



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION IV**

61 FORSYTH ST., SOUTHWEST, SUITE 19T10
ATLANTA, GA 30303-8927

August 28, 2018

REGION IV
ALABAMA
FLORIDA
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Suzanne L. Gardner
General Counsel
St. Petersburg College
P.O. Box 13489
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Letter sent via email
OCR Docket # [04-18-2160]

Dear Ms. Gardner:

On March 1, 2018, the U.S. Department of Education, Office for Civil Rights (OCR), received the above-referenced complaint filed by the Complainant against St. Petersburg College (College). The complaint alleged that the College discriminated and retaliated against the Complainant based on disability, during X X class in the spring 2018 semester, as follows:

1. The Professor failed to provide the notetaker accommodation (previously approved by the Accessibility Services Department) from the start of the course in January 2018 through some time in February 2018, despite the Complainant having provided X the notetaker instructions twice.
2. After complaining to the Accessibility Department about this failure and providing the Professor the second copy of the notetaker instructions, the Professor retaliated by a) breaching the Complainant's confidentiality in discussing X notetaker accommodation in front of several classmates after class on February 13, 2018 (for which X also complained to the Accessibility Department), and b) failing to provide any notes for the final weeks of the course or replace the notetaker who had quit.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities. Because the College receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to these laws.

Based on the allegations above, OCR investigated the following legal issues:

1. Whether the College discriminated against the Complainant when it did not consistently provide X approved accommodation of class notes for X spring 2018 X X class during

January and February, in noncompliance with the Section 504 regulation at 34 C.F.R. § 104.44 and the Title II implementing regulation at 28 C.F.R. § 35.130; and

2. Whether the College retaliated against the Complainant after X complained about not providing the notes in allegation #1, by breaching confidentiality in front of classmates after class on February 13, 2018 (for which X also complained to the Accessibility Department), and b) failing to provide any notes for the final weeks of the course, in noncompliance with the Section 504 regulation at 34 C.F.R. § 104.61 and the Title II implementing regulation at 28 C.F.R. § 35.134.

Prior to OCR completing the investigation of this case, the College offered to resolve this allegation. Pursuant to Section 302 of OCR's *Case Processing Manual (CPM)*, a complaint, or complaint allegations, may be resolved before the conclusion of an investigation when the recipient or public entity expresses an interest in resolving the complaint. The attached Resolution Agreement (Agreement) requires the College offer to allow the Complainant to retake test #1 and #3 of the course after providing him all lecture notes covered in those tests and recalculating X course grade, should X score better on retest. The Agreement also requires the College to include in its accommodation instruction packets for professors, a brief explanation about student confidentiality when providing accommodations or discussing such with the student and the College will also provide practical training on this topic to the professors.

On August 24, 2018, OCR received the enclosed signed Agreement that, when fully implemented, will resolve all allegations in this complaint pursuant to CPM Section 302, as discussed above. OCR will monitor the College's implementation of this Agreement to ensure that it is fully implemented. If the College fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504 and Title II.

The Complainant may file a private suit in federal court whether or not OCR finds a violation. Please be advised that the College may not harass, coerce, or discriminate against any individual because he or she has filed a complaint, or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

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, to the extent provided by law, personally identifiable information that, if released, could constitute an unwarranted invasion of privacy.

If you have any questions, please contact Senior Attorney Angela Collins at (404) 974-9346, or by email at angela.collins@ed.gov, or the undersigned at (404) 974-9408.

Sincerely,

/s/

April England-Albright
Supervisory General Attorney

Enclosure