



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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SAN FRANCISCO, CA 94105

REGION IX
CALIFORNIA

March 8, 2016

Erika Endrijonas, Ph.D.
President
Los Angeles Valley College
5800 Fulton Avenue
Valley Glen, California 91401

(In reply, please refer to case no. 09-15-2277.)

Dear President Endrijonas:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against Los Angeles Valley College (College).¹ The Students² alleged discrimination on the basis of age and national origin. Specifically, OCR investigated the following allegations:

1. Whether a Speech instructor discriminated against Students 1 and 2 when he made derogatory comments about their national origin, which contributed to a hostile environment in the classroom on the basis of national origin and harsh grading by the instructor;
2. Whether a Child Welfare instructor made harassing comments to Student 2 and the instructor graded him harshly due to his age and national origin;
3. Whether the College made harassing comments to Student 2 on the basis of his age;
4. Whether the College failed to respond to internal complaints by Student 2 alleging age and national origin discrimination, and internal complaints made by Students 1 and 2 alleging national origin discrimination; and
5. Whether the College discriminated against Students 1 and 2 based on their national origin language minority status by failing to provide meaningful access to gateway services, such as financial aid, admissions, enrollment and registration, and counseling for individuals with limited English proficiency (LEP).

¹ The College is a part of the Los Angeles Community College District (District). OCR opened this complaint against the College. However, during the investigative process, the District (in conjunction with the College) assumed responsibility for working with OCR to resolve the complaint.

² OCR previously provided the College with the identities of the Students. We are withholding their names from this letter to protect their privacy.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

OCR investigated the complaint under the authority of Title VI of the Civil Rights Act of 1964 (Title VI), the Age Discrimination Act of 1975 (AgeDA), and their implementing regulations. Title VI prohibits discrimination on the bases of race, color, or national origin by recipients of Federal financial assistance. AgeDA prohibits discrimination on the basis of age by recipients of Federal financial assistance. The College receives funds from the Department and is subject to Title VI, AgeDA, and their regulations.

OCR gathered evidence through interviews with Students 1 and 2 (the Students) and College staff. OCR also reviewed documents and correspondence provided by the Students as well as the College and District. With respect to Allegations 1, 4 and 5, the College expressed interest in resolving the concerns identified by OCR prior to the conclusion of its investigation of the allegations. With respect to Allegations 2 and 3, based on the information obtained, OCR found insufficient evidence of noncompliance with the AgeDA regulations. This letter summarizes the applicable legal standards, the relevant facts obtained during the investigation, and the terms of the resolution reached with the College and District.

Issue 1: Whether a Speech instructor discriminated against Students 1 and 2 when he made derogatory comments about their national origin, which contributed to a hostile environment in the classroom on the basis of national origin and harsh grading by the instructor.

Legal Standard

The Title VI regulation, at 34 C.F.R. §100.3(a) and (b), prohibits discrimination based on race, color or national origin by recipients of Federal financial assistance. Colleges are responsible under Title VI and the regulations for providing students with a nondiscriminatory educational environment. Harassment of a student based on race, color or national origin can constitute a form of discrimination because it can result in the denial or limitation of the student's ability to participate in or receive education benefits, services, or opportunities.

Colleges provide program benefits, services, and opportunities to students through the responsibilities given to employees. If an employee who is acting, or reasonably appears to be acting, in the context of carrying out these responsibilities engages in harassing conduct (physical, verbal, graphic, or written) on the basis of race, color or national origin that is sufficiently serious to deny or limit a student's ability to participate in or benefit from the program, the College is responsible for the discriminatory conduct whether or not it has notice.

Under Title VI and the regulations, if a student is harassed by an employee on the basis of race, color or national origin, the College is responsible for determining what occurred and responding appropriately. OCR evaluates the appropriateness of the responsive action by assessing whether it was prompt, thorough, and effective. What constitutes a reasonable response to harassment will differ depending upon the circumstances. However, in all cases the College must promptly conduct an impartial inquiry designed

to reliably determine what occurred. If a College's grievance procedures encompass national origin discrimination, it must apply such procedures consistently and in a manner that does not constitute Title VI discrimination.

