



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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May 5, 2014

Scott Morgan
President
Spokane Community College
1810 N. Greene St.
Spokane, Washington 99217-5399

Re: Spokane Community College
OCR Reference No. 10142024

Dear President Morgan:

The Office for Civil Rights in the U.S. Department of Education (OCR) is discontinuing its investigation of the above-referenced complaint filed against Spokane Community College on November 22, 2013. The complaint alleged that the college discriminated against a student on the basis of disability by failing to provide the student with an academic adjustment of extended time on assignments during the fall 2013 semester.

OCR accepted the complaint for resolution under the authority of section 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act of 1990 and those statutes' implementing regulations at 34 CFR Part 104 and 28 CFR Part 35.

In accordance with Section 302 of OCR's Case Processing Manual, a complaint may be resolved at any time when, before the conclusion of an investigation, the institution expresses an interest in resolving the complaint. In such a case, the provisions of an agreement to resolve the complaint must be aligned with the complaint allegations or any information obtained during the discontinued investigation and be consistent with applicable regulations. Here, the college requested to resolve the complaint prior to the conclusion of OCR's investigation. Subsequent discussions with the college resulted in the college signing the enclosed agreement.

The Section 504 regulation at 34 CFR 104.43(a) prohibits a recipient of financial assistance from the U.S. Department of Education from excluding a qualified student with a disability from participating in, denying the student the benefits of, or otherwise subjecting the student to discrimination in any postsecondary education aid, benefit, or service on the basis of disability. The Title II regulation at 28 CFR 35.130(a) similarly prohibits discrimination by a public entity against a qualified individual with a disability.

Additionally, the Section 504 regulation at 34 CFR 104.44(a) requires a recipient to make modifications to academic requirements as are necessary to ensure that such requirements

do not discriminate or have the effect of discriminating against a qualified student with a disability. However, academic requirements that the recipient can demonstrate are essential to the instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of 34 CFR 104.44. Similarly, the Title II regulation at 28 CFR 35.130(b)(7) requires a public entity to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

OCR considers that the enclosed agreement, when fully implemented by the college, will resolve the issues raised by the complaint. OCR will monitor the college's implementation of the agreement, and when OCR concludes that the college has fully implemented the terms of the agreement, OCR will terminate its monitoring and close the case. If the college fails to implement the agreement, OCR may resume the investigation.

Please be advised that the college or other person may not harass, coerce, intimidate, threaten, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Section 504 or Title II or those statutes' implementing regulations or because he or she has filed a complaint or participated in the complaint resolution process. See 34 CFR 104.61 (incorporating the prohibition against retaliation at 34 CFR 100.7(e)) and 28 CFR 35.134. If this happens, the individual retaliated against may file a complaint with OCR alleging such retaliation.

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, 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 personal privacy.

Thank you for the assistance the college and its vice president of student services provided to OCR in resolving this complaint. We look forward to receiving the college's first report on its implementation of the agreement by June 1, 2014. If you have any questions, please contact Kwame Amoateng, lead attorney, by telephone at (206) 607-1602 or by e-mail at kwame.amoateng@ed.gov.

Sincerely,

/ s /

Kelli Lydon Medak
Supervisory Attorney

Enclosure: Resolution Agreement