



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION IV

61 FORSYTH ST., SOUTHWEST, SUITE 19T10
ATLANTA, GA 30303-8927

REGION IV
ALABAMA
FLORIDA
GEORGIA
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January 27, 2014

Dr. James H. Richey
President
Eastern Florida State College
1519 Clearlake Road
Cocoa, Florida 32922

Re: OCR Complaint # 04-13-2625

Dear Dr. Richey:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), completed its investigation of the above-referenced complaint filed on September 4, 2013, against Eastern Florida State College (College), alleging that a XXXXX professor refused to allow the Complainant the use of an approved accommodation (audio recording device), and that the College subsequently retaliated against him after he complained to the Office for Students with Disabilities (OSD) by forcing him out of the class, enrolling him in a completely different course and penalizing him with absences in that course.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department, and 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, which prohibit discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and a public entity, the College is subject to these laws.

OCR opened the following issue for investigation:

Whether the College provided a comparable process and met appropriate legal standards when investigating the Complainant's discrimination and retaliation complaint that he filed with the College on September 1, 2013, in compliance with Section 504 implementing regulation at 34 C.F.R. §§ 104.4(a), (b)(1)(i)-(ii) and 104.7(b), and the Title II implementing regulation at 28 C.F.R. §§ 35.130(a), (b)(1)(i)-(ii) and 35.107.

Pursuant to Section 302 of OCR's Case Processing Manual (CPM), a complaint may be resolved when, before the conclusion of an investigation, the recipient requests to resolve the complaint. Based on the foregoing, OCR accepted the College's request to resolve this complaint. On January 23, 2014, OCR received the enclosed signed Resolution Agreement (Agreement), which, when fully implemented, will resolve the complaint. OCR will monitor the College's implementation of this Agreement to ensure that it is fully implemented.

If the College fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504 and Title II. The Complainant may file a private suit in federal court whether or not OCR finds a violation.

OCR reminds the College that intimidation or retaliation against complainants by recipients of Federal financial assistance is prohibited. No recipient may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces or because one has made a complaint or participated in any manner in an investigation in connection with a complaint.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records, upon request. If we receive such a request, we will seek to protect, to the extent provided by law, personally-identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

This concludes OCR's consideration of this complaint, which we are closing effective the date of this letter. If you have any questions, please contact Lorraine Irier, Esq., at (404) 974-9349.

Sincerely,

/s/

Cynthia G. Pierre, Ph.D.
Regional Director