



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

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July 26, 2023

Dr. Deborah J. Curtis MM
President
Indiana State University
Sent via email only to Deborah.Curtis@indstate.edu

Re: OCR Docket #05-23-2123

Dear Dr. Curtis:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its processing of this complaint filed against Indiana State University (University) alleging discrimination on the basis of disability.

Specifically, the complaint alleges that the University discriminated against an undergraduate student (Student A) based on disability when it failed to provide Student A the necessary academic adjustment of excused absences in two courses in the fall 2022 semester (SOWK382 and SOWK 384).

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131–12134, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability in programs and activities operated by recipients of federal financial assistance from the Department and public entities, respectively. As a recipient of federal financial assistance from the Department and a public entity, the University is subject to these laws.

During its investigation, OCR reviewed information provided by Student A and the University and interviewed Student A. Prior to the completion of OCR's investigation, the University expressed interest in resolving the allegation and signed the enclosed Resolution Agreement (Agreement) that resolves the complaint pursuant to Section 302 of the Case Processing Manual (CPM). A summary of the information obtained to date and the basis for OCR's determination that the Agreement is appropriate are set forth below.

Legal Standards

The regulation implementing Section 504, at 34 C.F.R. § 104.4(a), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a recipient, or be subjected to discrimination by a recipient of federal financial assistance. The Title II implementing regulation, at 28 C.F.R. § 35.130(a), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

The Section 504 implementing regulation, at 34 C.F.R. § 104.44(a), requires a recipient to make such modifications to its academic requirements as are 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. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

The Title II regulation, at 28 C.F.R. § 35.130(b)(7), states that a public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Facts

The University's policy for students with disabilities to request academic adjustments is available on the University's online policy library [here](#). According to the University's Accessibility Resource Office (ARO) website, available [here](#), students may request disability-related academic adjustments by completing the ARO intake application. The website states that students must submit supporting documentation, including the diagnosis, a description of the effect of the diagnosis, and modifications that may address any resulting limitations. According to the University's *ARO Procedure Manual*, once academic adjustments have been authorized, ARO notifies the student and the student's professors of the approved academic adjustments.

The Student Handbook, available [here](#), includes the attendance policy for the Department of Social Work (Policy). The Policy states that for classes that meet twice a week, the student's grade will be reduced by 1/3 (e.g., from a B+ to a B) for each absence beyond four, up to eight. Under the Policy, a student with nine or more absences in such a class will receive a failing grade.

In fall 2022, Student A was an undergraduate student in the Bachelor of Social Work program (Program) enrolled in SOWK 382 and SOWK 384; each course met twice a week and was taught by the same professor (Professor). Student A asserted to OCR that she did not receive academic adjustments pertaining to excused absences in SOWK 382 and SOWK 384.

Student A had received academic adjustments since her initial enrollment at the University in 2019. Prior to the fall 2022 semester, Student A submitted an ARO intake application on August 17, 2022, requesting additional academic adjustments. By letter dated August 23, 2022, ARO informed Student A that she had been granted academic adjustments for her fall 2022 courses, including "a reasonable amount of flexibility with excused absences, makeup exams, deadline extensions, and participation points." The letter said, "The nature of this accommodation requires careful consideration and an open dialogue between the student, instructor, and ARO." The letter

also instructed Student A to contact ARO if she had any concerns or questions regarding her academic adjustments, including working with faculty on implementing her approved academic adjustments.

On August 29, 2022, the Professor received a similar notification letter from ARO. The letter instructed the Professor to discuss with Student A how to best implement the approved academic adjustments in her courses and to contact ARO if she had any questions or concerns regarding the academic adjustments. ARO also emailed Student A a copy of the letter to the Professor.

In its narrative response to OCR, the University maintained that the Professor and Student A agreed that “flexibility with excused absences” would be implemented by allowing Student A to attend both courses remotely on occasions when Student A informed the Professor in advance that she was unable to attend class in person. Student A denied to OCR having such an agreement with the Professor to implement her excused absence academic adjustment. Student A said the Professor insisted on following the Policy whenever she was absent from class due to her disability. Student A further stated that the Program’s Director (Director) supported the Professor’s refusal to implement her approved academic adjustment; she said she attempted to contact ARO regarding the denied flexibility with excused absences but received no response.

Student A met with the Professor and the Director remotely on September 29, 2022. Student A reported to OCR that when she referenced her academic adjustment allowing “flexibility with excused absences,” the Director responded that she was required to comply with the Policy. Student A also reported that when she suggested a meeting with ARO, the Director noted that she did not receive a copy of the ARO letter and asked Student A or the Professor to send it to her. Student A further reported that the Director also said Student A had the option to take the semester off if she was unable to attend class.

According to the University, prior to withdrawing from SOWK 382 on October 13, 2022, Student A had four unexcused absences because she was absent from class without a request to attend remotely. Additionally, the University noted that Student A was allowed to attend SOWK 382 remotely on four occasions after she communicated with the Professor in advance that she could not attend class in person. Student A told OCR that she had no choice but to withdraw from the course because she believed that she would exceed the number of absences permitted under the Policy for a passing grade and the University was refusing to grant her the attendance-related academic adjustment that ARO had approved.

According to the University, Student A had six unexcused absences in SOWK 384 because she was absent from class without a request to attend remotely. The University also noted that Student A was allowed to attend SOWK 384 remotely on six occasions after she communicated with the Professor in advance that she could not attend class in person. According to the University, Student A earned a grade of C+ in SOWK 384 prior to any grade reduction due to absences, which should have been reduced to a C- in accordance with the Policy, because she had six absences. However, the University reported that the Professor decided to minimize Student A’s grade reduction due to her “health difficulties,” and consequently lowered Student A’s grade only to a C.

The University did not provide any documentation to OCR showing that the Professor or the Director reached out to ARO regarding Student A's attendance-related academic adjustment.

Student A withdrew from the University at the end of the fall 2022 semester.

Analysis and Conclusion

In accordance with Section 302 of the CPM, a complaint may be resolved at any time when, prior to the conclusion of an investigation, the recipient expresses an interest in resolving the complaint.

Based on the evidence collected to date, OCR has identified compliance concerns regarding the allegation in this complaint. In particular, the information provided indicates that the University approved Student A for an academic adjustment of a "reasonable amount of flexibility with excused absences" but that instead of granting her additional excused absences beyond those allowed in the Policy, Program personnel offered as an alternative the option to attend courses remotely. The evidence did not establish that ARO was involved in further discussions when Student A and Program officials were unable to reach agreement on how to implement her approved academic adjustments. Student A withdrew from one course and received a grade penalty for excessive absences in the other course.

The enclosed Agreement, when fully implemented, will address the allegation investigated and OCR's compliance concerns. The provisions of the Agreement are aligned with the allegations in the complaint and the information obtained during OCR's investigation to date and are consistent with the applicable regulations. OCR will monitor the implementation of the Agreement.

This concludes OCR's resolution activities regarding the complaint and should not be interpreted to address the University's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. The 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.

Please be advised that the University 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 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. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

The Complainant may file a private suit in federal court, whether or not OCR finds a violation.

OCR would like to thank Jon Mattingly, counsel for the University, for the cooperation and courtesy extended to OCR during our investigation. If you have any questions regarding this matter, please contact Salina Lopez, Senior Equal Opportunity Specialist, at 312-730-1627 or by email at salina.lopez@ed.gov

Sincerely,

Jeffrey Turnbull
Team Leader

Enclosure

cc: Jon Mattingly (Sent by email only to jon.mattingly@mbcblaw.com)