant to come to his office. When the complainant came to his office, the president requested the director of instruction to sit in on the meeting. The president asked the complainant what had happened, but she refused to talk to the president without her lawyer or her mother being present. The president suspended the complainant until October 6, 2006, because he was going out of town and he wanted to avoid any further incidents in his absence before the situation could be resolved. The president set up another appointment with the complainant for October 6, 2006, and requested that the complainant write out her concerns before they met again.

On October 6, 2006, the complainant and her mother met with the president and the director of instructional services. The complainant's mother wanted to know why the complainant had been suspended. According to the president, he told her mother the complainant was not participating in class, and that the situation was disrupting the class. The president explained to the complainant's mother that the director of instruction had asked the complainant to leave class, and she refused. Further, when the president asked the complainant to explain the problem, she would not discuss it with him. The president explained that he suspended the complainant because he was leaving town and did not want a problem during the time he was going to be gone.

According to the president, the complainant told him her instructor told her she was too loud and that this would not be tolerated in the workplace. The complainant also told the president that her first year instructor told her she was a woman in a man's world and that she should quit. The president indicated he was surprised to hear this because during in-services for faculty, this kind of issue is discussed to a great extent and such comments are not considered appropriate by the College. The president said he requested again that the complainant write out her concerns and that after he had an opportunity to review them he would set up a conference with both instructors to resolve the situation. According to the president, the complainant's mother said she would be reporting the College to the human rights commission and they would be investigating the College. The president noticed the complainant's mother was recording the conversation, and asked her to stop. After she refused, the president ended the meeting. The complainant and her mother then left the president's office.

Later that afternoon the president learned the complainant had returned to classes, and told the instructor to send her back to the office. The complainant and her mother returned to the president's office 30 minutes later. Her mother had a tape recorder on. The president

told her mother it was illegal for her to record a conversation without permission. According to the president, the complainant's mother finally turned off the recorder, but when the president asked for the tape, she refused. The president informed the complainant and her mother that they were to leave campus. The director of instructional services confirmed the president's statements.

The president escorted the complainant and her mother to the classroom to pick up the complainant's belongings. According to the president, the complainant's mother started yelling and screaming, opening classroom doors and yelling that the president kicked the complainant out. The president told the complainant's mother to leave the building or he would call police and have them both removed. The complainant's mother continued to stay in the building but stopped yelling. According to the president, after the complainant assembled her belongings, she and her mother left.

The complainant's student file showed the College sent the complainant a certified letter on October 13, 2006, notifying the complainant of a hearing concerning possible expulsion from the College. The letter was received by a family member on October 14, 2006. The hearing was scheduled for October 17, 2006. The letter stated the hearing committee would review the complainant's classroom conduct on October 4, 2006, and prior days which disrupted the educational environment, the complainant's disobedience to the instructor and administrators in failing to discontinue her disruptive conduct in the class, and the complainant's subsequent outbursts which substantially invaded the rights of the other students in an orderly classroom environment. The letter also stated that the complainant should contact the president 24 hours prior to the hearing to indicate if she wanted the hearing. If the complainant did not contact the College, then the hearing would be considered waived by the complainant.

The complainant's student file showed a telephone message from the High Plains Mental Health Center (Center) dated October 16, 2006, stating that a person from the Center was calling on the complainant's behalf because she had received the October 13 letter. The note documenting the telephone message stated the complainant wanted to cancel the meeting on October 17, 2006. The president called the Center for clarification of what "cancel the meeting" meant. When the president contacted the individual at the Center who had called him, that individual (a psychologist) informed the president because of confidentiality rules and regulations, no information could be provided. Because the complainant did not present herself and no one was present representing her at the October 17 hearing, the hearing was presumed waived, and the complainant was withdrawn from the College effective October 6, 2006.

Legal Analysis and Conclusion

The complainant alleged she was subjected to sexual harassment when male students and a teacher exposed themselves to her (the only female in the program) by refusing to close the men's restroom door while using the restroom in August 2005. As noted above, a school would be liable for sexual harassment under Title IX if the school has notice of the harassment and fails to take appropriate steps to end the harassment, remedy its effects, and prevent further incidents of harassment.

