



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

50 BEALE ST., SUITE 7200  
SAN FRANCISCO, CA 94105

REGION IX  
CALIFORNIA

May 15, 2015

Brandy Coward  
President  
Angeles Institute  
11688 South Street, Suite 205  
Artesia, CA 90701

(In reply, please refer to case no. 09-14-2038.)

Dear President Coward:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its investigation of the above referenced complaint against the Angeles Institute (Institute). The Complainant<sup>1</sup> alleged that the Institute discriminated against her on the basis of her disability. The issues OCR investigated were:

1. Whether the Institute discriminated against the Complainant on the basis of her disability by requiring her to provide information about her medical condition after taking a leave of absence for health reasons and by requiring her to meet additional requirements in order to remain in the vocational nursing program.
2. Whether the Institute discriminated against the Complainant by dropping her from the vocational nursing program on August X, 2013 because of her disability.

OCR investigated the complaint under the authority of Section 504 of the Rehabilitation Act of 1973 and its implementing regulations. Section 504 prohibits discrimination on the basis of disability in programs and activities operated by recipients of Federal financial assistance. The Institute receives Department funds, is a public education system, and is subject to the requirements of Section 504.

OCR investigated this complaint by conducting interviews and by reviewing documents provided by the Complainant and the Institute. Based on the evidence, OCR determined that the preponderance of the evidence showed that there was insufficient evidence to establish non-compliance with Section 504 for the Complainant's individual allegations. However, in the

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<sup>1</sup> OCR notified the District of the identity of the Complainant when the investigation began. We are withholding her name from this letter to protect her privacy.

course of investigating these allegations, OCR determined that the Institute violated Section 504 by making pre-admission inquiries as to whether applicants have disabilities. In addition, OCR learned that the Institute does not provide notice to students that students with disabilities may request accommodations or have any procedures for students to request accommodations for their disabilities or file grievances based on disability.

The Section 504 regulations, at 34 C.F.R. §104.43(a), provide that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any postsecondary education program of a recipient.

The Section 504 regulations, at 34 C.F.R. §104.42(b), also govern admission to post-secondary institutions. In administering its admission policies, a recipient may not make preadmission inquiry as to whether an applicant for admission is a person with a disability, but after admission, may make inquiries on a confidential basis as to disabilities that may require accommodation

The Section 504 regulations, at 34 C.F.R. §104.44(a), further require recipient post-secondary institutions to make modifications to their academic requirements that are necessary to ensure that such requirements do not discriminate, or have the effect of discriminating against qualified individuals with disabilities. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific required courses, and adaptation of the manner in which courses are conducted. However, academic requirements that recipients can demonstrate are essential to the program of instruction being pursued or to any directly related licensing requirement will not be regarded as discriminatory.

In addition, the Section 504 regulations, at 34 C.F.R. §104.44(d)(1), require recipient colleges and universities to take steps to ensure that no disabled student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual or speaking skills. The Section 504 regulation at 34 C.F.R. 104.44(d)(2) provides that auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Recipient colleges and universities, however, need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

Lastly, the Section 504 regulations, at 34 C.F.R. §104.7(b), require a recipient employing 15 or more persons to adopt grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging disability discrimination. OCR examines a number of factors in evaluating whether a recipient's grievance procedures are prompt and equitable, including whether the procedures provide for the following: notice of the procedure to students and employees, including where to file complaints;

application of the procedure to complaints alleging discrimination by employees, other students, or third parties; adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence; designated and reasonably prompt time frames for major stages of the complaint process; notice to the parties of the outcome of the complaint; and an assurance that steps will be taken to prevent reoccurrence of any discrimination and to correct its effects.

Our investigation showed the following:

- In October of 2012, the Complainant was accepted to the vocational nursing program at the Institute. The Complainant informed OCR that as part of the admission process, she was interviewed by the school President and another staff member from the vocational nursing program in September 2012. The Complainant stated to OCR that during the interview, she told the President and the staff member that she was taking medication for her disability (psychological issues). According to the Complainant, the President told her that she could enroll in the vocational nursing program as long as she continued to take her medication.
- The President told OCR that that the Complainant did not state that she had a disability nor did she state that she was taking any medication during the interview. The Institute provided OCR with a copy of the Complainant's Application Assessment Form that is completed by the Institute to determine if an applicant should be accepted into the vocational nursing program. This Assessment Form includes a section on Health History and it asks if the applicant: has physical/mental disabilities that limit client care, if the applicant is pregnant<sup>2</sup>, has skin allergies, and is taking medication for seizures. None of these items were checked off on the Complainant's Application Assessment Form. The Institute also provided OCR with a copy of the Commitment Contract that the Complainant signed on October XX, 2012, which includes the following provision, "I am aware that if I have any limitations that prevent me from providing safe patient care, I cannot enroll in the vocational nursing program. In addition, I must provide a full medical release (no restrictions) for any medical condition that I may have." The President also stated that the Complainant did not submit a medical release when she enrolled in the vocational nursing program because she did not inform the Institute that she had a disability.
- The President further stated to OCR that the Institute requires all of its students to sign the Commitment Contract because they do not want a student to enroll in the program and later learn that they cannot be placed in a clinical setting because they have a restriction that prevents them from providing safe patient care. The President told OCR

