

December 11, 2013

XXXXX
Chancellor
Ivy Tech Community College
XXXXX
XXXXX, Indiana XXXXX

Re: OCR Docket # 05-13-2408

Dear XXXXX:

The U. S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed with OCR against Ivy Tech Community College (College) alleging discrimination on the basis of disability.

Specifically, the complaint alleged that the College subjected a student with multiple disabilities (Student A) to discrimination based on disability XXXXX and retaliation as follows.

- 1) During the 2012-2013 academic year, the College subjected Student A to discrimination based on disability in that it failed to provide him necessary academic adjustments, when:

during the fall 2012 semester, the College failed to provide Student A with note taking assistance and extra time to take quizzes and tests in a XXXXX course and XXXXX; and
 - a) from the beginning of the spring 2013 semester until late February 2013, the College failed to provide Student A with note taking assistance and extra time to take tests in two XXXXX courses.
- 2) Beginning in May 2013, the College subjected Student A to retaliation for advocating on his own behalf, in that it XXXXX.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35. Section 504 prohibits discrimination on the basis of disability by

recipients of Federal financial assistance, and Title II prohibits discrimination on the basis of disability by public entities. These laws also prohibit retaliation. As a recipient of Federal financial assistance from the Department and a public entity, the College is subject to these laws.

During its investigation, OCR reviewed data provided by Student A and the College and interviewed Student A and College personnel. OCR's determinations are set forth below.

Allegation #1

Legal Standard

In an educational setting, Section 504 and its implementing regulations generally provide the same or greater protection than Title II and its implementing regulations. Where, as in this case, Title II does not offer greater protection than Section 504, OCR applies Section 504 standards.

The Section 504 regulation, at 34 C.F.R. § 104.4(a), provides, in part, that no qualified person with a disability shall, on the basis of disability, be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from the Department.

The Section 504 regulation, at 34 C.F.R. § 104.44(a), requires a postsecondary recipient to make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of disability, against a qualified disabled applicant or student. The regulation says modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

Under the applicable regulations, recipients may require a student to follow reasonable procedures to request and document the need for academic adjustments. Students are responsible for knowing these procedures and following them. Generally, upon receiving documentation of a disability and a request for academic adjustments, a postsecondary institution's evaluation of a student's request requires a fact-specific, case-by-case inquiry. This evaluation process should be interactive, with information exchanged between the student and the postsecondary institution to arrive at a conclusion about the academic adjustment requested. The student bears the initial responsibility of identifying himself or herself as an individual with a disability. A student's request for an academic adjustment must be sufficiently direct and specific, identifying the type of academic adjustment sought.

If the academic adjustments provided are not effective in meeting the student's needs, it is the student's responsibility to notify the institution as soon as possible. The student and the institution should work together to resolve the problem, including as appropriate by modifying the adjustments being provided or identifying other effective academic adjustments or services to be provided.

In determining whether a student was denied necessary academic adjustments or other modifications, OCR considers the institution's procedures for requesting and documenting a student's need for academic adjustments or other modifications, whether the student provided notice of the disabling condition and requested necessary academic adjustments or other modifications, and whether the necessary academic adjustments or other modifications were provided. Where disputes arise over the need for specific academic adjustments or over the adequacy and effectiveness of the adjustments provided, OCR also considers whether the recipient and student acted in a reasonable manner under the circumstances.

Allegation #1

Facts

The complaint alleges that the College subjected Student A to discrimination based on disability in that it failed to provide him necessary academic adjustments of note taking assistance and extra time to take quizzes and tests in four courses, two in fall 2012 and two in spring 2013. Student A took classes at the College in the spring 1995 until the summer 1997 and then resumed his studies in fall 2012 at the College's XXXXX campus. Student A told OCR that he did not experience any difficulties receiving academic adjustments prior to fall 2012. OCR did not receive any documentation from Student A or the College that Student A was subjected to discipline prior to spring 2013.

The College's policies relating to disability services are available on the College's website.¹ The Office of Disability Support Services (DSS) provides assistance to students who qualify for academic adjustments. Any student who requests an academic adjustment must complete an intake form and provide the requested documentation in support of the request. A student is responsible for providing notice to his or her instructors of the approved academic adjustments and both the student and instructor must sign and date the faculty notification form to acknowledge notice of the academic adjustments. There is no written policy that requires or encourages a student to notify DSS immediately if he or she is not receiving the approved academic adjustment or if what he or she is receiving is not effective.

