December 14, 2020

Dr. Vincent Maniaci  
President  
American International College  
By email: vincent.maniaci@aic.edu  

Re: Complaint No. 01-20-2228  
American International College  

Dear Dr. Maniaci:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education (Department), Office for Civil Rights (OCR) received against American International College (College). The Complainant alleges that the College discriminated against her on the basis of disability. Specifically, the complaint alleges that the College discriminated against the Complainant when it: (1) denied her requests for accommodations related to laboratory and XXXXXXXX components of the XXXXXXXXXX Program; and (2) failed to engage in an interactive process to determine if there were alternative accommodations available (Allegation 1). The Complainant also alleges that the College has not designated a 504 Coordinator (Allegation 2).

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. Section 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in any program or activity receiving federal financial assistance from the Department.

Because the College receives federal financial assistance from the Department, OCR has jurisdiction over it pursuant to Section 504.

Because OCR determined that it has jurisdiction and that the complaint was timely filed, OCR opened the following allegations for investigation:

1. Whether the College discriminated against the Complainant on the basis of disability by inappropriately denying necessary academic adjustments related to laboratory and XXXXXXXX components of the Program, in violation of 34 C.F.R. Section 104.44; and

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1 The College and Complainant frequently refer to academic adjustments and auxiliary aids as “accommodations.” The Section 504 regulation addressing post-secondary education refers to “academic adjustments and auxiliary aids,” while the Title II regulation refers to “reasonable modifications.” When the term “accommodations” is used in this document, it refers to academic adjustments and auxiliary aids as those terms are used in 34 C.F.R. § 104.44 and reasonable modifications as that term is used in 28 C.F.R. § 35.130(b)(7).

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2. Whether the College failed to designate a person to coordinate its efforts to comply with Section 504, in violation of 34 C.F.R. § 104.7(a).

During the investigation, OCR reviewed documents provided by the Complainant and the College and interviewed the Complainant. Before OCR completed its investigation of Allegation 1, the College expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement (Agreement). After carefully considering all of the information obtained during the investigation, OCR found insufficient evidence to support Allegation 2.

Summary of Preliminary Investigation for Allegation 1

The Complainant was enrolled in the Program, a XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX degree program for first-year students or undergraduate transfers. For the first two years of the Program, students take prerequisite undergraduate courses, including Psychology, Statistics, and Physics XXXXXXXXXXXXXXXXXXXX. For the next three years, students study the same curriculum at the same pace in the XXXXXXXXXXXX part of the Program, which consists of a progression of specific XXXXXXXXXXXXXXXXXXXXXXX courses and fieldwork experiences. According to the College, the dates and times for the XXXXXXXXXXXX course schedule are set by the Program faculty prior to each semester. The Program maintains its own “XXXX Student Handbook” that identifies academic policies, procedures, and requirements specific to the Program. The Program educates students as generalist XXXXXXXXXXXXX, in accordance with the requirements of the Accreditation Council for XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

The Complainant enrolled in the Program as a transfer undergraduate student in XXXX. During the Fall XXXX and Spring XXXX semesters, she took and completed undergraduate prerequisite courses for the Program. She requested and received XXXXXXXXXXXXXXXXXXXXXXX accommodations for these course that were in effect “until the end of the academic school year, XXXXXX.”

Upon her request, on XXXXXXXXXXXXXXXXX, the Complainant was also approved for XXXXXXXXXXXXXXXXXXXXXXX accommodations for the XXXXXXXXXXXXX school year. The Complainant does not dispute that the accommodations approved on XXXXXXXXXXXXX were implemented.

On XXXXXXXXXXXXXXXXX, the Complainant contacted her XXXXXXXXXXXXXXXXX to ask if her Spring XXXX schedule could be adjusted so that she could XXXXXXXXXXXXXXXXXXXXXXX XXXXXXXX without XXXXXXXXXXXXX. The academic advisor forwarded this request to the 504 Coordinator, who set up a meeting with the Complainant on XXXXXXXXXXXXXXXXX to discuss the request. According to the Complainant, during this meeting, the 504 Coordinator suggested that the request for XXXXXXXXXXXXXXXXXXXXXXX would not be approved because “the XXXXXXXXXXXXX was already made.”
On XXXXXXXXXXXXXXXXX, the 504 Coordinator e-mailed the Program’s Interim Director to consider whether the Complainant’s requests were “viable and reasonable.” Thereafter, the 504 Coordinator sent a letter to the Complainant on XXXXXXXXXXXXXXXXX indicating that her requests for “attendance flexibility”, an extension of the "timeline of completion of fieldwork", and "ability to take breaks/sit down as needed", were approved.

Regarding the Complainant's request for “XXXXXXXXXXXXXXXXXXXXXXXXXXX”, however, the 504 Coordinator wrote that the XXXXXXXXXXXXXXXXXXXXXXX was solidified and did not allow for XXXXXXXXX. Specifically, the 504 Coordinator indicated that XXXXX an XXXXX course section would “dictate the XXXXXXXXX of faculty, classroom space and division XXXXXXXXXXX.”