In this case, the College does not dispute that when the complainant began classes at the College in August 2005, the door to the men's restroom did not have a closer and may have been left open by male students. The College also does not dispute that the complainant reported the door being open to her first year instructor. The evidence indicated, however, that the first year instructor and some male students immediately took appropriate corrective action by placing a sign on the door which stated, "Keep Door Closed Please," placing a bungee cord on the door to keep the door closed, and having discussions regarding the need to be more respectful of women by keeping the restroom door closed. Although the bungee cord is not a mechanical door shutter, the instructor and students interviewed stated the bungee cord was still in use and continues to keep the restroom door closed. To whatever extent the open restroom door may have created a sexually hostile environment for the complainant, the evidence indicated the College took appropriate steps to correct the problem and prevent it from recurring.

Regarding the harassment the complainant alleged occurred after she complained about the restroom door to College officials, the available evidence does not indicate that the complainant was harassed because she speaks loudly or has a hearing loss. The instructors denied making any harassing remarks about the complainant's speaking volume. The student witnesses the complainant identified did not confirm her assertion that these instructors harassed her because of her loud speech. Further, the evidence indicated College officials attempted to address the complainant's concerns about harassment during meetings on October 4 and October 6, 2006. The complainant refused to talk to the College president until her mother was present, and refused to write down what had happened. The available evidence regarding the October 6 meeting demonstrated that the complainant and her mother were disruptive, uncooperative, and unwilling to work with the College to address the complainant's concerns.

Based on the above information, OCR concludes that the College took appropriate steps to address the complainant's concern about the door to the men's restroom, and the complainant was not subjected to continued harassment about speaking loudly after she complained about the restroom door. There is insufficient evidence to support a finding that the College has violated Title IX by failing to respond to the complainant's complaint about sexual harassment at the College. There is also insufficient evidence to support the

complainant's allegation that she was subjected to harassment because she complained about the restroom door.

Other Concerns

Prompt and Equitable Grievance Procedures

Legal Standard

The Title IX regulation implement § 106.8(b) requires that recipients adopt and publish a grievance procedure for the prompt and equitable resolution of complaints alleging any action prohibited by the regulation. In determining whether a recipient's grievance procedures meet the prompt and equitable requirement under § 106.8(b), OCR will look at whether the recipient has included elements such as: (1) notice to students and employees of the procedures and where to file a complaint; (2) mechanisms for a thorough and objective investigation of complaints including an opportunity for complainants to present evidence; (3) designated timeframes for the investigation and resolution of complaints; (4) notice to complainants of the disposition of complaints; and (5) the right to appeal the findings.

Title IX does not require a school to provide a separate grievance procedure solely applicable to sexual harassment complaints. Rather, Title IX permits the use of a student grievance procedure not designed specifically for Title IX grievances to resolve sex discrimination complaints, including complaints of sexual harassment, as long as the procedures provide prompt and equitable resolution of complaints.

Findings of Fact

The College contends that it has appropriate complaint, grievance procedures and sexual harassment policies in effect. Further, the College maintains that these policies are available to resolve student complaints. The College has a Sexual Harassment Policy (SHP) in the student catalog which includes investigation and resolution of complaints of sexual harassment. The catalog also includes a Student Complaint Policy (SCP) to address student issues, problems, and concerns relating to College facilities, services, and academic functions, including discrimination. The SCP resolution process differs from the resolution process in the SHP. In addition, the catalog contains a Grievance Procedure (GP) that may be used after the SCP or to appeal a decision under the SHP. It is not clear whether a student alleging sexual harassment should pursue a complaint through the SHP, the SCP, or both, or whether the student may use either the SCP or SHP, before pursuing a grievance with the College.

The College's SHP states:

Any person who believes he or she has been subjected to sexual harassment should follow these procedures:

An aggrieved person may directly inform the person engaging in sexually harassing conduct or communication that such conduct or communication is offensive and must stop.

If an aggrieved employee or student does not wish to communicate directly with the person whose conduct or communication is offensive or if direct communication with the offending person has been ineffective, the employee or student should contact the department instructor or appropriate college personnel. All complaints of sexual harassment shall be in writing and shall be reported to the President as soon as possible after the complaint has been received by any employee at NWKTC. The NWKTC President will be responsible for investigation and recommending a resolution of all complaints... At the conclusion of the investigation, a President shall recommend a resolution. The aggrieved person or the alleged offender may appeal the decision using the established NWKTC procedures.