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<sup>2</sup> OCR noted that the Institute makes a preadmission inquiry as to whether an applicant is pregnant, which may violate Title IX. OCR will provide the Institute with technical assistance on this issue.

that the Institute needs to verify that its students do not have any restrictions in order for them to be placed at a clinical setting. The Institute sent OCR a copy of a form that the Institute completes in order to place a student at a clinical facility. The form requires the Institute to certify that the student has a health clearance, background check, health screening, and has met immunization requirements. The Institute certifies that a student either has no restrictions per the Commitment Contract or that the student's physician has provided a full release for any medical condition the student may have.

- The Complainant's first day of class was on October XX, 2012. On October XX, 2012, the Institute issued a Deficiency Warning Notice and Plan to the Complainant for "poor attendance." The Notice states that the Complainant will be placed on probation if she continues to have any more absences.
- On November X, 2012, the Institute issued the Complainant a Probation Notice for "poor attendance" and for "not following directions." The Probation Notice states that the Complainant cannot have any more absences for the remainder of the program.
- On November XX, 2012, the Institute issued the Complainant another Probation Notice for "low quiz/test scores." The Probation Notice states that the Complainant will attend afterschool tutoring until the end of the term.
- On December XX, 2012, the Institute again issued a Probation Notice to the Complainant for "poor attendance." The notice states that the Institute will review the attendance policy with the Complainant and that any further absences will result in her being dropped from the program.
- On December XX, 2012, the Institute issued the Complainant another Probation Notice for "poor attendance, missed work and unprofessional conduct." The notice states that the Complainant will be dropped from the program if she does not comply with the Institute's conduct policies and procedures.
- On January XX, 2013, the Complainant received a Deficiency Warning Notice and Plan for "low quiz/test scores" and for failing the "first system" of Term 2.
- On January XX, 2013, the Complainant took a leave of absence from the program until April XX, 2013 due to a death in the family.
- On March XX, 2013, the Complainant informed the Institute that she would like to extend her leave of absence until July XX, 2013 for health reasons. The Leave of Absence Form and the Student Withdrawal Form that the Complainant submitted to the Institute both state that she requested the leave/withdrawal for "medical reasons." The

Complainant told OCR that she was stressed as a result of losing a family member and needed to recover before she could return to school.

- The President informed OCR that a student, who takes a leave of absence or withdraws from the Institute, is required to re-apply to the program in order to resume his/her studies by submitting a petition to the Program Director and/or the Appeals Board.<sup>3</sup> The Institute's College catalog also states that if the student is accepted for re-entry, then the student is required to meet the conditions placed on that student by the Appeals Board.
- On June XX, 2013, the Appeals Board met and decided to allow the Complainant to re-enter the program. At the meeting, the Board members also completed a form called Actions Recommended by the Appeals Board, which lists the following possible conditions:
  1. Must complete (resolve) issues discussed in the appeals meeting.
  2. Must attend afternoon tutoring at least \_\_\_per week.
  3. Attend a weekend school session \_\_\_\_\_per week.
  4. Must meet with the instructor on a weekly basis.
  5. Maintain attendance standards. [No excessive LE/tardiness or absences].
  6. Maintain grade standards.
  7. Comments: \_\_\_\_\_

The Board members circled items 1, 4-6 and wrote in under item 7 (Comments) that the Complainant needed to submit a medical release from her physician.

- The Complainant alleged to OCR that the five conditions the Institute placed on her discriminated against her on the basis of her disability. The Complainant believes that the Board should not have placed any conditions on her because they knew that she was returning to school after taking a leave to recover from health issues related to her disability. The Complainant also told OCR that the conditions the Board members placed on her caused her additional stress and triggered a number of symptoms related to her disability. The Complainant further believes that the Institute discriminated against her on the basis of her disability by requiring her to submit a statement from her physician describing why she needed to take the medical leave of absence.

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<sup>3</sup> The Leave of Absence form that the Complainant submitted to the Institute includes the following provision, "I also understand that I will have to reapply to the Institute's Nursing Program should I wish to continue with my studies."