Student A's DSS Counselor stated that, for all courses in the fall 2012 and spring 2013 semesters, the DSS Office approved "note taking assistance" and extra time to take quizzes and tests for Student A. The "note taking assistance" required provision of notes to Student A. The DSS Counselor further stated that Student A provided notice of the approved academic adjustments to his instructors at the beginning of each semester, and all the instructors signed the faculty notification forms.

XXXXX Course

Student A stated that he did not receive notes for the first ten weeks of his XXXXX course in fall 2012. The XXXXX instructor (XXXXX instructor) acknowledged that she did not provide

¹ <http://www.ivytech.edu/dss/>

Student A notes at the outset of the course. The XXXXX instructor explained that she did not think Student A needed the notes because another instructor, who knew Student A, told her that Student A was planning on using a tape recorder in her class. Student A told OCR he did not have a tape recorder in XXXXX. In late October 2012, Student A notified the DSS Counselor that he was not receiving notes in the course; the DSS Counselor stated that she notified the XXXXX instructor immediately. The XXXXX instructor said she provided all students in the course with outlines with the majority of information already filled in, but she completely filled in the outlines for Student A before each class after she received the October notice from the DSS Counselor that Student A was to receive notes as an academic adjustment.

Student A stated that he also did not receive extra time on his first two quizzes in XXXXX. The XXXXX instructor stated that every student received 50 minutes for each quiz. She acknowledged that Student A did not receive extra time on the first two quizzes because she gave quizzes online and did not know that the extra time requirement applied to online quizzes. Student A received grades of XXXXX and XXXXX on the first two quizzes. The XXXXX instructor said Student A asked her sometime early in the semester whether he would receive the extra time on the quizzes. The XXXXX instructor consulted with her supervisor, who confirmed that Student A should receive extra time even on online quizzes. Thereafter, the XXXXX instructor gave Student A 75 minutes on the remaining six quizzes. Student A did not take more than 40 minutes to complete any quiz. Student A received a XXXXX in this three credit course.

XXXXX

Student A stated that he did not receive notes at any time in XXXXX, which is a course for new students that focuses on XXXXX and XXXXX. The XXXXX instructor confirmed that Student A did not receive notes because the course is an activities-based course, not lecture-based, so students do not take notes in class. She stated that, despite the fact that the course was hands-on, she asked Student A at least once every week if he needed notes and he always said he did not. In an email dated November 14, 2012, Student A wrote to the XXXXX instructor, "I told [the DSS Counselor] that you have been more than accommodating in and out of your class room, that no I do not have a note taker, but the course work is more hands on in class, and that you ask how things are on a regular basis." Both the XXXXX instructor and the DSS Counselor stated that Student A did not complain to them about not receiving notes in this course.

Student A stated that he did not receive extra time on quizzes and tests in XXXXX. The XXXXX instructor stated that the quizzes and tests were not timed and students could have as much time as they needed. Both the XXXXX instructor and the DSS Counselor stated that Student A did not complain that he did not get extra time on quizzes or tests in this course. Student A reported to the Vice-Chancellor in fall 2012 that he overheard the XXXXX instructor state outside of class that "I don't know why the hell he needs test accommodations if his test scores are this good." The XXXXX denied making the statement. Student A received an XXXXX in this three credit course.

XXXXX Courses

Student A stated that he did not receive notes in two XXXXX courses, XXXXX, until mid-February 2013. The two XXXXX courses were taught by the same instructor, who is no longer an employee at the College and was not available to be interviewed by OCR. The DSS Counselor said that, like the XXXXX course, the XXXXX courses were hands-on with minimal notes. She stated that the XXXXX instructor used handouts and PowerPoint presentations, which she provided to students. The DSS Counselor said Student A did not complain to her about not receiving notes in the XXXXX courses and said that his only reference to note taking in XXXXX was in an e-mail dated January 25, 2013, ten days after the start of the semester, in which Student A informed her that the XXXXX instructor found someone to take notes on days she conducted lectures. The e-mail did not indicate that there were any occasions prior to that time when he did not receive notes for lectures.