The College's SCP has an informal and formal stage. The informal stage involves dialog and direct discussion with the person(s) closest to the complaint to resolve the complaint. A student alleging discrimination may skip the informal process and start with the formal process. Specifically, the SPC states:

If a student feels that there has been a misunderstanding, discrimination, harassment, disagreement or they question the procedures or practices of NWKTC... the student may ... proceed ... to seek the resolution through a Formal Written Complaint. The following example uses an Academic Complaint as an example to demonstrate the process. When the problem is not academic, start with the appropriate person. . . .

Formal

5. Discuss the problem with the Executive Secretary and file a Formal Complaint Form.
6. Discuss the problem with the Director of Instructional Services (If it is an Instructional problem regarding Curriculum, faculty or related Staff; or Interpersonal with them or with classmates). The student will have already filed the complaint with the Executive Secretary; the complaint will have been forwarded to the Director of Instructional Services who will invite him/her to discuss the complaint.

7. The student will wait for the Director, Counselor and others to provide a Hearing, if needed.
8. The student will wait to get the Hearing results and learn the Resolution.
9. The student will check back with the Executive Secretary on any progress.
10. The student may file a Grievance or an Appeal or go directly to the President's Office
11. The student may discuss the problem with the President of the College after Steps 5 through 10, as an absolute last resort. The student may not write out something and "call it" a Grievance or an Appeal and go directly to the President's Office. After the complaint is acted upon, and if the student disagrees with the Resolution (5 through 10 above) he/she may then Appeal the complaint Resolution, in writing, on a Complaint Form from the Executive Secretary, which will be forwarded to the President. The President will then invite the student to discuss the outcome...

The College's GP states:

The following steps shall be taken consecutively in starting a grievance and no step may be commenced unless the preceding step has been concluded. The time limits specified below are to insure prompt action and not as a defense against, or for, the grievance. Time limits may be extended by mutual consent of both parties within the respective step. No extension of time shall be greater than 15 college days.

Step 1

A grievance should be submitted in writing to the President of NWKTC. The grievance must be dated and signed by the student. The President is to meet with the individual(s) submitting said grievance within five (5) college days.

Step II

The student may, within five (5) college days from the decision in Step 1, appeal the decision in writing to the chairman of the Student Welfare Committee of the Area Advisory Board. The Chairman of the Student Welfare Committee shall then arrange to hear the grievance prior to the next regularly scheduled meeting of the Area Board of control of the NWKTC. Once the hearing has been held and the grievance considered by the committee, a decision shall be rendered to the individual(s) within five (5) college days. ...

Step III

Using the same procedure as outlined in Step I and Step II, the student may appeal the decision of the grievance to the entire Area Board of Control of NWKTC.

Regarding element 1 of a prompt and equitable grievance process, notice to students of the procedures and where to file complaints, the SHP states the student should contact the department instructor or appropriate College personnel to initiate the process. The SHP does not identify appropriate College personnel. Whoever receives the complaint under the SHP is to report it to the president as soon as possible. The SCP states that a student should contact the executive secretary with discrimination complaints. The GP states a grievance should be submitted to the president.

Concerning element 2 of a prompt and equitable grievance process, mechanisms for a thorough and objective investigation of complaints including an opportunity for complainants to present evidence, the SHP requires the president to conduct an investigation, but provides no guidelines for conducting the investigation including the scope of the investigation, identification of witnesses, confidentiality, and documentation or recordkeeping. In the SCP the informal procedure has no provision for the investigation of the complaint. The formal procedure also has no provisions for an investigation of the complaint, although it requires discussion of the complaint and allows a hearing if needed. The SCP provides absolutely no information about the hearing process. The College's GP also has no provisions for an investigation of the complaint.

Regarding element 3 of a prompt and equitable grievance process, designated timeframes for the investigation and resolution of complaints, the SHP does not have designated timeframes for the completion of each step of the process. The SCP also does not have designated timeframes, although it allows a complainant to proceed with a grievance if there is a long delay in the SCP process. The GP does have timeframes for completion of each step of the process.

Concerning element 4 of a prompt and equitable grievance procedure, notice to complainants of the disposition of complaints, the SHP does not require notice to complainants of the disposition of complaints, although the president is required to recommend a resolution and the aggrieved person or the alleged offender may appeal the decision using the GP. The SCP does not require specific notice to a complainant of the disposition of the complaint, although the complainant is invited to discuss the outcome with the president. The GP does not require notice to complainants of the disposition of complaints at Step I or Step III.