In analyzing claims of harassment under Title VI, OCR first considers the totality of the circumstances to determine whether a hostile environment has been created, *i.e.*, whether the harassing conduct is sufficiently serious that it denies or limits a student's ability to participate in or benefit from the recipient's program. These circumstances include the type of harassment, context, nature, scope, frequency and severity, age, race, duration, and location of the harassment incidents, as well as the identity, number, and relationships of the persons involved. It also considers whether other incidents motivated by national origin have occurred at the College to these Students or others.

Relevant Facts

At the time of the events giving rise to this complaint, the Students were enrolled at the College. The Students grew up in Iran and came to the United States as adults. They are both native Farsi speakers and have enrolled in several English as a Second Language (ESL) courses at the College. The Students informed OCR that they were most comfortable communicating in Farsi. OCR staff communicated directly with the Students either in Farsi or with the assistance of a Farsi-speaking interpreter. The Students are married to one another. Student 2 is also XX years old.

In the fall 2014 semester, both enrolled in a speech class at the College. Student 1 informed OCR that their Speech Instructor did not like her accent when she made speeches in front of the class. The Speech Instructor did not explicitly say anything to her about her accent, but his demeanor when she spoke indicated to her that he hated her accent; he looked miserable and nauseated (as if he needed to throw up). His behavior made it seem like Student 1 should be ashamed of her accent, and that he was ashamed of her accent.

Student 1 also told OCR that Student 1 met with the Speech Instructor to discuss her grade after class one day. During this discussion, the Speech Instructor told her that her speeches were bad; he then compared her to another student who was White and told her that she should speak like the other student because that student spoke well. Student 1 asked him why he was comparing her to her classmate, and the Speech Instructor indicated that he had a soft spot for that classmate, and that Student 1 should emulate her speech-giving skills because no other student in the class spoke better English than she did. Student 1 responded by saying that he was comparing her to someone who has lived most of her life here in the United States, while Student 1 was from another country and had an accent. The Speech Instructor then told her to sit down and stop talking. This occurred in front of three of her classmates. According to the Students, Student 1 does not understand why she received a D, and why Student 2 received an F in the class.

Both Student 1 and Student 2 also told OCR that the Speech Instructor asked students in the class about their nationality and where they were from. At the beginning of the

course, all of the students introduced themselves, and talked about where they were from and their background. Both Students stated that they were from Iran in their introductory speeches. According to the Students, the Speech Instructor then told the class that he had an Iranian girlfriend, and that he had a tattoo of her name written in Farsi on his arm. He also said that people who saw his tattoo asked if he was Iranian and if he was a terrorist. The Speech Instructor then pulled up his sleeve and showed the class his tattoo.

OCR interviewed the Speech Instructor and learned that as part of the speech course, students must make a number of speeches in front of the class; their final grade is based on the scores they receive on each speech. No individual feedback is given after each student's speech; the Speech Instructor only provides general feedback to the entire class about his general observations and suggestions after all of the speeches are given. He also provides each student with his/her score sheet at the end of the day.

The Speech Instructor told OCR that while he could not be certain, he thinks that the Students likely shared with the class that they were from Iran. Student 1 also mentioned several times that she did not grow up in the United States and came from another country (but the Speech Instructor added that this is true of roughly 70% of the students in his classes). The Speech Instructor further stated that he did not provide any individual feedback to her after her speeches. He also said that he did not discuss her accent with her, but shared with OCR that he felt that her English was fine. He added that he may have mentioned to the class that people with accents usually give speeches in a non-productive way; they speak in hushed tones, but if they were to speak loudly and clearly, their accents would not be an issue at all.

