



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620
DALLAS, TX 75201-6810

REGION VI
ARKANSAS
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TEXAS

April 11, 2019

Dr. Richard Rhodes, President
Austin Community College
5930 Middle Fiskville Rd.
Austin, TX 78752

Via first class mail

Ref: 06172064-Austin Community College

Dear President Rhodes:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint, filed against Austin Community College (ACC or Recipient), in Austin, Texas. The Complainant alleged that ACC discriminated against him on the basis of disability.

OCR is responsible for determining whether entities that receive or benefit from federal financial assistance from the Department (recipients), or an agency that has delegated investigative authority to the Department, are in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (amended 1992), and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, 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. ACC is a recipient and a covered public entity. Thus, OCR has jurisdiction to resolve this complaint under Section 504 and Title II.

OCR opened for investigation the following legal issues:

1. Whether ACC failed 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 disabled student, by failing to provide Complainant with necessary academic adjustments and/or auxiliary aids (e.g., including, but not limited to the following: a waived/modified attendance policy; providing Complainant copies of overheads; extended testing time; frequent breaks during exams; note sharing; priority seating in classroom; specialized assessments; testing in a distraction-reduced environment; testing in the OSD; and permission to record lectures) during the Fall 2016 semester, in violation of Section 504, at 34 C.F.R. § 104.44, and Title II, at 28 C.F.R. § 35.130; and

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

2. Whether ACC retaliated against Complainant by placing a hold on his account, then by preventing Complainant from registering for the Spring 2017 semester, because he asserted his right to the OSD to have the accommodations in his 504 plan implemented by his professors, in violation of Section 504 and Title II, at 34 C.F.R. § 104.61, and 28 C.F.R. § 35.134, respectively.

During OCR's investigation to date, OCR reviewed information provided by the Complainant and the Recipient, and conducted preliminary interviews with both the Complainant, and the Recipient's representative. Regarding issue 1, OCR's preliminary review of the information provided by the Recipient indicates the Complainant was enrolled as a student at ACC in the Fall 2016 Semester. The evidence indicates on September 1, 2016, the Complainant met with a representative from the Office for Students with Disabilities (OSD), and received approved academic adjustments and/or auxiliary aids. The evidence shows that on September 20, 2016, the Complainant spoke with OSD regarding concerns he had about not receiving his approved accommodations in two classes: Math 2412 and Computer Science 1337. The evidence indicates that the Complainant contacted OSD three more times between September 20, 2016, and October 13, 2016, regarding these same concerns.

Regarding issue 2, the evidence indicates that on December 22, 2016, the Complainant was informed that a hold had been placed on his registration for further courses at ACC. OCR's review of the data indicates that the Recipient initially contended that the first hold was placed on the Complainant's account in error, but ACC amended this explanation during the investigation to indicate that holds were placed on the Complainant's account due to him being a Math major and not having specific requirements complete. The Complainant contends that he was not a degree seeking student and never declared a major, in Math or any other subject.

Prior to the conclusion of OCR's investigation, the Recipient informed OCR that it was interested in resolving the complaint. Section 302 of OCR's Case Processing Manual provides that a complaint may be resolved at any time when, prior to the conclusion of an investigation, the recipient expresses an interest in resolving the allegations. The provisions of the resulting resolution agreement will be aligned with the complaint allegations or the information obtained during the investigation, and will be consistent with applicable regulations. OCR approved ACC's request to resolve this complaint prior to conclusion of the investigation.

The Recipient voluntarily signed the enclosed Resolution Agreement (Agreement) on April 3, 2019. OCR determined the Agreement addresses and, when fully implemented, resolves the issues under investigation. Thus, OCR is closing the investigation of this complaint as of the date of this letter. However, OCR will monitor implementation of the Agreement. If the Recipient fails to implement the Agreement, OCR will resume investigative activities.

This concludes OCR's investigation of this complaint. However, OCR will monitor the Recipient's implementation of the Agreement. Please be advised that if the Recipient fails to adhere to the actions outlined in the Agreement, OCR will resume its compliance efforts.

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.

Please be advised the Recipient may not harass, coerce, intimidate, 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. 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 personal privacy.

If you have any questions regarding this matter, you may contact the attorney assigned to this complaint, Craig Nydick, at (214)-661-9622 or craig.nydick@ed.gov. You may also contact me at 214-661-9648 or by e-mail at timothy.caum@ed.gov.

Sincerely,

Timothy D. Caum
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office

cc: X---Name Redacted---X (X---Email Redacted---X), Outside Counsel