



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

RACHEL POMERANTZ
DIRECTOR
NEW YORK OFFICE

May 27, 2022

Sent via email only to: XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Casey Craball, Ed.D.
President
Onondaga Community College
4585 West Seneca Turnpike
Syracuse, New York 13215

Re: Case No. 02-22-2047
Onondaga Community College

Dear President Craball:

On November 30, 2021, the U.S. Department of Education, Office for Civil Rights (OCR) received the above-referenced complaint filed against Onondaga Community College. The Complainant alleged that the College discriminated against him, on the basis of his disability, by failing to respond appropriately to his request for accommodations for his clinical internship in the College's Phlebotomy Accelerated Career Training program (the Program), during the XXX XXXX semester.

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 and activities receiving financial assistance from the U.S. Department of Education. OCR also is responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. Under Title II, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities. As a recipient of Federal financial assistance from the Department, the College is subject to Section 504. As a public post-secondary education system, the College is subject to Title II.

The regulation implementing Section 504, at 34 C.F.R. § 104.44, requires recipients to modify academic requirements when necessary to ensure that the requirements are not discriminatory on the basis of disability, and to take steps to ensure that no qualified individual with a disability is subjected to discrimination because of the absence of educational auxiliary aids. In reviewing allegations regarding the provision of academic adjustments and/or auxiliary aids/services, OCR considers whether: (1) the student provided adequate notice to the recipient that the academic adjustments and/or auxiliary aids/services were required; (2) the academic adjustments and/or

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auxiliary aids/services were necessary; (3) the appropriate academic adjustments and/or auxiliary aids/services were provided; and, (4) the academic adjustments or auxiliary aids and/or services were of adequate quality and effectiveness. At the postsecondary level, it is the student's responsibility to disclose a disabling condition and to request academic adjustments and/or auxiliary aids. It is also the student's responsibility to know and follow a postsecondary school's procedures for requesting an academic adjustment and/or auxiliary aids/services. OCR determined that the College has a procedure for students with disabilities to request academic adjustments and/or auxiliary aids/services.¹

The College offers the Program to non-degree-seeking individuals. The Program, a workforce training program, consists of seven weeks of classroom instruction and an off-site clinical placement, involving blood draws at local healthcare facilities.²

OCR determined that on XXXX XX, XXXX, the Complainant registered for the Program. On XXXXXX X, XXXX, the Complainant met with a counselor from the College's Office of Accessibility Resources (OAR) and requested classroom-related academic adjustments and auxiliary aids for the Program. On XXXXXX XX, XXXX, the College approved the Complainant's request for academic adjustments and auxiliary aids and provided him with an accommodation plan. By email to the College's XXXXX XXXXXXXXXXXX XXXXXXXX, the Complainant requested evening hours for his clinical placement; and in an email to College XXXXX, the Complainant reiterated his request. On XXXXXXXXXXXX XX, XXXX, the Complainant emailed OAR to complain that Program staff were not responding to his request for evening hours for his clinical placement; and in response, the OAR director requested that the Complainant provide documentation to support his request. On XXXXXXXX X, XXXX, the OAR approved an accommodation of flexible hours for the Complainant's clinical placement.

The Complainant began his clinical placement on XXXXXXXX XX, XXXX, working an 8:00 a.m. – 6:00 p.m. shift. Neither Program staff nor OAR staff received further complaints from the Complainant about his clinical placement. The Complainant informed OCR that he graduated from the Program during the XXXX XXXX semester and received an A in the Program.

On XXX XX, XXXX, OCR contacted the College to discuss OCR's Rapid Resolution Process (RRP) to address concerns regarding the availability of academic adjustments and auxiliary aids to students enrolled in the College's workforce programs. The College communicated its willingness to provide training and disseminate a memorandum to College administrators, faculty, and staff in OAR and the College's workforce programs regarding the College's obligations under Section 504 and Title II. On XXX XX, XXXX, the College voluntarily entered into the attached resolution agreement (Agreement) to resolve the complaint, pursuant to Section 110 of OCR's *Case Processing Manual*.³ OCR will monitor the College's implementation of the Agreement. Upon the College's compliance with the terms of the Agreement, with Section 504 and its implementing regulations at 34 C.F.R. Part 104, and Title II and its implementing regulations at 28 C.F.R. Part 35, which were at issue in this case, OCR will close the case.

¹ "A10: Student Requests for Accommodation Under the ADA and Section 504 and Grievance Procedure", available at <https://www.sunyocc.edu/node/18001> (last visited May 27, 2022).

² <https://www.sunyocc.edu/programs/phlebotomist> (last visited May 27, 2022).

³ *Case Processing Manual* (Aug. 26, 2020), <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

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.

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 against the College 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, 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, please contact Karen C. McDowell, Compliance Team Attorney, at (646) 428-3735 or karen.mcdowell@ed.gov; Grace Kim, Compliance Team Attorney, at (646) 428-3977 or grace.d.kim@ed.gov; or, me, at (646) 428-3796 or jocelyn.panicali@ed.gov.

Sincerely,

/s/

Jocelyn Panicali
Compliance Team Leader

Attachments

cc: Peter Jones, Esq.