The Speech Instructor explained that the reason Student 1 received a poor grade was because she did not follow instructions – she would read her entire speech, and would not cite sources. Student 2 received a poor grade because he, too, did not follow instructions (*i.e.*, exceeded time limits for speeches). Student 2 also experienced health problems during the semester, and did not complete all of his assignments. Student 2 petitioned for a withdrawal from the class (which would nullify his F grade) – the Speech Instructor was fine with changing his grade to a W (withdrawal).

With respect to the tattoo incident, the Speech Instructor told OCR that he may have spoken about his tattoo in his introductory speech, but indicated that if he had, it may have been referenced in the context of “if you’re going to get a tattoo, make sure you get it in a language that most people can’t understand” because then it could mean anything. The Speech Instructor denied stating that people call him a terrorist when they see his tattoo, or having a discussion with the Students about his tattoo.

The Speech Instructor also told OCR that he did not recall comparing Student 1 to another student in the class, but that if he had, it would not be out of line, since it is important for individuals to emulate those who are successful and avoid those who are less successful. The Speech Instructor added that he does not highlight individual speeches, but discusses what generally worked in the speeches (*i.e.*, the structure of a speech, making eye contact, etc.).

Summary and Resolution

Based on the facts gathered to date, OCR has concerns about comments made in the Speech Instructor's class concerning individuals of national origin language minority status. While the Speech Instructor denied making harassing comments to the Students based on national origin, he admitted that he may have stated that speeches delivered by those who spoke English with an accent were less productive than those delivered by native English speakers. In addition, he may have made statements in class about his tattoo written in Farsi, or about disparaging comments made by others which presumed that he was a terrorist because of the language in which his tattoo was written.

Prior to concluding its investigation and to address the issues alleged in the complaint, the College, without admitting to any violation of law, entered into the enclosed resolution agreement which is aligned with the complaint allegations and the information obtained by OCR during its investigation.

Under the agreement, the College will, within specified time frames, provide training and issue guidance regarding promptly and equitably addressing complaints of discrimination and harassment.

Issue 2: Whether a Child Welfare instructor made harassing comments to Student 2 and the instructor graded him harshly due to his age and national origin.

Legal Standard

The AgeDA regulations prohibit discrimination based on age in programs or activities that receive federal financial assistance (34 C.F.R. Part 110). The Department regulations implementing the AgeDA, at 34 C.F.R. §110.10(a), state that no person shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a recipient of Department funds. Under §110.10(b), a recipient may not treat individuals differently on the basis of age with regard to any aspect of the services, benefits, activities, or opportunities it provides. The AgeDA regulations establish procedural requirements that are important for the prevention and correction of age discrimination. These requirements include adoption and publication of grievance procedures providing for the prompt and equitable resolution of complaints of age discrimination (34 C.F.R. §110.25(c)).

Under the Title VI regulations, at 34 C.F.R. §100.3(a) and (b), a college may not treat individuals differently on the basis of race, color, or national origin with regard to any aspect of services, benefits, or opportunities it provides. The regulations, at 34 C.F.R. § 100.3(b)(1)(ii), prohibit recipients from providing services that are different or provided in a different manner from that provided to others, on the ground of national origin. Section 100.3(b)(1)(vi) prohibits recipients from affording individuals opportunities to participate in programs that are different from that afforded to others. In addition, section 100.3(b)(2) provides that, in determining the types of services or benefits that

will be provided, recipients may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color or national origin.

To determine whether a student has been discriminated against on the basis of national origin under Title VI, OCR looks at whether there is evidence that the student was treated differently than students of other national origins under similar circumstances, and whether the treatment has resulted in the denial or limitation of services, benefits, or opportunities. If there is such evidence, OCR examines whether the college provided a nondiscriminatory reason for its actions and whether there is evidence that the stated reason is a pretext for discrimination. For OCR to find a violation, the preponderance of the evidence must establish that the college's actions were based on the student's national origin. The relevant legal standard for analysis of an allegation of harassment under the Title VI regulation is discussed with respect to Issue 1 supra.

