

UNITED STATES DEPARTMENT OF
EDUCATION
OFFICE FOR CIVIL RIGHTS

5 POST OFFICE SQUARE, 8TH FLOOR



Mark Williams
President
Le Cordon Bleu College of Culinary Arts in Boston
215 First Street
Cambridge, Massachusetts 02142

Re: Le Cordon Bleu College of Culinary Arts
OCR Case Number 01-13-2184

Dear President Williams:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), has resolved the above-referenced complaint filed against Le Cordon Bleu College of Culinary Arts (College). The Complainant (Student) alleged that the College discriminated against him on the basis of disability, by failing to provide him with the academic adjustment of accessible textbooks, although his disability documentation supported the need for this academic adjustment, and the College had promised to provide it. He further alleged that when he raised concerns to the College that he was not receiving this academic adjustment, the College did not address the problem. Finally, he noted concerns with the College's lack of policies or procedures through which to address his concerns. During the course of the investigation, and before OCR reached a compliance determination with regard to the Student's allegations, the College agreed to implement the steps in the enclosed Voluntary Resolution Agreement (Agreement) to address the Student's allegations.

OCR opened this matter for investigation according to our jurisdiction to enforce Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 34 C.F.R. Part 104 (Section 504), which prohibits discrimination on the basis of disability by recipients of Federal financial assistance from the U.S. Department of Education (recipients). Since the College is such a recipient, it is subject to the requirements of Section 504.

During the course of its investigation, OCR learned that the Student had filed similar concerns with the Massachusetts Attorney General's Office (Attorney General), which had been addressed by a mediation session in early July 2013. After speaking with staff in that office, as well as the Student and College, OCR learned that the mediation resulted in ensuring that agreed-upon accommodations would be provided going forward, as the Student would be starting the College's Associate's Program in September. This mediation did not address the College's Section 504 policies and procedures, however, nor did it address any effects on the Student of possible past discrimination.

Early in OCR's investigation, both parties expressed an interest in a prompt resolution of the concerns presented in the complaint. OCR reviewed information from both parties regarding accommodations for the Student, including communications between him and the College about any issues with the agreed-upon accommodations. Additionally, OCR reviewed copies of the College's non-discrimination policies/procedures, as well as its process for determining appropriate accommodations for students with disabilities and ensuring that agreed-upon accommodations are provided. OCR did not conduct a full file review, however, nor did OCR interview any College staff before a resolution was reached.

Legal Standards

The regulation implementing Section 504 at 34 C.F.R. §104.43 provides that no qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any postsecondary program or activity. At 34 C.F.R. Section 104.44, Section 504 further requires that recipients provide academic adjustments to qualified college students with disabilities who request them and who provide appropriate documentation in support of their request.

Once a student has notified a postsecondary institution of the need for accommodations, the institution has an obligation to engage the student in an interactive process to determine the appropriate accommodations to be provided. Postsecondary institutions may make reasonable requests that the student provide the results of medical, psychological or education diagnostic tests and professional prescriptions that support the existence of a disability and the need for the requested supports. Although institutions have some flexibility in choosing the specific accommodations they will provide, they must do so in consultation with the student and must ensure that the accommodation selected is effective.

Beyond engaging in the initial process of establishing the appropriate accommodations, the postsecondary institution is obligated to ensure that these accommodations are provided and to respond to problems that arise after the initial accommodations process. Similarly, the student must remain engaged in an interactive process with the institution beyond the initial stage of determining what accommodations are appropriate. If the academic adjustments/accommodations are not provided, or are not effective in meeting the student's needs, the student should notify the institution as soon as possible. The student and the institution should work together to resolve the problem, including by, as appropriate, modifying the accommodations or identifying other effective accommodations to be provided. If a dispute arises as to the effectiveness of an accommodation, OCR considers documentation of the nature and extent of the impairment; the extent to which the student and the postsecondary institution acted reasonably under the circumstances; the manner in which the postsecondary institution responded to the student's requests; and the extent to which the student cooperated with the institution in its effort to provide accommodation.