The DSS Counselor stated that, on February 14, 2013, the XXXXX instructor came to her and reported that Student A confronted and criticized her in class and made a statement that he was not receiving notes. The DSS Counselor stated that, in response, she sat in on the XXXXX courses to observe and take notes until she found another person to take notes. She said there were not many notes to take, but she typed out the PowerPoint presentations that were already provided to the students and noted any deadlines the XXXXX instructor mentioned.

Student A originally asserted to OCR that he did not receive extra time on quizzes and tests in his XXXXX courses, but subsequently told OCR that there were no quizzes or tests in the courses. OCR did not receive any documentation to indicate otherwise. Student A received an XXXXX in XXXXX and received a grade of XXXXX in XXXXX (no letter grades were given in the course); both were XXXXX courses.

Analysis and Conclusion

In determining whether Student A was denied necessary academic adjustments, OCR considered whether Student A followed the College's procedures in requesting and documenting his need for academic adjustments, whether he provided adequate notice of the need for necessary adjustments and whether the adjustments were provided. Where there was evidence of a dispute over the need for specific academic adjustments and the effectiveness of the adjustments provided, OCR also considered whether the College and Student A acted in a reasonable manner under the circumstances.

The evidence establishes that Student A followed the College's procedures when he requested and documented his need for academic adjustments in his courses. Specifically, the College approved academic adjustments for Student A that allowed for him to receive notes in his courses and extra time to take quizzes and tests. Further, the evidence establishes that Student A provided notice of the approved academic adjustments to his XXXXX, XXXXX and XXXXX instructors at the beginning of each semester, and the instructors signed the faculty notification forms indicating their awareness of Student A's need for the approved academic adjustments.

In XXXXX, the evidence established that Student A did not receive notes for the first 10 weeks of the semester because the XXXXX instructor was under the mistaken belief that Student A was tape-recording the course. It is undisputed that Student A did not receive his approved academic adjustment of receiving course notes until he complained to the DSS Counselor even though the XXXXX instructor had signed the faculty notification form. The evidence also established that Student A did not receive extra time on the first two quizzes because the XXXXX instructor did not know that extra time should be given for online quizzes. Although Student A notified the XXXXX instructor of his approved testing modification, he did not receive extra time on the online quizzes until he again asked for his adjustment after taking the first two quizzes without the extra time. Student A received the extra time on the remaining six online quizzes after the XXXXX instructor sought approval from her supervisor.

Based on the above, OCR determined there is sufficient evidence to conclude that the College discriminated against Student A based on his disability in violation of Section 504 and Title II in not providing the necessary academic adjustments in XXXXX.

OCR determined, however, there is insufficient evidence to establish that the College discriminated against Student A based on his disability with regard to the XXXXX and XXXXX courses. In XXXXX, the evidence established that the College did not fail to provide Student A notes because there were no notes to be provided. The evidence also established that the XXXXX instructor consulted Student A on a regular basis to determine whether he needed additional assistance and Student A responded that no notes were necessary for this course. The evidence further established that Student A received as much time as he needed on his quizzes and tests in this course because the quizzes and tests were untimed.

The evidence established that the XXXXX courses were hands-on with minimal notes. Student A was provided copies of PowerPoint presentations and handouts and acknowledged in late January, approximately 10 days into the semester, that the XXXXX instructor found someone to take notes when there were lectures. After Student A complained about not receiving notes in addition to the PowerPoint slides in February, the DSS Counselor sat in the XXXXX courses to take minimal notes herself, until she found another person to take additional notes. Additionally, there is no evidence to suggest that Student A did not receive extra time on quizzes and tests in his XXXXX courses. Student A acknowledged and the College confirmed that there were no quizzes or tests in the courses. As such, OCR determined that, with regard to XXXXX and the two XXXXX courses, the College did not discriminate against Student A on the basis of disability as alleged.

Based on the above, OCR has determined that the College is not in compliance with the Section 504 regulations, at 34 C.F.R. §§ 104.4(a) and 104.44(a), and Title II, at 28 C.F.R. § 35.130(a), regarding allegation #1 as it pertains to XXXXX.