Relevant Facts

Student 2 told OCR that he had missed some of his Child Welfare classes due to a medical condition for which he needed to be hospitalized. He stated that he returned to class in time to take the final exam, but was informed that even if he took the exam, he would receive a failing grade because of his lack of participation in class. He stated that he became upset after the exam and started crying. He alleged that the Child Welfare Instructor (CW Instructor) told him that he was XX years old, did not need to go to school and should retire and go home and rest. The CW Instructor also informed him that she was XX years old and planned to retire in two years.

Student 2 also told OCR that during a group assignment, the CW Instructor separated him from the group he was working with. The group Student 2 was originally working with consisted of three White students; the CW Instructor then crossed his name out from that group, and included him in a group with two Iranian students and one Mexican student. The CW instructor said that he did not belong in the original group, and belonged in the other group.

The CW Instructor told OCR that Student 2 did not become emotional when she told him that he would receive a failing grade in her class, and he indicated to her that he understood he would receive such a grade. The CW Instructor also told OCR that upon receiving an F in her class, Student 2 confronted her. She offered to share a breakdown of the points he had received in her class. During the course of the conversation, the CW Instructor stated that Student 2 had informed her, "I am like your father." The CW Instructor told OCR that she thought that was an odd comment to make. She told Student 2, "I think we're in the same age cohort." The CW Instructor stated that she and Student 2 proceeded to exchange ages. He told her that he was XX and she told him that he was XX. He then told her, "I feel like my life is over." He proceeded to inform her that as a result of the F in her class, he was having trouble with his financial aid. The CW Instructor stated to OCR that she wanted to offer him assurance because she did not want Student 2 to feel helpless and that he would not be able to do what he wanted to do because of his age.

With respect to switching Student 2's group, the CW Instructor stated that the students themselves picked their own group. Student 2 joined a group of four people, where one was African-American. The CW Instructor did not recall the other two students' background. CW Instructor stated that he was not originally assigned to work with a different set of students.

Summary and Resolution

The AgeDA regulations prohibit discrimination based on age by recipients of Federal funding. In considering whether allegations of age discrimination constitute a hostile environment, OCR first looks at whether the alleged harassing comments were severe, pervasive or persistent such that the Student was excluded from participation from, or denied the benefits of, the educational program.

OCR did not obtain evidence from the CW Instructor or the College to confirm Student 2's assertion that the CW Instructor told him he did not need to go to school and should retire since he was XX years old. However, OCR found that the CW Instructor and Student 2 did in fact have a conversation in which they discussed their respective ages, which were close in proximity to one another. During the conversation, the CW Instructor clarified to OCR that after Student 2 told her that he could be old enough to be her father, she tried to offer him assurance because she was concerned that he felt helpless and limited by his age. The level of detail provided by the CW Instructor made her account of the incident credible to OCR. Furthermore, OCR did not find that a reasonable person would have perceived the CW's Instructor's comments to have constituted harassment based on age. Therefore, OCR found insufficient evidence of noncompliance with the AgeDA regulations with respect to this issue.

In relevant part, the AgeDA regulations state that no person shall, on the basis of age, be subjected to discrimination under any program or activity of a recipient of Department funds. Title VI contains an identical provision with respect to national origin. OCR did not find any evidence of pretext to support Student 2's allegation that he was graded harshly due to his age and national origin. OCR also did not obtain evidence to rebut the instructor's legitimate non-discriminatory reason that his low grade was attributable to his class performance and lack of participation in the class as calculated using a point system.

With respect to Student 2's allegation that he was harassed by the CW Instructor when she separated him from the group he was working with because of his national origin, the CW Instructor informed OCR that she never changed Student 2's group. In fact, the students were permitted to pick their own groups. Even if this allegation were true, OCR did not find that this alleged group-switching, without further evidence of harassing conduct, was sufficiently serious to deny or limit Student 2's ability to participate in or receive education benefits, services, or opportunities. Therefore, OCR found insufficient evidence of noncompliance with the AgeDA and Title VI with respect to these issues.