Regarding element 5 of a prompt and equitable grievance procedure, the right to appeal the findings, the SHP allows the aggrieved person or the alleged offender to appeal the decision

using the GP. The SCP also provides for an appeal using the College's GP. Step II of the GP is to appeal the grievance to the entire Area Board of Control.

Legal Analysis and Conclusion

As noted above, the regulation implementing Title IX at § 106.8(b) requires that recipients adopt and publish a grievance procedure for the prompt and equitable resolution of complaints alleging any action prohibited by the regulation. In determining whether the College's Title IX grievance procedures meet the prompt and equitable requirement under § 106.8(b), OCR considered whether the College has included elements such as: (1) notice to students and employees of the procedures and where to file a complaint; (2) mechanisms for a thorough and objective investigation of complaints including an opportunity for complainants to present evidence; (3) designated timeframes for the investigation and resolution of complaints; (4) notice to complainants of disposition of complaints; and (5) the right to appeal the findings.

OCR has determined that the College's current policies and procedures applicable to complaints of discrimination under Title IX do not provide prompt and equitable resolution for complaints. There are two different procedures applicable to complaints of sexual harassment, namely the SHP and the SCP. These complaint processes are initiated in different ways: the SHP by contacting either the department instructor or the appropriate college personnel, and the SCP by contacting the executive secretary. The SHP does not identify who the appropriate College personnel are. The College's procedures do not clearly explain how these two procedures are related and which process a student must complete before pursuing a grievance. As a result, the College's procedures do not provide clear notice to students of the applicable procedures and where to file a complaint. Additionally, none of the three procedures, the SHP, SCP or the GP, contain adequate provisions for the investigation of complaints of discrimination under Title IX. Neither the SHP nor the SCP have designated timeframes for the investigation and resolution of complaints. Neither the SHP nor the SCP require specific notice of the disposition of the complaint to complainants. The GP requires notice to complainants of the decisions made at Step II, but not Steps I and III of the process.

Based on the above, OCR has determined the College has failed to provide grievance procedures for the prompt and equitable resolution of Title IX complainant and is in violation of the regulation implementing Title IX at 34 C.F.R. § 106.8(b).

Post-admission Disability Inquiries

Legal Standard

The Section 504 regulation at 34 C.F.R. § 104.42(b)(4) regarding confidential inquiries states a recipient may not make preadmission inquiry as to whether an applicant for admission is a disabled person but, after admission, may make inquiries on a confidential basis as to disabilities that may require accommodation.

Findings of Fact

The College's Student Data Sheet is completed by students after they are admitted to the College. The Student Data Sheet asks students whether they have a handicap/disability, and asks students to identify their particular disability using ten categories: learning disabled, mentally retarded, emotionally disabled, visually handicapped, hearing impaired/deaf, speech impaired, orthopedically impaired, autistic, traumatic brain injury or other. The Student Data Sheet does not make any inquiry as to the student's need for accommodation for the identified disability and does not provide any guidance to students who want to request academic adjustments or auxiliary aids.

The president informed OCR that the College inquires about disability on the Student Data Sheet in order to gather information to report to the Kansas Board of Regents which in turn is reported to the Federal government. The president indicated that Carl Perkins funds are focused on students with special needs. Information regarding the number of students at the College with disabilities is gathered and reported in connection with Carl Perkins funds.

According to the president, the information contained in the Student Data Sheets is entered into the College's computer database. The hard copy of each Student Data Sheet is placed in each student's file and stored in the College's locked vault. The president stated that the executive secretary has access to the vault. Information from the Student Data Sheet stored on the College's computer database can be accessed by secretaries on campus. Faculty members may also be able to access information from the Student Data Sheet through the College's computer database.

The complainant explained to OCR that she disclosed on her August 2006 Student Data Sheet that she had a hearing loss. She stated within a few days of class beginning in August 2006, her instructor asked the class if any student had any disabilities, and she told him she had a hearing problem. The complainant said the instructor told her, if she could not hear what he was saying, she could move closer to the front in class, or she could tell the instructor and he would speak louder. The complainant's first year instructor, when asked how he handles a situation when a student has a disability, stated he asks students in class if they have a disability. He gives the student an opportunity to explain the disability. The complainant's second year

instructor informed OCR that he was aware of the complainant's hearing impairment because the complainant had indicated on her 2006 Student Data Sheet that she had a hearing loss. He stated he let the complainant pick a chair close to the front of the class.