Allegation #2

Legal Standard

The regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R. § 100.7(e), which is incorporated by reference into the Section 504 regulation, at 34 C.F.R. § 104.61, prohibits a recipient from intimidating or retaliating against an individual for the purpose of interfering with any right or privilege secured by the regulation or because the individual has made a complaint or participated in any manner in an investigation or proceeding under the regulation. The Title II regulation, at 28 C.F.R. § 35.134, also prohibits retaliation.

A *prima facie* case of retaliation is established when it is determined that (1) an individual engaged in a protected activity (opposed a discriminatory policy, asserted protected rights, or participated in an OCR complaint or proceeding); (2) the recipient knew of this activity; (3) the recipient took an adverse action contemporaneous with or subsequent to the protected activity; and (4) there is an inferable causal connection between the protected activity and the adverse action.

If all of the elements of a *prima facie* case of retaliation are met, OCR then considers whether the recipient presented a legitimate, non-retaliatory justification for taking the adverse action, and whether the reason is a pretext for retaliation. Pretext may be shown by evidence demonstrating that the explanation for the adverse action is not credible or believable or that treatment of the person was inconsistent with the treatment of similarly-situated individuals or established policy or practice.

Facts

The complaint alleges that, beginning in May 2013, the College subjected Student A to retaliation for advocating on his own behalf, in that it XXXXX.

As described above, in the fall 2012 and spring 2013 semesters, Student A requested academic adjustments from the DSS Office.

The College's Code of Student Rights and Responsibilities (Code),² which is available on the College's website, sets forth the acts of personal misconduct for which the College may sanction a student as well as the disciplinary process for misconduct at the College. It provides that any person may make a report that a student committed an act of personal misconduct. The Code states that a student may be sanctioned for:

- Inappropriate Conduct: Conduct that is considered to be lewd, indecent, obscene or inappropriate.
- Threatening or Intimidating Behavior: Engaging in or encouraging any behavior or activity that threatens or intimidates.

² http://www.ivytech.edu/shared/shared_corepository/CodeOfStudentRights-ResponsibilitiesFinal.pdf

Additionally, the Code defines other misconduct as follows.

- **Endangerment:** Actions that endanger one's self or others in the college community or the academic progress.
- **Violence:** The use against any person of any mental, physical, written, or verbal abuse that threatens, is perceived as threatening or endangers the health, safety, and wellness, or promotes hatred or prejudice towards others is prohibited. This also includes fighting and/or other disruptive behavior, which includes any action or threat of action which endangers the peace, safety, or orderly function of the college, its facilities, sponsored events on or off-campus, or individuals engaged in any approved activity.
- **Verbal Abuse:** Verbal abuse of another person, including . . . an expressed or implied threat to interfere with an individual's personal safety, academic efforts, employment, or participation in college-sponsored activities and that under the circumstances causes the person to have a reasonable apprehension that such harm is about to occur or injure that person, or damage his/her property.

The Vice-Chancellor for Student Affairs (Vice-Chancellor) or designee has the discretion to decide whether disciplinary proceedings should be instituted. If the Vice-Chancellor or designee determines to initiate disciplinary proceedings, the Vice-Chancellor or designee provides written notice of the charge to the student and notice of a judicial conference to discuss the charge. The Vice-Chancellor or designee may proceed in the student's absence should he/she fail to attend or schedule a judicial conference during the timeframe specified. In the event a conference is held in absence of the student, he/she forfeits any rights to an appeal. Following the judicial conference, the Vice-Chancellor or designee determines whether the accused student violated College policy and will issue an appropriate sanction, if applicable. A student may appeal; if this occurs, the Vice-Chancellor or designee convenes an Appeal Board comprised of two faculty members, two staff members, and two students, and the Board holds a hearing.

The Code also enumerates the sanctions a student may receive for Code violations. The Vice-Chancellor is authorized to impose any one or a combination of the sanctions after finding a student responsible for acts of personal misconduct. Sanctions include reprimand and warning, participation in a specific program such as counseling, suspension for a specific period of time, and permanent expulsion.