Issue 3: Whether the College made harassing comments to Student 2 on the basis of his age.

Relevant Facts

Student 2 told OCR that staff in the Financial Aid office told him that he was XX years old and should retire. They informed him that they could not give him a loan at his age to keep going to college and could not keep paying money for him to take classes indefinitely.

A supervisor in the Financial Aid office (Supervisor) told OCR that Student 1 told her, as well as “everyone” in the Financial Aid office, that Student 2 felt like he was being treated differently due to his age. However, neither student alleged that Student 2 was not given the same financial aid information on account of his age.

The Supervisor told OCR about a conversation she had with Student 2. During this conversation, they discussed his age and his major. Student 2 stated that his goal was to pursue child development because he liked working with children. The Supervisor commented that children had a lot of energy and asked if he enjoyed that. He responded that he did, but was changing his major to nursing. The Supervisor told OCR that she had referenced his energy because he just finished telling her that he was tired and had a lot of health issues, including a heart condition. She told OCR that she wondered if he had a full understanding of a preschool environment in order to be able to effectively conduct himself as a preschool teacher. She wondered if he had enough exposure to the preschool environment. She told OCR that they did not go into much detail in the conversation.

When OCR inquired as to whether Student 2 had ever alleged age discrimination, the Supervisor stated that she did not think so. She added that Student 2 had difficulty understanding why his financial aid had decreased.

Summary and Resolution

OCR did not obtain evidence from College staff to confirm Student 2’s assertion that College staff told him to retire and declined to provide him with financial aid due to his age. However, even if Student 2’s assertion was true, OCR found that a reasonable person would not have perceived the Supervisor’s comments to have created a hostile environment based on age. During the conversation, the Supervisor appears to have implied that Student 2’s age prevented him from having the requisite energy needed to pursue a field of study that involved work with young children. Student 2 could have reasonably concluded after this conversation that College staff perceived him too old to pursue his major of choice. However, these comments do not, by themselves, constitute age-related harassment that was sufficiently severe, pervasive or persistent to have created a hostile environment and denied Student 2 the ability to participate in the educational program. Therefore, OCR found insufficient evidence of noncompliance with the AgeDA regulations with respect to this issue.

Issue 4: Whether the College failed to respond to internal complaints by Student 2 alleging age and national origin discrimination, and internal complaints made by Students 1 and 2 alleging national origin discrimination.

Legal Standard

Under Title VI and the regulations, if a student is discriminated against by an employee on the basis of race, color or national origin, the college is responsible for determining what occurred and responding appropriately. OCR evaluates the appropriateness of the responsive action by assessing whether it was prompt, thorough, and effective. What constitutes a reasonable response to discrimination will differ depending upon the circumstances. However, in all cases the college must promptly conduct an impartial inquiry designed to reliably determine what occurred. If a college's grievance procedures encompass national origin discrimination, it must apply such procedures consistently and in a manner that does not constitute Title VI discrimination.

The AgeDA regulations establish procedural requirements that are important for the prevention and correction of age discrimination. These requirements include adoption and publication of grievance procedures providing for the prompt and equitable resolution of complaints of age discrimination (34 C.F.R. §110.25(c)).

Relevant Facts

Student 1 and Student 2 told OCR that they complained to numerous individuals, including those in the College's Financial Aid department and to their instructors, about being singled out and treated differently than other students because of Student 1's age and the Students' national origin. Specifically, the Students stated that they were not treated the same as other students in class, and were not receiving the same financial aid packages and grades as compared to others who were not from Iran or were not older. While most of these complaints were made orally, the District provided OCR with a letter (date stamped March XX, 2015) that Student 2 wrote - this letter was addressed to the College's Financial Aid department, and was attached to Student 2's petition to change his grades. This letter indicates, among other things, that he does not understand why his financial aid package has been reduced, and explicitly states that "since they cannot give me an answers and reasonable justification, I feel like it is my age or by being born in foreign country."