- The President told OCR that the Board typically places conditions on students when they re-enter the program. According to the President, the Board required that the Complainant resolve her medical and psychological issues before she returned to the program (item 1 on the Actions Recommended by Appeals Board form). Since the Complainant received probation notices for low grades and excessive absences, the Board also required the Complainant to meet with her instructor once a week and maintain attendance and grade standards (items 4-6). In addition, the Board required the Complainant to submit a medical release from her physician stating that she could resume her studies without any restrictions.
- The President also told OCR that the Institute has a policy of requiring all students, who return from a medical leave, to submit a medical release.<sup>4</sup> According to the President, the Institute was not asking the Complainant to provide any information about her medical condition, but that the Institute only wanted a medical release from her physician stating that she did not have any restrictions so that the Complainant could return to her clinical setting. OCR obtained a copy of the medical release the Complainant submitted to the Institute and noted that it did not include any information that revealed her disability or why she needed to take the leave of absence.
- The Complainant returned to the vocational nursing program on July XX, 2013.
- On August X, 2013, the Complainant took a final examination for one of her nursing courses. The Complainant told OCR that during her final exam, she decided to mark all "A"s on her Scantron sheet because she did not have enough time to study for the exam. After she turned in her answer sheet, the instructor told the Complainant that she needed to meet with the President. According to the Complainant, when she met with the President, the President told the Complainant that she did not want the Complainant at the school because the Complainant was mentally unstable and did not have what it takes to become a nurse. The Complainant told OCR that the fact the President referred to her as being "mentally unstable" shows that the President dropped her from the program because of her disability.
- The President told OCR that on August X, 2013, the Complainant's instructor notified her that the Complainant was acting unusually during the exam and that when she submitted her Scantron answer sheet, the Complainant had bubbled in all "A"s on her sheet. When the President met with the Complainant to ask her why she marked all of the same answers on the exam, the Complainant told the President, and the Financial Aid Advisor, who was also present at the meeting, that she took drugs and was having racing thoughts during the exam. The Complainant also told the President that she was

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<sup>4</sup> The Leave of Absence form also states, "A physician statement must be provided upon return from any medical leave stating that the student can resume studies without restrictions."

unable to study because she felt stressed and that she was no longer taking her medication.

- The President further stated to OCR that she decided to dismiss the Complainant from the nursing program because she violated the student code of conduct by taking drugs and failing to notify the Institute that there was a change in her health status.<sup>5</sup> The President also told OCR that she did not know what the Complainant's specific disability was at that time, but that based on her behavior, the President believed that the Complainant was having psychological issues which she was not addressing by taking her medication. According to the President, the Board previously required the Complainant to address her health issues before returning to the program. The President further determined that the Complainant's actions of marking the same answers on the exam showed that she was unable to make reasonable decisions. Based on all of these factors, the President decided to dismiss the Complainant from the program for unprofessional conduct and for being unsafe.<sup>6</sup>
- The Institute provided OCR with a copy of the Financial Aid Advisor's notes dated August XX, 2013, documenting her meeting with the Complainant on August X, 2013. The Financial Aid Advisor wrote in her notes that the Complainant came to see her before she went to see the President and told her that she did not understand the class material and that she marked all "A"s on her test because she felt it would be better to write something down on her exam than nothing at all. The notes also state that the Complainant told the Financial Aid Advisor that she had a relapse with her disorder and was using drugs again. The notes further state that the Financial Aid Advisor did not ask the Complainant what kind of drugs she was taking. Lastly, the notes state that the Complainant told the Financial Aid Advisor that she was not taking her medication. The Financial Aid Advisor then walked the Complainant to the President's office where the three of them met. During this meeting, the President decided to dismiss the Complainant from the program.
- The Complainant denied telling the President and the Financial Aid Advisor that she took drugs or that she stopped taking her medication during her meeting with them on August X, 2013.

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<sup>5</sup> The Institute's College Catalog states that a violation of the code of student conduct may result in serious consequences, ranging from a warning notice, suspension, probation or dismissal from the program. Item 10 of the code of student conduct prohibits a student from being on campus under the influence of a controlled substance and Item 16 states a student can be subject to disciplinary action for nondisclosure of changes in health status.

<sup>6</sup> The Drop Notice the President signed on August X, 2013 states that the Complainant was dismissed from the program for unprofessional conduct and for being unsafe. The Notice also states that the Complainant "admitted to increasing stress leading to poor decisions and inability to perform; admission of racing thoughts; violation of standards of conduct (#10 drug/medications, #16 nondisclosure of health status change); did not meet appeals board condition (must resolve issues discussed in appeal meeting regarding health/psych)."

- The Institute does not have any policies or procedures to address student requests for accommodations. The President informed OCR that because the Institute is a small school, any student who needs accommodations can ask her directly for them. The Institute, however, does not notify students about this process in any notice or document.

