



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

REGION IX  
CALIFORNIA

50 UNITED NATIONS PLAZA  
MAIL BOX 1200; ROOM 1545  
SAN FRANCISCO, CA 94102

July 31, 2019

Dr. Greg Schulz  
President  
Fullerton College  
321 E. Chapman Ave.  
Fullerton, California 92832

(In reply, please refer to case no. 09-18-2524.)

Dear President Schulz:

The U.S. Department of Education (Department), Office for Civil Rights (OCR) has resolved the above-referenced complaint against Fullerton College (College) which OCR received on July 26, 2018. The Complainant alleged that the University discriminated against her on the basis of disability.<sup>1</sup> Specifically, OCR accepted for investigation the following issue:

Whether during the summer 2018 semester the College failed to provide the Complainant with the academic adjustments necessary to ensure that she could participate in its education program in a nondiscriminatory manner. Specifically, whether the College failed to schedule the Complainant an appointment with a Disability Support Services (DSS) Counselor in time for her to receive academic adjustments during the semester.

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. Section 504 prohibits discrimination on the basis of disability in programs and activities operated by recipients of federal financial assistance. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation, at 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities. As a recipient of federal financial assistance and as a public entity, the College is subject to Section 504, Title II, and their implementing regulations.

OCR investigated this complaint by reviewing documents provided by the Complainant, another student, and the College, and by interviewing the Complainant, a third student, and College personnel. OCR found that the College did not comply with Section 504 and Title II requirements because it failed to schedule the Complainant an appointment with a DSS Counselor in time for her to receive academic adjustments during summer 2018 semester. OCR also identified a compliance concern with respect to the ability of other students at the College to schedule timely appointments with DSS Counselors in order to initiate, change, or reactivate DSS services. This letter summarizes the applicable legal standards, the relevant facts, OCR's determination, and the terms of the resolution reached with the College.

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<sup>1</sup> OCR previously identified the Complainant to the College. We are withholding her name from this letter to protect her privacy.

## **Legal Standard**

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 Title II regulations, at 28 C.F.R. §35.130(a), contain a similar prohibition applicable to public postsecondary educational institutions.

The Section 504 regulations, at 34 C.F.R. §104.44(a), require recipient colleges and universities 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 recipient colleges and universities can demonstrate are essential to the program of instruction being pursued or to any directly related licensing requirement will not be regarded as discriminatory.

Under the Title II regulations, at 28 C.F.R. §35.130(b)(1)(ii) and (iii), public colleges and universities may not afford a qualified individual with a disability opportunities that are not equal to those afforded others, and may not provide aids, benefits or services that are not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others. Under 28 C.F.R. §35.130(b)(7), public colleges and universities must make reasonable modifications in policies, practices or procedures when necessary to avoid discrimination on the basis of disability, unless doing so would fundamentally alter the nature of the service, program or activity. Section 35.103(a) provides that the Title II regulations shall not be construed to permit a lesser standard than is established by the Section 504 regulations. Therefore, OCR interprets the Title II regulations to require public colleges and universities to provide necessary academic adjustments to the same extent as is required under the Section 504 regulations.

Under the requirements of Section 504 and Title II, a student with a disability is obligated to notify the college or university of the nature of the disability and the need for a modification, adjustment, aid, or service. Once a college or university receives such notice it has an obligation to engage the student in an interactive process concerning the student's disability and related needs. As part of this process, the college or university may request that the student provide documentation, such as medical, psychological, or educational assessments, of the impairment and resulting functional limitations.

Section 504 and Title II require the college or university to ensure that the interactive process is offered in a timely manner after receipt of notice that a student, because of disability, needs a modification, adjustment, aid, or service in order to facilitate the student's receipt of necessary modifications, adjustments, aids, and/or services so that s/he may participate in the education program in a nondiscriminatory way.

## **Facts**

DSS has three Learning Disability Specialists/Counselors (Counselor 1, Counselor 2, and Counselor 3) on staff. The Counselor position is a faculty member who meets with students, reviews documentation of their disabilities and resulting functional limitations, and engages in an interactive process to see what modifications, aids, services, and/or accommodations (all hereafter referred to as "accommodations")

they need. The DSS Student Services Specialist (Specialist) position is a classified employee whose tasks include handling phone calls, putting together files, and scheduling student meetings with the Counselors.

DSS personnel told OCR that students with disabilities must submit documentation to DSS to substantiate their disability in order to request and receive disability-related accommodations. The Specialist then schedules an appointment for the student and a Counselor to engage in the interactive process and determine what accommodations are necessary. The Counselor documents the approved accommodations in an Academic Accommodation Plan (AAP).