Multiple College representatives (including College Financial Aid representatives, instructors, and other personnel) told OCR that the Students expressed to them directly that they felt like they were being treated differently (by their classmates, instructors, and the Financial Aid office) from other students because they were not born in the United States, spoke English with an accent, and because Student 1 was older. In some instances, the College representative did not respond to the Students' assertions; other times, the College representative responded directly to the Students and stated that their assertions were untrue. In all cases, the College representative did not inform District or College administration (including the District's Office of Diversity, Equity, and

Inclusion (Office), the office responsible for handling discrimination complaints) of the Students' complaints.

With respect to Student 2's March 2015 letter, several College representatives informed OCR that they had not seen the letter before. When asked if they would consider the letter a complaint of discrimination, they were not sure whether it would or should be considered a discrimination complaint. One College representative told OCR that she had seen the letter – this individual, however, did not forward it to any other department or office because she did not view it as a complaint of discrimination.

Multiple College representatives told OCR that they were not aware of the College's discrimination complaint procedure and investigative process, and did not know (or misidentified) which office or department to contact if they received a discrimination complaint. These individuals could not recall the last time they received training regarding the complaint procedure and investigative process and their role in that process.

Summary and Resolution

The evidence gathered by OCR showed that numerous College representatives (including professors and other College representatives) received oral complaints of discrimination from the Students. Further, at least one College representative received a written letter alleging age and national origin discrimination. From the evidence collected, the College did not report any of these complaints to the Office, and none of the Students' complaints were investigated. Further, multiple College representatives were not aware of their responsibilities to report any complaints of discrimination they witnessed or received to the Office, and were not aware of the College's complaint procedure.

The AgeDA implementing regulations require the recipient to provide a prompt and equitable resolution of any complaints of age discrimination using an adopted and publicized grievance procedure. Based on the facts gathered to date, OCR is concerned that the College did not respond appropriately to the Students' internal complaints of age discrimination.

Similarly, with respect to the claim of national origin discrimination under Title VI, OCR is concerned that the College did not respond appropriately to the Students' complaints of national origin discrimination and harassment by employees of the College.

Prior to concluding its investigation and to address the concerns noted above, the College, without admitting to any violation of law, entered into the enclosed resolution agreement which is aligned with the complaint allegations and the information obtained by OCR during its investigation.

Under the agreement, the College will, within specified time frames, promptly and equitably investigate the Students' complaints of national origin and age discrimination and harassment for which OCR has not already made a determination; and provide the

Students with a final written decision of its findings, as well as meaningful access to the information in a language they can understand.

Issue 5: Whether the College discriminated against Students 1 and 2 based on their national origin language minority status by failing to provide meaningful access to gateway services, such as financial aid, admissions, enrollment and registration, and counseling for individuals with limited English proficiency (LEP).

Legal Standard

The Title VI and its implementing regulations, at 34 C.F.R. §100.3(a) and (b), provide that a recipient of Federal financial assistance may not, directly or through contractual or other arrangements, on the ground of race, color or national origin, exclude persons from participation in its programs, deny them any service or benefits of its programs, or provide any service or benefit which is different or provided in a different manner from that provided to others. The regulations, at 34 C.F.R. § 100.3(b)(1)(ii) & (v), prohibit recipients from providing services that are different or provided in a different manner from that provided to others, on the ground of national origin or from affording individuals opportunities to participate in programs that are different from that afforded to others.

