



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD, SUITE 310
DENVER, CO 80204-3582

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March 25, 2019

Dr. Cheryl D. Lovell, President
Adams State University
208 Edgemont Blvd.
Alamosa, CO 81101

Sent via email to: president@adams.edu

Re: Adams State University
OCR Case Numbers: 08-18-2337 and 08-19-2004

Dear Dr. Lovell:

On September 24 and October 2, 2018, we received complaints of discrimination filed against Adams State University (University) alleging that the University discriminated on the basis of race, disability and retaliated.

Specifically, the Complainant alleges that the University failed to provide her with her approved accommodations for the spring 2018 semester, including that it failed to ensure she received her accommodations for the Peregrine APA exam, which caused her to fail the exam. She also alleges the University retaliated against her for her complaints about her accommodations throughout the spring semester when it wrote a notice of professional concern about her which caused her to be remediated, receive an F, and leave the University. She additionally alleges the University discriminated against her on the basis of race when her practicum instructor belittled her, as the only African American in the class, made comments about her relationship with her site supervisor, and informed her site supervisor she was lazy and disorganized.

We are 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 U.S. Department of Education; 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; and Title VI of the Civil Rights Act of 1964 and its implementing regulation at 34 Code of Federal Regulations Part 100, which prohibit discrimination on the basis of race, color, or national origin in programs and activities that receive Federal financial assistance from the U.S. Department of Education. Additionally, individuals filing a complaint, participating in an investigation, or asserting a right under Section 504, and Title II are protected from retaliation or intimidation by 34 C.F.R. § 104.61, which incorporates 34 C.F.R. § 100.7(e), and 28 C.F.R. § 35.134.

OCR has reviewed information provided by the Complainant, spoken with the Complainant, and spoken with the University's Counsel. After reviewing this information, OCR learned the following:

- The Complainant was enrolled in an online Master's program in Clinical Mental Health Counseling at the University.
- In spring semester 2018, she took Coun524 (Philosophy and Theories of Counseling) and Coun537 (Practicum), and was approved for the following accommodations: extended time on tests, special consideration for spelling requirements, and use of alternative text media.
- She received a Notice of Professional Concerns in both courses, and did not pass the APA Peregrine exam as required in order to pass her Coun524 course.
- The Complainant withdrew from the University at the end of the spring 2018 semester. She is currently enrolled in another University.

During OCR's investigation, and before a finding could be made, the University expressed a willingness to resolve the complaint. Pursuant to Section 302 of OCR's *Case Processing Manual*, the University has entered into the enclosed Agreement which, when fully implemented, will resolve the concerns we accepted for investigation that the Complainant raised in this complaint. The provisions of the agreement are aligned with the issues raised in the complaint and are consistent with the applicable regulations.

We will monitor the University's implementation of the Agreement until all provisions have been satisfied. We will keep you apprised of monitoring activities related to this case. This concludes our investigation of this complaint. This letter addresses only the issues listed above and should not be interpreted as a determination of the University's compliance or noncompliance with Section 504, Title II, Title VI, or any other federal law in any other respect.

OCR routinely advises recipients of Federal funds and public educational entities that Federal regulations prohibit intimidation, harassment, or retaliation against those filing complaints with OCR and those participating in a complaint investigation. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR. Additionally, complainants have a 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.

We thank the University for its cooperation. We would like to specifically thank Ms. Jessica Salazar for her assistance in this matter. If you have any questions, you may contact xxxx, Attorney, at (303) 844-xxxx, or by e-mail at xxxx@ed.gov.

Sincerely,

/s/

Thomas M. Rock
Supervisory General Attorney

Attachment – “Resolution Agreement”

cc: Jessica Salazar, Esq.