The president informed OCR that if a student with a disability brings their needs to the attention of the administration, the counseling department will arrange for the needed services. The president indicated that the College's procedures for providing academic adjustments to students with disabilities were in the College's catalog. He directed OCR to a section in the 2006-2007 Catalog entitled Special Needs Services which states:

Special Needs Services

Counseling

Students may receive assistance in personal or career counseling. Our counseling services include referral services, academic counseling and aptitude testing and interest inventory.

Resource Center

Developmental classes in math, reading and study skills are available at the resource center. Assistance is provided in test taking skills and it is a place students may come to study.

Computer Lab

A computer lab located in the administration building is available for students to work on their computer skills and for their personal use to access email and the internet.

Tutoring

Student tutors are provided through the college work-study program to tutor a student with classroom assignments and studying for tests and quizzes.

Academic Testing

Students are given aptitude tests to determine academic skills in math, reading, and career skills. These tests are administered individually or in groups with results being discussed with the student.

AA Support Groups

Monday, Tuesday, Wednesday, Thursday, and Saturday at 8 p.m., at 1013 Center, Goodland; Tuesday and Thursday at 8:30 p.m. Colby at the City Building and on Wednesday and Saturday on 6th Street in Colby; Thursday at 8:30 p.m. St. Francis; Tuesday at 8:00 p.m. in Atwood.

Vocational Rehabilitation

Kansas, Colorado and Nebraska vocational rehabilitation services are provided for students with handicaps and disabilities. Career counseling, financial assistance, tutoring and personal counseling are among the services provided for vocational rehabilitation. Contact the student services office for more information.

Legal Analysis and Conclusion

The Section 504 regulation at 34 C.F.R. § 104.42(b)(4) regarding disability inquiries provides that after admission, a recipient may make inquiries on a confidential basis as to disabilities that may require accommodation. The evidence indicated that the College includes a post-admission inquiry regarding disability on the Student Data Sheet. The purpose of the inquiry is to gather information on the number of students with disabilities at the College in connection with financial aid, rather than to inquire as to the student's need for accommodation as required by the regulation implementing Section 504. Further, the available evidence indicates the College does not maintain the confidentiality of the disability information obtained on the Student Data Sheet. The information is available to secretaries and faculty even when the student has not requested accommodation for a disability. Although complainant's instructor used the information to identify the complainant as a student with a disability and to offer assistance to her, the complainant had not requested any academic adjustments or auxiliary aids because of her hearing.

Additionally, the evidence indicated her first year instructor who asked during class whether anyone in the class had a disability made a second post-admission inquiry regarding the complainant's disability. Although the instructor's intention may have been to identify students with a disability so he could provide assistance as needed, such an inquiry is not confidential as required by the regulation implementing Section 504. The College's lack of a procedure for students with a disability to confidentially identify themselves and request academic adjustments or auxiliary aids may contribute to the presence of inappropriate post-admission inquiries regarding disability at the College and the lack of confidentiality regarding student disability information in the College's possession. Based on the above information, OCR concludes that the College failed to comply with the regulation implementing Section 504 at 34 C.F.R. § 104.42(b)(4).

Non-Discrimination Policy and Title IX Policy

Legal Standard

- Under the Section 504 regulation at 34 C.F.R. § 104.7(a), a recipient that employs 15 or more persons must designate at least one person to coordinate its efforts to comply with the Section 504 regulation. 34 C.F.R. § 104.8(a) also requires a recipient

to identify the individual designated to coordinate its efforts to comply with Section 504 in this notification. In addition, the Section 504 regulation at 34 C.F.R. § 104.8(b) states if a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it must include in those materials or publications a statement of the policy of nondiscrimination on the basis of disability.

- The regulation implementing Title IX at 34 C.F.R. § 106.8(a) requires recipients to notify its students and employees of the name, office address, and telephone number of the individual responsible to coordinate its efforts to comply with Title IX.
- The regulation implementing the Age Act at 34 C.F.R. § 110.25 requires recipients to identify for their beneficiaries the individual responsible for coordinating their efforts to comply with the Age Act by name or title, address, and telephone number.