The Department has issued Guidelines for Vocational Education Programs (Guidelines), at 34 C.F.R. Part 100, Appendix B, that explain the civil rights responsibilities of recipients of Federal funds offering or administering vocational education programs. These guidelines, in part, apply to junior colleges, community colleges or four-year colleges that have a department or division that provides vocational education to students seeking immediate employment, an associate degree, or a certificate through a course of vocational instruction offered by the school. In general, a recipient must take steps to open its vocational programs to national origin language minority students. Specifically, the Guidelines require that, if a recipient's service area contains a community of national origin minority persons with limited English language skills, the recipient must do the following: 1) disseminate public notification materials to that community in its language and state that the college will take steps to assure that the lack of English language skills will not be a barrier to admission and participation in its vocational programs; 2) disseminate information used to notify students of opportunities for financial assistance to that community in its language; and 3) ensure that with respect to counseling and prevocational programs that counseling materials and activities, as well as career and employment advising, do not discriminate on the basis of national origin and that counselors can effectively communicate with national origin minority students with limited English language skills. This last requirement may be satisfied by ensuring that interpreters are available.

Relevant Facts

Background

Approximately 350,000 students in grades K-12 in Los Angeles County are English Learners (EL). 42% of these students speak Spanish. After Spanish, the most

frequently spoken languages spoken by English Learner students in Los Angeles County are Mandarin (7,110 students); Armenian (6,150 students); Cantonese (5,172 students); and Korean (4,442 students). Farsi is the eighth-most common language spoken by LEP individuals in Los Angeles County.³ The College's vocational education program includes certificate programs in Business Administration, Child Development, Computer Applications & Office Technologies, Emergency Services, Health Science, Media Arts, and Technology.⁴ In total, the College's website lists more than 60 state approved career-technical education certificate programs that under the Guidelines would qualify as "a certificate offered through a course of vocational instruction."⁵

Policies and Procedures

The District has a non-discrimination policy called "Chapter XV: Prohibited Discrimination and Harassment" (Non-Discrimination Policy), which states that all District programs and activities shall be operated in a manner free from discrimination on several bases, including race, color and national origin.

Additionally, the District has a "Limited English Proficiency" (LEP) policy, which states, "Occupational education classes are open to all students. While the lack of proficiency in English is no barrier to enrollment in occupational education courses, it is recommended that students deficient in English use the services of the college that are provided for persons who are limited in English proficiency or have English as a second language."

Admissions and Records

With respect to the translation of documents relating to admission to the College, a supervisor from the College's Office of Admissions and Records (A&R Supervisor) told OCR that her department did not translate any of their documents into a language other than English because staff did not have the ability to do so. If a student requests a translation of a document in a language that a staff member speaks, that staff member will, if possible, provide an oral translation of the document, but not a written one.

The A&R Supervisor told OCR that there were staff members in her office that were designated to provide interpretation in a few languages, including Russian, Spanish, Armenian and Korean. The Supervisor told OCR that if the A&R office did not have a staff member who spoke a particular language, she would ask the student to come back with someone who spoke that language. She believed that all departments followed the same process, and that it was the student's responsibility to request an interpreter.

³ Information about student enrollment in Los Angeles County may be found at: <http://www.ed-data.org/county/Los-Angeles>.

⁴ See <https://www.lavc.edu/VocEd1/vemain/voced.html>.

⁵ See <http://www.lavc.edu/research/gainfulemploymentdata/index.html>.

Financial Aid

The Financial Aid Supervisor told OCR that the Financial Aid office had staff members who spoke Spanish, Armenian and Russian, but none spoke Japanese, Farsi or any languages from the Middle East, such as Arabic. However, she expressed concern to OCR as to whether she, as a supervisor, could “impose” on staff processing financial aid awards by asking them to interrupt their work to provide interpretation for a particular student. As a result, she stated that students were asked to provide their own interpreters. She stated that she and her staff tried to accommodate students as best they could, but “there was no guarantee that [they could] provide that service.”