The Vice-Chancellor stated that, in December 2012, Student A contacted the Chancellor's Office to complain about the statement made by the XXXXX instructor and spoke to the Chancellor's assistant. According to an e-mail from the Chancellor's assistant, Student A reported that he did not feel comfortable going to the XXXXX class and, if he did not get satisfaction, he would XXXXX. The assistant reported to the Vice-Chancellor that XXXXX. The Vice-Chancellor said she spoke to Student A and that Student A did not recall making the statement. She explained to Student A that she understood his frustration with his perceived lack of receiving his approved academic adjustments in his fall 2012 courses, but told him that he could not make

statements that are XXXXX, and very serious. The Vice-Chancellor said that, based on her conversation with Student A, she did not initiate disciplinary proceedings or take any further action at that time, because she was familiar with Student A's stress and believed the situation would improve without her imposing disciplinary sanctions.

The Vice-Chancellor further informed OCR that, in January 2013, the XXXXX instructor filed an internal grievance against Student A for XXXXX behavior as defined by the Code. The XXXXX instructor stated that she filed a grievance because Student A exhibited a lot of XXXXX for not receiving the academic adjustments. The XXXXX instructor did not explain how he exhibited the XXXXX. In the grievance, she wrote that she was XXXXX and expected Student A to be waiting for her to continue berating her. She believed his behavior was XXXXX, which is why she was XXXXX. The Vice-Chancellor stated that again she did not initiate disciplinary proceedings at this time because she continued to believe that the situation would improve without the need for a Code violation charge and disciplinary sanction. The Vice-Chancellor did not indicate that she spoke with Student A after the XXXXX instructor filed XXXXX the grievance and OCR found no evidence indicating that another College staff member spoke to Student A about the grievance.

The Vice-Chancellor stated that, in February 2013, the XXXXX instructor came to her XXXXX to report Student A's behavior in her class on February 14. In the incident report, the XXXXX instructor reported that, for 20 minutes, Student A disparaged her teaching in front of the other students, disrupting her ability to teach the course. The Vice-Chancellor also stated that the XXXXX instructor forwarded her a string of emails from Student A XXXXX. In one email, he wrote, XXXXX. The XXXXX instructor filed an internal grievance against Student A for inappropriate conduct as defined by the Code based on the February 14 incident. The Vice-Chancellor stated that she initiated disciplinary proceedings for the February 14 incident because Student A "crossed the line." She charged Student A with violating the Code by engaging in inappropriate conduct and XXXXX behavior in the XXXXX class; she did not charge the student with XXXXX or reference any conduct prior to February 14. Before initiating disciplinary proceedings, the Vice-Chancellor did not interview any witnesses.

The Vice-Chancellor stated that, on February 21, 2013, she attempted to hold a judicial conference with Student A to discuss his conduct in the XXXXX course. She stated that Student A left the judicial conference prior to discussing his conduct. The Vice-Chancellor stated that, on April 29, 2013, she issued a violation for the inappropriate conduct and XXXXX behavior charge and issued Student A a XXXXX. She did not believe his misconduct warranted more severe sanctions at that time. The Vice-Chancellor stated that she waited to charge Student A with a Code violation and impose discipline on Student A until April in hopes the situation would improve, but it did not.

The Vice-Chancellor stated that, in May 2013, Student A appealed the April finding. The appeal hearing was set for June 10, 2013. In the course of the appeal, Student A sent an email to a member of the Appeal Board with profanity, in response to an email informing him that he could have an attorney present, but that the attorney could not participate in the hearing. Student A's email stated, "XXXXX. Student A did not appear for the hearing. The Appeal Board affirmed

the Code violation and held that the XXXXX was an appropriate sanction for the misconduct in XXXXX.

In response to Student A's profane email during his appeal, on June 3, 2013, the Vice-Chancellor charged Student A with an additional instance of inappropriate conduct and XXXXX behavior as defined by the Code. The notice requested Student A to schedule the judicial conference within 14 days of the letter. Student A did not schedule a judicial conference. The Vice-Chancellor stated that, on June 26, 2013, she issued a violation that included a XXXXX.