Findings of Fact

The College has both a Title IX Policy and a Notice of Nondiscrimination Statement in its handbook. The Title IX policy states:

Title IX Policy - Civil Rights

Northwest Kansas Technical College does not discriminate on the basis of race, color, national origin, gender, age, or handicap in admission or access to or treatment of employment in its programs and activities. For additional clarification, please contact: Title IX Coordinator, Kenneth Clouse, NWKTC, 1209 Harrison, Goodland, Kansas 67735, (785) 890-3641.

The Notice of Nondiscrimination is included in the catalog and the Electrical Technology handbook and states:

Office of Civil Rights, Non-Discrimination Statement

Northwest Kansas Technical College complies with the requirements of the Civil Rights Act of 1964 and the Department of Education. The Northwest Kansas Technical College does not discriminate on the basis of race, color, national origin, gender, age, religion, handicap in admission or access to or treatment of employment in its programs and activities. If you have questions regarding the above, please contact:

Kenneth A. Clouse	Paul Chaffin
P.O. Box 668	P. O. Box 668
Goodland, Kansas 67737	Goodland, Kansas 67735
(785) 890-3641	(785) 890-3641

The application for enrollment also includes a Notice of Nondiscrimination which states:

NWKTC does not discriminate on the basis of race, color, national origin, gender, age, or handicap in admission or access to, or treatment of employment in the programs and activities. For clarification, please contact: Kenneth A. Clouse, Title IX Coordinator at: NWKTC, 1209 Harrison, P.O. Box 668, Goodland, Kansas 67735, (785)890-3641.

Legal Analysis and Conclusion

The College has two Notices of Nondiscrimination in the catalog and handbook. One of them identifies a Title IX coordinator, but does not identify either a Section 504 coordinator or an Age Act coordinator. The other one identifies two contact persons, but does not designate either of them as the coordinator of Title IX, Section 504, or the Age Act. The College's Title IX Policy only identifies a Title IX coordinator. By failing to designate and identify coordinators for Title IX, Section 504, and the Age Act respectively in its Notice of Nondiscrimination, the College is in violation of the Section 504 regulation at 34 C.F.R. § 104.8(a) and (b), the Title IX regulation at 34 C.F.R. § 106.8(a), and the Age Act at 34 C.F.R. § 110.25(a) and (b).

Notice Accessible Services, Activities, and Facilities

Legal Standard

The Section 504 regulation at 34 C.F.R. §104.22(f) states that a recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

Findings of Fact

OCR reviewed the College's catalog, application, and student handbooks. Those documents do not include a notice to ensure interested persons may obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons.

Legal Analysis and Conclusion

Recruitment materials or publications containing general information that the College makes available to participants, beneficiaries, applicants, or employees do not include any information regarding accessible services, activities, and facilities. The College has not ensured that all interested persons, including applicants, may obtain information regarding the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons. Therefore, the College is not in compliance with the Section 504 regulation at 34 C.F.R. §104.22(f).

Marital Status

Legal Standard

The Title IX regulation at 34 C.F.R. § 106.21(c)(4) states that a recipient shall not make pre-admission inquiry as to the marital status of an applicant for admission, including whether such applicant is "Miss" or "Mrs."

Findings of Fact

The application for enrollment form used by the College requests under personal information an applicant's maiden name. In addition, in a second section on the application for enrollment, the College asks for marital status. In the second section, the application states the information will be used for statistical purposes only. The application does not inform applicants that providing the information is voluntary or that the information will not be used in the admission process.

Legal Analysis and Conclusion

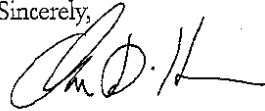
The Title IX regulation at 34 C.F.R. § 106.21(c)(4) prohibits recipients from making pre-admission requests for marital status information. However, OCR policy allows an institution to solicit this information on a voluntary basis if the institution states clearly on its application form: (1) the individual is not required to provide the information; (2) the information will not be used as a factor in the admissions process; and (3) the use to which the institution will put the information. In this case, the College's application requests the applicant's maiden name, which is indicative of marital status, as well as the applicant's marital status. The College's application for enrollment form does not inform applicants that providing marital status information is voluntary and that the information will not be used in the admission process. Therefore, OCR concludes the College is in violation of the regulation implementing Title IX at 34 C.F.R. § 106.21(c)(4).