The Financial Aid Supervisor also told OCR that the College no longer provides a bilingual salary differential, which provided language certification to qualified staff. She stated that if a Russian-speaking staff member in the Financial Aid office provided interpretation services and wanted the bilingual salary differential and accompanying certification, that would not be possible, unless her position were specifically designated as a bilingual position.

Counseling and Continuing Education

OCR also asked the College’s Counseling & Continuing Education staff about the process they used if a student requested documents translated or an interpreter, in order to be able to communicate with staff. One counselor stated that there were several Armenian-speaking and Spanish-speaking staff members in the non-credit/continuing education department (NCCE Department) to assist those students who required assistance in those languages. Sometimes, that Department would bring in a fellow student to help. The Counselor stated that if a student came in and requested an interpreter, she would speak with the NCCE Department Chair and find someone to assist the student if the student requested assistance in a language other than those that NCCE staff spoke.

None of the staff in the aforementioned departments identified whether the College had policies which governed interpretation or translation services or where such policies could be found.

Summary and Resolution

OCR’s investigation revealed that College staff who administer financial aid, provide course and other counseling, and assist with admissions did not identify whether the College had policies which governed interpretation or translation services at the College, where such policies could be found, if they existed, or the content of such policies. OCR identified no such policies beyond a general Non-Discrimination Policy, which generally prohibited discrimination in District programs and activities; and the Limited English Proficiency Policy, which stated that “deficient” students in occupational education classes should avail themselves of the College’s services, but failed to specify the services or the location of such services.

College staff in the counseling, financial aid and admissions departments demonstrated a lack of awareness of the systems in place that governed the translation of documents. The admissions department stated categorically that it did not translate any documents for students in writing. These responses demonstrated that the offices that provide the critical access and gateway points for LEP students, of whom many are vocational students, did not have an understanding of how to ensure that they had meaningful access to important information.

While several College staff in these departments described ad-hoc procedures for providing interpretation services in certain languages under certain circumstances, the College had no system for ensuring that staff who provided interpretation services to students had demonstrated proficiency in English and the target language, or had sufficient knowledge of the specialized terms or concepts of the program or activity to ensure clear and accurate communication with students. In addition, staff identified that the College did not have interpreters readily available, and that a student may be asked to find an interpreter in situations where a staff person was unavailable to assist. OCR also notes that College administrators in the Financial Aid and Counseling departments did not have an understanding of how to identify and assist LEP students who required language assistance in the form of interpretation services or translation of documents.

Based on the information collected during the investigation, OCR identified significant concerns with respect to the College's provision of meaningful and effective access to its vocational programs and activities in the areas of translation of admissions related materials, interpretation services to ensure that College counselors, prevocational counselors, and employment-advising counselors could effectively communicate with national origin minority students with limited English language skills, and dissemination of information to ensure LEP students interested in vocational programs and activities or otherwise enrolled in the same could understand their options for financial aid. The College, without admitting to any violation of law, entered into the enclosed resolution agreement, which is aligned with the complaint allegations and the information obtained by OCR during its investigation. Under the agreement, the College will develop an LEP Access Plan that applies to the College's department or division that provides vocational education to students, and will delete the reference to LEP students as "deficient" in its College materials for occupational education students.

Conclusion

Based on the commitments made in the enclosed resolution agreement, OCR is closing the investigation of this complaint as of the date of this letter, and notifying the Students concurrently. When fully implemented, the resolution agreement is intended to address all of OCR's compliance concerns in this investigation. OCR will monitor the implementation of agreement until the College is in compliance with Title VI and the regulations at issue in the case.

This concludes the investigation of this complaint. OCR's determination in this matter 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. The

Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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.

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 receives such a request, it will seek to protect, to the extent provided by the law, personal information that, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Civil Rights Attorneys Naghmeh Ordikhani at (415) 486-5588, or naghmeh.ordikhani@ed.gov, or Shilpa Ram at (415) 486-5565 or shilpa.ram@ed.gov.

Sincerely,

/s/

Zachary Pelchat
Team Leader