



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII
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November 16, 2017

Dr. Sally Downey
Superintendent
East Valley Institute of Technology
1601 W Main Street
Mesa, Arizona 85201

Re: East Valley Institute of Technology
Case Number: 08-17-2310

Dear Dr. Downey:

On June 28, 2017, we received a complaint alleging East Valley Institute of Technology (EVIT) discriminated on the basis of disability. Specifically, the Complainant alleges EVIT did not provide her with requested accommodations for her disability for her final exam in an adult cosmetology program.

The U.S. Department of Education (Department), Office for Civil Rights (OCR) is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 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; and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and a public entity, EVIT is subject to these laws and regulations. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

During the investigation of this complaint, OCR reviewed documents provided by the Complainant and EVIT. OCR also communicated with the Complainant and an EVIT representative. The documentation provided shows that EVIT does have in place appropriate policies and procedures for requesting accommodations for disabilities. We learned that the Complainant, who enrolled in EVIT's Adult Education Cosmetology program in 2016, submitted some documentation regarding her disabilities to some EVIT staff, but that she did not have a written accommodation plan. In May 2017, she took the final exam in her adult cosmetology course without accommodations, and did not pass. Further investigation would show whether the Complainant had provided appropriate documentation to the appropriate staff in order to request accommodations, including for the final exam; and whether EVIT responded appropriately to any requests for accommodations she had made, including for the final exam.

On October 30, 2017, EVIT informed OCR that it wished to voluntarily resolve the complaint allegation, and provide the Complainant the opportunity to retake the final exam with her requested accommodations, as well as provide training to staff. At that time, prior to OCR

making any findings of fact, EVIT agreed to sign an Agreement which, when fully implemented, will address the issue raised in the complaint.

In accordance with Section 302 of OCR's *Case Processing Manual* (CPM), the provisions of the Agreement signed by EVIT on November 13, 2017, are aligned with the complaint allegation and the information obtained during OCR's processing of this case, and consistent with the applicable regulations. Therefore, OCR is closing this complaint investigation effective the date of this letter. OCR, however, will actively monitor EVIT's implementation of the Agreement until EVIT fulfills the terms of the Agreement and is in compliance with the statute and regulation at issue in this case. If EVIT fails to implement the Agreement as specified, OCR may initiate administrative or judicial proceedings as described in the Agreement or resume its investigation of the initial allegations. A copy of the Agreement is enclosed.

Please be advised that EVIT 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. In addition, the Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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 protect personal information to the extent provided by law.

If you have any questions, please contact xxxx, the attorney assigned to this complaint, at xxxx or by email at xxxx. You also may contact me at (303) 844-5927.

Sincerely,

/s/

Thomas M. Rock
Supervisory General Attorney

Enclosure: Signed Resolution Agreement

cc: Honorable Diane Douglas, State Superintendent of Public Instruction