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During telephone conversations with OCR, the College expressed a desire to enter into a Resolution Agreement that would resolve the compliance concerns OCR has identified above. On May 3, 2007, the College voluntarily submitted the enclosed Resolution Agreement, which once implemented, will resolve the identified compliance issues. Consequently, OCR considers this complaint resolved as of the date of this letter. OCR will monitor the College's implementation of the Resolution Agreement. Failure to satisfy the terms of the Resolution Agreement will result in further action by OCR.

Thank you for your cooperation in this matter. If you have any questions, you may contact Patricia Boyd, Equal Opportunity Specialist, at (816) 268-0554 or (877) 521-2172 (telecommunications device for the deaf), or by email at Patricia.Boyd@ed.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "A.D. Hughes", written over a horizontal line.

Alan D. Hughes
Supervisory Attorney

Enclosure

RESOLUTION AGREEMENT
Northwest Kansas Technical College
07072009

The Northwest Kansas Technical College (College), Goodland, Kansas, submits the following Resolution Agreement (Agreement) to the U. S. Department of Education, Office for Civil Rights (OCR), to resolve the above referenced complaint. This complaint was filed and is resolved pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 104; Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681, and its implementing regulation, 34 C.F.R. Part 106; and the Age Discrimination Act of 1975 (Age Act), 42 U.S.C. § 6101, and its implementing regulation, 34 C.F.R. Part 110.

This Agreement addresses the College's responsibility to develop and implement an appropriate grievance procedure that is applicable to complaints of discrimination on the basis of sex, including complaints of sexual harassment. The Agreement contains provisions that address the College's obligation to inform persons about their protection against discrimination on the basis of sex, race, color, national origin, age, and disability; to designate individuals to coordinate the College's civil rights compliance efforts; and to publish its notice of nondiscrimination as required by the regulations implementing Section 504, Title II, Title IX, and the Age Act. The Agreement contains provisions that address the College's obligations regarding post-admission disability inquiries pursuant to the Section 504 regulation at 34 C.F. R. § 104.42(b)(4). The Agreement also contains provisions that address the College's obligation to adopt and implement procedures to ensure that interested persons can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by handicapped persons as required by the regulations implementing the Section 504 regulation at 34 C.F.R. §104.22(f). In addition, the Agreement contains provisions that address the College's obligation not to make pre-admission inquiry as to the marital status of an applicant for admission as required by the regulations implementing Title IX at 34 C.F.R Section 106.21(c)(4). By entering into this agreement, the College does not concede that it is now or has been out of compliance with or in violation of the herein mentioned laws, rules and regulations.

Specifically, the College agrees to take the following actions.

1. By December 1, 2007 the College will revise its grievance procedures for complaints of discrimination on the basis of sex, including complaints of sexual harassment. The College may consult with OCR for technical assistance in developing its grievance procedure. The College will designate an individual to investigate complaints involving discrimination on the basis of sex, including complaints of sexual harassment. The grievance procedure must also include the following:

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- a. A statement that the grievance procedure is applicable to complaints alleging discrimination on the basis of sex, including allegations of sexual harassment;
 - b. A requirement that all complaints will be promptly and thoroughly investigated within reasonable designated time frames and if sexual harassment is established, appropriate corrective and remedial actions are taken;
 - c. Provisions for maintaining the confidentiality of the person who files a complaint; and
 - d. Notice that retaliation against a person who files a complaint of discrimination, including sexual harassment, or persons who participate in related proceedings is prohibited.
2. By December 1, 2007, the College will submit to OCR a copy of its grievance procedure applicable to complaints of discrimination on the bases of race, color, national origin, and sex including complaints of sexual harassment.
 3. By June 30, 2008 the College will disseminate its sexual harassment policy and Title IX grievance procedure to all students and employees by:
 - a. Publishing the sexual harassment policy and grievance procedure in the catalog, and student and employee handbooks; and
 - b. Posting the sexual harassment policy and grievance procedure in prominent locations at its facility.
 4. By June 30, 2008, the College will submit to OCR a copy of the catalog, and student and employee handbooks that contain its sexual harassment policy and grievance procedure. The College will also submit to OCR photographs and descriptions of the location the sexual harassment policy and grievance procedure are prominently displayed at the College.
 5. As such documents are published, but no later than June 30, 2008, the College will publish its notice of nondiscrimination in an easily visible location in publications containing general information about the College, including student and employee handbooks, announcements, bulletins, catalogs, application forms and other documents that it makes available to students, parents, employees, and other interested persons.