After imposing the disciplinary sanction, the Vice-Chancellor continued to interact with Student A. The Vice-Chancellor stated that, at the end of June 2013, Student A emailed her twice asking why he could not get his transcripts. The Vice-Chancellor responded to Student A and let him know how he could obtain the transcripts and, then on July 3, 2013, he complained that her reply constituted harassment and told her he called the police. The Vice-Chancellor stated that she became concerned because Student A was complaining of harassment when she was merely responding to him and his actions were a continuation of a pattern of XXXXX behavior. She stated that she notified College security and the Chancellor. She explained to the Chancellor that Student A had been engaging in a pattern of XXXXX behavior that she thought would improve on its own. However, Student A continued to engage in the XXXXX behavior even after disciplinary sanctions were imposed. Based on this information, the Chancellor petitioned XXXXX against Student A for the Vice-Chancellor, the XXXXX instructor, and the DSS Counselor based on the XXXXX behavior the Vice-Chancellor was experiencing and the fact that Student A threatened to call the police on her. The Chancellor did not consult with other individuals before deciding to pursue the XXXXX. Prior to seeking the XXXXX, the College did not charge Student A with Code violations, such as XXXXX. Student A and the College did not provide information to suggest that Student A's conduct was related to his disability or was a manifestation of his disability. The parties negotiated and executed a XXXXX in August 2013.

Student A withdrew from the College prior to the conclusion of the disciplinary proceedings. Student A has not reenrolled in classes at the College or at any other College campuses since May 2013 due to XXXXX.

In the 2012-13 academic year, the College reported that it disciplined two other students for XXXXX behavior. The two students, who were not disabled and had not otherwise engaged in protected activities, had no disciplinary history and each received a reprimand and warning. The College reported that it has not sought a protective order against any other student.

Analysis and Conclusion

The evidence established that Student A engaged in a protected activity of which the College was aware by requesting academic adjustments in the fall 2012 and spring 2013 semesters. The evidence also established that Student A was subjected to an adverse action when he was charged with XXXXX behavior, was XXXXX, and was the subject of a XXXXX. Because the XXXXX followed Student A's protected activities within the same semester, for purposes of this analysis, OCR concludes that a causal connection can be inferred between the protected activity and adverse actions. Therefore, the evidence establishes a *prima facie* case of retaliation.

OCR next considered whether the College provided a legitimate, non-retaliatory reason for its actions, and whether the reason provided was a pretext for retaliation. The evidence established that Student A had requested and was granted academic adjustments in fall 2012 and spring 2013. When he complained about not receiving the approved academic adjustments, the College provided them. While Student A asserted that a staff member objected to him getting the academic adjustments in view of his high grades, the staff member denied making such statement and OCR found no evidence corroborating that it had been made.

The evidence established that Student A engaged in inappropriate XXXXX behavior and that faculty complained about it. As Student's A's misconduct continued unabated, the College escalated its response. Moreover, the evidence established that the College followed its disciplinary procedures in responding to Student A's behavior, and there was no evidence of any similarly-situated students who received more favorable treatment. OCR notes that Student A had received academic adjustments throughout his enrollment at the College and was not disciplined until he engaged in XXXXX behavior. Accordingly, OCR determined that the evidence is insufficient to establish that Student A's protected activity as opposed to his inappropriate behavior was the basis for the adverse actions.

Under these circumstances present in this case, the evidence is insufficient to establish that the College's stated reasons for charging Student A with committing XXXXX behavior, XXXXX Student A, and XXXXX were a pretext for retaliation. Based on the foregoing, the evidence is insufficient to establish that the College subjected Student A to retaliation as alleged in the complaint.³

Overall Conclusion

The College has provided the enclosed agreement to OCR, which, when fully implemented, will correct the compliance problems found with allegation #1 in this investigation. OCR will monitor the agreement to ensure compliance.

This concludes OCR's investigation of the complaint and should not be interpreted to address the College's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that the College may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

³ XXXXX.

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

The Complainant may file a private suit in federal court whether or not OCR finds a violation.

We wish to thank you and your staff for the cooperation extended to OCR during its investigation. In particular, we wish to thank Mr. James Clark, associate general counsel. If you have any questions, please contact Sunita Kini-Tandon, OCR Attorney, at (312) 730-1452 or Sunita.Kini-Tandon@ed.gov.

Sincerely,

Jeffrey Turnbull
Team Leader

Enclosure

cc: Mr. James Clark