



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

32 OLD SLIP, 26TH FLOOR
NEW YORK, NEW YORK 10005

TIMOTHY C. J. BLANCHARD
DIRECTOR
NEW YORK OFFICE

April 20, 2020

Sent via email only to: XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Jeremy Singer
President
The College Board
250 Vesey Street
New York, New York 10281

Re: Case No. 02-20-2025
The College Board

Dear Mr. Singer:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), regarding the above-referenced complaint filed against the College Board. The Complainant alleged that the College Board discriminated against his son (the Student), on the basis of his disability, by failing to provide the approved testing modification of extended time for all sections of the SAT administered on October 5, 2019.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs or activities receiving financial assistance from the U.S. Department of Education (the Department). The College Board is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Section 504.

The regulation implementing Section 504, at 34 C.F.R. § 104.4(a), states that no qualified individual 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 under any program or activity that receives or benefits from federal financial assistance. The regulation implementing Section 504, at 34 C.F.R. § 104.4(b)(4), states that a recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability.

During the course of this investigation, OCR reviewed documentation that the Complainant and the College Board provided. OCR made the following determinations.

The College Board develops, administers, and scores standardized tests such as the SAT. The SAT is administered several times per year to students preparing to apply for admission to post-

secondary institutions. According to the College Board’s website, there are three sections of the SAT: Evidence-Based Reading and Writing (reading section); Math; and the SAT Essay.¹ The College Board also administers SAT Subject Tests in the following subject areas: Math, History, Science, Literature, and Languages.²

The Complainant alleged that the College Board discriminated against the Student, on the basis of his disability, by failing to provide the Student’s approved testing modification of extended time on each section of the SAT administered on October 5, 2019. The Complainant stated that the Student was approved for a testing modification of extended time in the form of an additional 50% time for reading (i.e., time-and-a-half), and because each section of the SAT requires reading, the Student was entitled to receive 50% additional time on all sections of the test. The Complainant asserted that when the Student sat for the SAT administered on October 5, 2019 (the October SAT), the Student received extended time for the Reading Section, but did not receive extended time to complete the math and essay sections of the SAT. The Complainant informed OCR that during the week of XXXXXXXX XX, 2019, he contacted the College Board to complain that the Student had not been provided his testing accommodation of extended time on all sections of the October SAT. The Complainant asserted that, thereafter, the College Board did not expunge the Student’s score for the October SAT. He stated that the College Board released the score to colleges to which the Student had applied, to the Student’s detriment.

The Complainant acknowledged that on two subsequent administrations of the SAT, in November and December 2019, the Student received his approved testing modification of time-and-a-half for all sections of each exam; however, the Complainant informed OCR that, although the Student received his testing accommodation for the administration of the SAT on December 7, 2019 (December SAT), the testing center staff were uncertain about whether the Student should receive extended time on all sections of the test and had to contact the College Board to confirm the scope of the Student’s testing modifications before administering the test to the Student.

According to documentation that the College Board provided to OCR, the Student was approved for 50% extended time (or time-and-a-half) for all sections of the SAT and was so notified by letter dated XXXXX XX, 2018. Further, the College Board’s policy, as set forth in its 2019-2020 SAT and SAT Subject Tests *Non-Standard Testing Room Manual* for test administrators (manual) provides that “students approved for extended time for reading must be given extended time for the entire test.”

OCR’s review of the College Board’s determination and eligibility letter to the Student, dated XXXXX XX, 2018, confirmed that the Student was entitled to receive 50% (time-and-a-half) for the SAT and SAT Subject Tests. The letter also states “[t]he student is approved for extended time in reading. Because all test sections include reading, the student will be permitted the approved amount of extended time for the entire test, unless approved for more time for other sections.” The letter further directed the Student to “[b]ring this letter to the test administration to be sure that you are tested with your accommodations.” OCR further determined that the College Board policy as set forth in the manual is that “students approved for extended time for reading must be given

¹ <https://collegereadiness.collegeboard.org/sat/scores/understanding-scores/interpreting> (Site last visited on March 10, 2020).

² <https://collegereadiness.collegeboard.org/sat-subject-tests/subjects> (Site last visited on March 10, 2020).

extended time for the entire test.” Thus, OCR determined that the Student should have received 50% extended time for all sections of the October SAT.

The College Board acknowledged that the Student did not receive 50% extended time for all sections of the October SAT, and that the Student’s test was scored according to the normal process and the results were released. The College Board asserted that it released the Student’s score for the October SAT prior to learning of any issue with the Student’s approved accommodation being provided during any section of the test.³ The College Board asserted, and OCR confirmed, that the Student received his testing accommodation of extended time on all test sections during the administration of the December SAT.⁴

The College Board informed OCR that in similar cases where it has failed to provide testing accommodations of extended time to a student, its policy is to expunge the score and to afford the student an opportunity to take the SAT again, at no charge. The College Board informed OCR that, to date, it has not expunged the Student’s score for the October SAT.

Based on the foregoing, OCR determined that the College Board failed to provide the approved testing modification of extended time for all sections of the SAT administered on October 5, 2019. On April 14, 2020, the College Board signed the enclosed resolution agreement (Agreement) to resolve the Complainant’s allegation, pursuant to Section 303(b) of OCR’s *Case Processing Manual*. OCR will monitor the implementation of the Agreement.

This letter should not be interpreted to address the College Board’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 a right to file a private suit in federal court whether or not OCR finds a violation.

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

³ The College Board asserted that its practice is to note any irregularities in testing (i.e., the failure to provide a student with an approved accommodation) in an irregularity report prepared on the date of the test; accordingly, disputes as to scores may be resolved prior to their release, if any. An irregularity report is created by the testing center to document if a problem or disruption occurs during an administration of the SAT and is sent to College Board the day after the exam. The College Board Nonstandard Testing Room Manual for 2019 SAT and SAT Subject Tests defines irregularity as “a problem or disruption during a test administration. An irregularity may result in a canceled test score or a required makeup.” The College Board explained that since the Student did not report the failure to receive his accommodation to the proctor on the date he took the October SAT, and the Complainant delayed for approximately one week in reporting the issue to the College Board, the issue was not documented in an irregularity report in accordance with its practice.

⁴ The College Board also informed OCR that the Student received 50% extended time for the SAT Subject Tests in French, Mathematics, and Physics, administered on November 2, 2019, which are not at issue in this complaint.

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 law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions regarding OCR's determination, please contact Erin M. Greene, Compliance Team Attorney at (646) 428-3870 or erin.greene@ed.gov; Jane Tobey Momo, Senior Compliance Team Attorney, at (646) 428-3763 or jane.momo@ed.gov; or Félice Bowen, Compliance Team Leader at (646) 428-3806 or felice.bowen@ed.gov.

Sincerely,

/s/

Timothy C.J. Blanchard

cc: Jill Green, Esq.

Encl.