The College offered a XXXXXXXXXXXXXXXXXXXXXXXX as an alternative accommodation, which would allow the Complainant to XXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXX, so that she could XXXXXXXXXXXXXXXXXXXXXXXL for Spring XXXX and every subsequent semester until Fall XXXX, when the Complainant would have to XXXXX a full XXXXXXXXXXXXXXXXXXXXX. The XXXXXXXXXXXXXXXXXXXXX would require the Complainant to XXXXXXXXXX the Program for an XXXXXXXXXXXXX to complete her degree, however. The College did not indicate whether the Complainant would be required to XXXXXXX the XXXXXXXXXX in the Program.

The 504 Coordinator invited the Complainant to contact her if the Complainant had any questions about the College’s response. The College’s Spring XXXX semester began on XXXXXXXXXXXXXXX.

Legal Standards

The Section 504 regulation, at 34 C.F.R. § 104.43(a), provides that a qualified person with a disability may not be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any postsecondary aids, benefits, or services on the basis of disability. The regulation at § 104.44(a) further requires a college to modify its academic requirements as necessary to ensure that such requirements do not discriminate or have the effect of discriminating on the basis of disability against a qualified student with a disability. The regulation at § 104.44(d) requires a college to ensure that no qualified individual with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

Colleges may establish reasonable requirements and procedures for students to provide documentation of their disability and the need for modifications, and request academic adjustments and auxiliary aids and services. Once the student has provided adequate documentation, the college must provide appropriate academic adjustments and auxiliary aids and services that are necessary to afford the student an equal opportunity to participate in a school’s program, unless the adjustments, aids, and/or services would result in a fundamental alteration of the college’s program or impose an undue burden.
Regarding fundamental alterations, Section 504 does not require that colleges modify academic requirements that are essential to the instruction being pursued or are directly related to a licensing requirement. When reviewing a determination that a specific standard or requirement is an essential program requirement that cannot be modified, OCR considers whether that requirement is educationally justifiable, i.e., essential to the educational purpose or objective of a program or class. OCR policy requires, among other factors, that decisions regarding essential requirements be made by a group of people who are trained, knowledgeable and experienced in the area; through a careful, thoughtful and rational review of the academic program and its requirements; and that the decision-makers consider a series of alternatives for the essential requirements, as well as whether the essential requirement in question can be modified for a specific student with a disability. OCR affords considerable deference to academic decisions made by post-secondary institutions, including what is or is not an essential program requirement.

Similarly, a college is not required to provide an academic adjustment or auxiliary aid if it can show that the requested adjustment or aid would pose an undue financial or administrative burden. Generalized conclusions are not sufficient to support a claim of undue burden. Instead, undue burden must be based on an individualized assessment of current circumstances that show a specific academic adjustment or auxiliary aid would cause significant difficulty or expense.

If a college denies a request for a modification, it should clearly communicate the reasons for its decision so that the student has a reasonable opportunity to respond and provide additional documentation that would address the college objections.

**Analysis**

Prior to the conclusion of OCR’s investigation and pursuant to Section 302 of OCR’s Case Processing Manual, the College expressed an interest in resolving Allegation 1 and OCR determined that a voluntary resolution is appropriate. Subsequent discussions between OCR and the College resulted in the College signing the enclosed Agreement which, when fully implemented, will address Allegation 1. OCR will monitor the College’s implementation of the Agreement.

**Allegation 2**

The Section 504 regulation, at 34 C.F.R. § 104.7(a), requires a recipient that employs 15 or more persons to designate at least one person to coordinate its efforts to comply with Section 504.

On XXXXXXXXXXXXXXXXXXXX, the Complainant sent a letter to the College’s Disability Services Coordinator alleging that the College had failed to designate a 504 Coordinator since XXXXXXXXXXX. The College asserted that at no time between XXXX and the present had it failed to designate or identify the College’s 504 Coordinator, and it provided the XXXXXXXX student handbook which included sufficient designation and notice of its 504 Coordinators. The Complainant did not provide any evidence to refute this. Accordingly, OCR found insufficient evidence to support Allegation 2.
Conclusion

This concludes OCR’s investigation of the complaint. This letter 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. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

The Complainant has a right to appeal OCR’s determination with respect to Allegation 2 within 60 calendar days of the date indicated on this letter. In the appeal, the complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the complainant appeals OCR’s determination, OCR will forward a copy of the appeal form or written statement to the recipient. The recipient has the option to submit to OCR a response to the appeal. The recipient must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

Please be advised that the College must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

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

Sincerely,

Meighan A.F. McCrea
Compliance Team Leader

Enclosure

cc: Xxxxxxxxxxxxxxxxx, Xxxxxxxxxxxxxxxxxxxxxxxx
    Xxxxxxxxxxxxxxxxx, Xxxxxxxxxxxxxxxxxxxxxxxx