The Complainant alleged that the five conditions the Institute placed on her when she returned to the vocational nursing program discriminated against her on the basis of her disability<sup>7</sup>. OCR, however, did not find any evidence that suggested that the Board members placed these conditions on the Complainant because of her disability. Since the Complainant was returning from a medical leave, it would be reasonable for the Board to require that she address her health issues before returning to the program. In addition, OCR did not find that having the Complainant meet with her instructor once a week or maintain grade and attendance standards was discriminatory given that the Complainant had received written warnings for attendance and grade issues prior to taking the leave of absence. OCR also noted that the Institute did not place additional requirements on the Complainant by having her maintain grade and attendance standards, since these standards apply to all of the students attending the Institute and are included in the College Catalog. Furthermore, OCR did not find that the Institute required the Complainant to provide information about her disability in order to be re-admitted into the nursing program. The Institute required the Complainant to provide a release from her physician stating that she could return to the program without any restrictions. The medical release that the Institute accepted from the Complainant did not include any information about her disability or the reason she needed to take the medical leave of absence.

OCR was also unable to find sufficient evidence to substantiate the Complainant's allegation that the Institute dismissed her from the vocational nursing program on the basis of her disability. OCR learned through the investigation that the Complainant was dismissed from the program for violating the Institute's code of conduct (prohibition against use of drugs and failing to disclose a change in health status) and for failing to meet the board's condition of addressing her health issues before returning to the program (failing to take her medication). Although the Complainant denied telling the President during the August X, 2013 meeting that she took drugs and stopped taking her medication, OCR considered the Financial Aid Advisor's notes which indicated that the Complainant made similar statements to the Advisor prior to the meeting.

Thus, OCR concluded that the preponderance of the evidence did not show that the Institute discriminated against the Complainant on the basis of disability by requiring information from the Complainant and imposing conditions on the Complainant when she was readmitted to the program or by dismissing the Complainant from the program, in violation of 34 C.F.R. 104.43(a).

OCR further concluded that the Institute made pre-admission inquiries as to whether applicants to its program are disabled. The Application Assessment form asks several questions which

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<sup>7</sup> The five conditions were listed on the form entitled "Actions Recommended by the Appeal Board."

would require students who answer completely to disclose disabilities before the Institute has made a decision as to whether the applicant meets other admission standards. Section 504 requires postsecondary institutions to ensure that a disabled student is not excluded from participating in an educational program on the basis of disability. An institution may, however, require a student to meet any essential technical or academic standards for admission to, or participation in, the institution and its program. In this case, OCR determined that the Institute is not in compliance with Section 504 because it automatically excludes any student from participating in the vocational nursing program if that student has a physical or mental disability that in the Institute's view limits client care. OCR understands that safety is especially important in the clinical setting, however, the Institute cannot categorically exclude from admission any student who has a disability or medical restriction. Therefore the Institute is in noncompliance with 34 C.F.R. 104.42(b).

Lastly, under Section 504, if a student notifies a post-secondary institution that the student has a disability, after admission, then the institution has an obligation to determine if the student needs accommodations and if so, take necessary steps to provide or secure those accommodations to the extent that they are authorized by law. OCR found that the Institute does not notify students that they may request accommodations for disabilities, and that the Institute does not have a written policy or procedure in place for students to request accommodations. The President informed OCR that the Institute does not have written procedures for requesting accommodations because the Institute is a small school and students can directly ask the President if they are in need of any accommodations; however, OCR learned no notice is regularly provided to students that they can do this. OCR therefore recommends that the Institute develop written procedures so that students are given notice on how to request accommodations. The procedures should be included in the Student Handbook and the College Catalog and include information on what the student needs to do to formally request accommodations, how the Institute determines if a student is eligible for accommodation in the classroom and clinical settings, and how a student can file a grievance if they think the Institute's decision discriminates against them, as required by 34 C.F.R. §104.7(b).

To address the noncompliance, the Institute signed the attached Resolution Agreement agreeing to: 1) not require an applicant to disclose whether he/she has a disability during the preadmission process; 2) not require students to provide a full medical release from their physicians for any medical conditions they may have in order to participate in the vocational nursing program; 3) develop policies and procedures for addressing accommodations for students with disabilities; and 4) develop a grievance procedure to resolve student complaints of discrimination based on disability. Based on this commitment, OCR is closing this case as of the date of this letter and concurrently notifying the Complaint.

This concludes OCR's investigation of the complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

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 that the Institute 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 records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personal information which, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

OCR thanks you for your assistance in resolving this case. If you have any questions about this letter, please contact Minako Sakurai at (415) 486-5552 or me at (415) 486-5566.

Sincerely,

/s/

James M. Wood  
Team Leader