Finally, all recipients must comply with the procedural requirements of Section 504 that are provided at 34 C.F.R. Sections 104.7 and 104.8, by: 1) designating an employee to coordinate the recipient's efforts to comply with Section 504, 2) adopting grievance procedures that include appropriate due process standards to provide for a prompt and equitable resolution of any

complaints of possible disability discrimination, and 3) providing broad notice to participants, beneficiaries, applicants and employees, that it does not discriminate on the basis of disability in admission or access to, or treatment or employment in, its program(s) or activity (ies).

Preliminary Investigation

From its preliminary investigation, OCR learned that the Student began the College's Certificate Program in Culinary Arts (Certificate Program) on October 3, 2012. The Student informed OCR that, as a result of a documented disability, he requires that textbooks and presentations be provided in an unlocked .PDF format so that he can listen to the textbooks in addition to reading them.

Both the Student and the College told OCR that the Student notified the College of his disability and need for accommodations in late June of 2012, roughly four months before the Student's classes for the Certificate Program began. Both parties also confirmed that the College agreed to provide texts in .PDF format as an accommodation.

Based on information from the College, the Student and Attorney General, however, the College did not timely provide this accommodation, so that the Student had to make do with the printed texts. Although, as both the College and Student told OCR, the Student repeatedly told the College that he was not receiving his materials in an unlocked .PDF format, it appears that the College may not have been able to provide such materials until roughly July 2013. At that point, the Student had graduated from the Certificate Program with an A-/B+ average and had applied for the Associate's Program.

The Student told OCR that he was not directed to any grievance procedure to address his concerns, nor was he entirely certain who at the College was responsible to ensuring that the College met its obligations for persons with disabilities.

To resolve the Complaint, the College agreed to take the steps memorialized in the enclosed Agreement to address the Student's allegations. In particular, the College agreed to revise its Accommodations Policy to identify the College staff that would coordinate the process for providing appropriate academic adjustments. The College further agreed to incorporate an interactive process for addressing any issues that may arise with the College's provision of agreed-upon academic adjustments, including assurances that the College will address any instances where it is determined that there was a failure to provide such academic adjustments, or that those provided were ineffective, by taking steps to ensure delivery of effective academic adjustments. The revised Accommodations Policy will be posted on the College's website in a section readily accessible to applicants, current students and staff. It will also be disseminated to all faculty, staff and current students by memorandum or email. The College will also revise its designation of a 504 Coordinator, Notice of Non-Discrimination and Grievance Procedures, then post these revised policies and procedures on its website, as well as provide them via memoranda to all faculty, staff and current students.

The College further agreed to develop, for OCR's review and approval, an Alternative Text procedure by which it would ensure that students who requested that specific accommodation by

complying with the appropriate policies, would have their alternative text materials by the beginning of the semester or module. Additionally, the College agreed to have OCR provide training for all faculty, staff and/or administrators who are responsible for implementing any of the College's policies or procedures covering the College's obligations under Section 504. Finally, the College agreed to provide remedies for the Student, specifically offering tuition free courses in its Associates Degree Program.

As memorialized in the Agreement, OCR will monitor the College's compliance with the agreed-upon terms. OCR will close the monitoring of this matter, and will so notify the parties in writing, once it determines that the College has satisfied the terms of the Agreement. The College has agreed to provide OCR with monitoring reports demonstrating that it has implemented the provisions of the Agreement.

OCR determinations are made on a case-by-case basis and are not formal statements 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 are made available to the public. The information in this letter is not intended, and should not be construed, to cover any other issues regarding compliance with Section 504 that may exist but are not discussed herein. Please also be advised that complainants may have the right to file a private suit in Federal court on these issues, whether or not OCR found a violation.

Under the Freedom of Information Act, it may be necessary to release this letter 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 privacy. Pursuant to OCR procedure, the College is reminded that 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 participated in any manner in connection with a complaint.

We would like to thank the College, and its attorney Thomas Shirley, for their cooperation throughout OCR's resolution of this matter. If you have any questions, please contact Meighan McCrea, Civil Rights Attorney, at (617) 289-0052 or meighan.mccrea@ed.gov, or Diana Otto, Civil Rights investigator, at (617) 289-0073 or diana.otto@ed.gov. You may also contact me directly at (617) 289-0111.

Sincerely,

_____/s/_____
Thomas J. Hibino
Regional Director

cc: Attorney Thomas Shirley

Enclosure