6. By June 30, 2008, the College will submit to OCR copies of publications containing general information about the District, including student and employee handbooks, announcements, bulletins, catalogs, application forms and other documents that it makes available to students, parents, employees, and other interested persons, which contain the notice of nondiscrimination.
7. By December 1 2007, the College will provide training for students and employees regarding the College's sexual harassment policy and grievance procedure.
8. By December 1 2007, the College will submit to OCR documentation that evidences completion of Item 7 of this Agreement. Such documentation should include the date(s) of the training session(s), an outline on the content of the training, the name and position title of the trainer(s), and a sign-in sheet identifying the participants at the training session.
9. By October 1, 2007, the College will provide notice to interested persons of its procedures regarding accessible services, activities, and facilities as required by the Section 504 regulation at 34 C.F.R. §104.22(f).
10. By October 1, 2007 the College will provide OCR with written documentation that item #9 has been completed.
11. By October 1, 2007 the College will remove all pre-admission inquiries as to the marital status of an applicant for admission as required by Title IX regulation at 34 C.F.R Section 106.21(c)(4).
12. By October 1, 2007, the College will provide OCR with written documentation that item #11 has been completed.
13. By December 1, 2007, the College will submit to OCR for approval a policy or procedure for providing academic adjustments and/or auxiliary aids to qualified students with a disability. This policy or procedure will be consistent with the requirements of the Section 504 regulation at 34 C.F. R. § 104.43 and § 104.44. The policy or procedure will ensure that no qualified student with a disability is excluded on the basis of disability from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any course, course of study, or other parts of the College's education program or activity. The policy or procedure will, at a minimum, ensure that there is a clear method available for a student with a disability to request academic adjustments and/or auxiliary aids necessary to allow the student full participation in the College's program of instruction. The policy or procedure

will identify the College's obligations to provide academic adjustments and/or auxiliary aids to students with a disability; identify who a student with a disability should contact and what information a student should provide in order to obtain academic adjustments and/or auxiliary aids; identify how the College will make decisions regarding whether academic adjustments and/or auxiliary aids are necessary, and if so, which academic adjustments and/or auxiliary aids are necessary; identify the procedures the College will follow if there is a dispute between the College and a student about which academic adjustments and/or auxiliary aids are necessary and will be provided; and identify procedures to ensure that decisions and information regarding which academic adjustments and/or auxiliary aids to be provided to students with disabilities are communicated to faculty and staff.

14. By June 30, 2008 the College will: (1) disseminate the policy or procedure mentioned in paragraph 13 to students, faculty, staff, administrators, and the Section 504 Coordinator; and (2) print the policy or procedure in the College's documents, to include the catalog, student handbook, faculty handbook, web site, course packets, and course syllabi templates.
15. By 30 days after approval by OCR of the policy and procedure for providing academic adjustments and/or auxiliary aids, the College will provide training to those personnel who are involved in providing academic adjustments and/or auxiliary aids to disabled students (faculty, staff, administrators, and the Section 504 Coordinator) regarding the policy or procedure for providing academic adjustments and/or auxiliary aids to disabled students, and the College's obligation to maintain the confidentiality of student disability information. Thereafter, the College will ensure that all new College staff is trained on the procedure for providing academic adjustments and/or auxiliary aids to disabled students, and the College's obligation to maintain the confidentiality of student disability information within 30 days of the commencement of their employment with the College.
16. By 15 days after the initial training set forth in paragraph 15, the College will provide OCR with evidence that training has been provided to those personnel who are involved in providing academic adjustments, including the training materials and a roster of attendees.
17. By October 1, 2007, the College will revise its Student Data Sheet to ensure that any post-admission inquiries regarding disability comply with the regulation implementing Section 504 at 34 C.F.R. § 104.42(b)(4).

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Kenneth A. Clouse
President
Northwest Kansas Technical College

5/3/07
Date