



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

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

REGION IV
ALABAMA
FLORIDA
GEORGIA
TENNESSEE

July 29, 2019

Dr. John Avendano, President
Florida State College at Jacksonville
101 W State Street
Jacksonville, FL 32202

Re: OCR Complaint # 04-19-2106
Florida State College at Jacksonville

Dear Dr. Avendano:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has concluded its investigation of the above-referenced complaint received on February 1, 2019, alleging disability discrimination by Florida State College at Jacksonville (College). More specifically, the Complainant alleged that the College discriminated against her on the basis of disability when it failed to provide her with one day of extended time on mid-term and workbook assignments and failed to timely provide her with an ergonomic chair.

OCR enforces the following:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of FFA.
- Title II of the Americans with Disabilities Act of 1990 (Title II), as amended, 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities.

As a recipient of FFA from the Department a public entity, the College is subject to these laws.

Based on the foregoing, OCR opened an investigation of the following legal issue(s):

Whether the College discriminated against the Complainant on the basis of disability, by failing to provide her an academic adjustment (i.e., one day of extended time on mid-term and workbook assignments) and failing to timely provide her with an auxiliary aid (i.e., an ergonomic chair), in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.44, and the Title II implementing regulation, at 28 C.F.R. § 35.130.

Pursuant to OCR's Case Processing Manual (CPM) at Section 302, a complaint may be resolved when, before the conclusion of an investigation, "the recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation." After the College submitted documentation to OCR, the College informed OCR of its desire to take voluntary actions necessary to resolve the allegation in the complaint. Accordingly, OCR has not issued findings concerning the legal issue opened for investigation.

Information gathered thus far from College documentation reveals ambiguous wording in the College's procedure (Procedure) regarding the provision of academic adjustments and auxiliary aids/services for students with disabilities. The wording at issue could potentially lead to unintended interpretations of the Procedure, including but not limited to, requiring a student to repeatedly renegotiate a deadline extension after this adjustment has been granted.

As indicated above, prior to the completion of OCR's investigation, the College requested to voluntarily resolve this complaint, and OCR determined that resolution, pursuant to OCR's CPM Section 302, was appropriate. The attached Resolution Agreement (Agreement) will require the College to take actions to remedy any compliance concern(s) identified in the complaint such as (1) revising the Procedure by removing ambiguous wording which could be misinterpreted to (a) require a student to repeatedly renegotiate an academic adjustment once it has been granted, (b) delegate the decision to grant or deny an academic adjustment to a professor (as opposed the Office of Services for Students, and (c) grant deadline extensions for unforeseen technical barriers that are unrelated to a student's disability; and (2) offering the Complainant an opportunity to (a) participate in an interactive process to determine appropriate academic adjustments/auxiliary aids and services for any future classes she might elect to take at the College and (b) retake, free of charge, any classes she took in the fall of the 2018-2019 academic year with any academic adjustments/auxiliary aids and services granted as a result of the participation in the aforementioned process.

On July 22, 2019, OCR received the enclosed signed Agreement (dated July 19, 2019) that, when fully implemented, will resolve the allegation in the complaint. 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 regardless of whether OCR finds a violation.

In keeping with OCR practices, the College is reminded that Section 504 and Title II prohibit recipients from intimidating, coercing, threatening, or discriminating against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces, or because one has made a complaint, or participated in an investigation in connection with a complaint.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records, upon request. If we receive such a request, we 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.

OCR is committed to prompt and effective service. If you have any questions, please contact Ms. Demetria Mills-Obadic at (404) 974-9353, or the undersigned at (404) 974-9376.

Sincerely,

April England-Albright, Esq.
Supervisory General Attorney

Enclosure(s)