The DSS website contains information about how to apply for DSS services. In the summer 2018 semester it provided that, although students may apply for services at any time, the “deadline” set to ensure that services/accommodations are in place prior to the start of the summer semester are for the documents to be “submitted and reviewed” by April 1. The website further stated that initial appointments would be scheduled approximately two weeks from the date that DSS receives the documents. DSS personnel reported that the suggested deadline was posted to encourage incoming students to submit their documents and schedule a Counselor appointment as soon as possible. However, they also acknowledged that often this did not occur.

DSS personnel stated that walk-in appointments with a Counselor are available if a student cannot schedule a regular appointment. However, the information provided in interviews, on the DSS website, and on the walk-in appointment schedule shows that these appointments are only available around registration time, are limited to 15 minutes each, and are for the purpose of registration assistance. Specialist 1, who is responsible for scheduling appointments, clarified that DSS does not have walk-in appointments for students to get started receiving accommodations.

DSS personnel explained that once a student has an AAP they are not required to meet with a Counselor every semester as long as they are consistently enrolled, they update their information once per year, and their disability-related needs do not change. DSS requires students to schedule another meeting with a Counselor if the student fails to update their information once per year or if the student’s disability, functional limitations, and/or accommodations change. In addition, if the student is not enrolled in the College for a significant amount of time, such as a year or more, DSS must place them on inactive status for auditing purposes. If such a student thereafter returns to the College, DSS requires another meeting with a Counselor; this meeting is referred to as a readmit appointment.

The Complainant first enrolled in three classes at the College in the summer 2016 semester. She did not request accommodations from DSS. The Complainant earned two X’s and one X in her classes.

The Complainant returned for the fall 2016 semester and again enrolled in three classes. She applied for DSS services for the first time, met with Counselor 1, and was approved for the following accommodations: No Carbon Required (NCR) paper/peer note-taker; to be able to by-pass lines; distraction reduced testing; 2.0 extended time for tests; breaks without effect on testing time; early registration and registration assistance; scheduling modification; a reduced course-load; and preferential seating. The Complainant again earned two X’s and one X in her classes.

The Complainant did not attend the College in the spring or the summer semester of 2017. She returned for the fall 2017 semester and enrolled in three classes. However, the Complainant did not request accommodations from DSS that semester. She withdrew from one class and earned X grades in the other two.

On December X, 2017, DSS removed the Complainant from its database and made her file inactive because she had not contacted DSS regarding accommodations in over one year.

The Complainant initially enrolled in one class in the spring 2018 semester but withdrew from it and went to another school instead. Again, she did not contact DSS or request accommodations prior to withdrawing from the class.

Registration for summer 2018 semester classes started on May 1, 2018. The Complainant returned to the College and enrolled in an XXXXXXXX course on May XX, 2018, an XXXXXXXX course on May XX, 2018, and a XXXXXXXXXXXX XXXXXXXX course, which was not graded, on June XX, 2018. Both XXXXXXXX and XXXXXXXX were graded classes and began on June 11, 2018.

The syllabus for the Complainant's XXXXXXXX class<sup>2</sup> stated that the College was committed to providing educational accommodations for students with disabilities upon the timely request by the student to the instructor. It stated that DSS functioned as a resource for students and faculty in the determination of provision of accommodations and advised students who needed accommodations to contact DSS. The XXXXXXXX Professor also told OCR that he verbally informed his students at the beginning of the semester to contact DSS if they needed accommodations.

There was no test during the first week of the XXXXXXXX class, June 11-14, 2018.

At some point toward the beginning of the semester the Complainant spoke with the XXXXXXXX Professor about having a disability and needing accommodations for testing such as extra time. Neither recalled the date of this conversation. Since she did not have documentation from DSS about her approved accommodations, the Professor referred her to that office. The Professor recalled two more female students in the class also asking about accommodations around the same time as the Complainant; he also referred them to DSS.

The XXXXXXXX Professor told OCR that after talking to the Complainant he spoke to the DSS Director and said that the Complainant would be coming to DSS for an appointment. The DSS Director confirmed to OCR that the Professor came by at some point and asked about the Complainant's situation because she had asked him for extra time on tests but did not have a letter from DSS. He said that the Professor told him that he had referred the Complainant to DSS and the Director replied that he had been right to do so.

The Complainant told OCR that she first contacted DSS on June XX, 2018, but that the employee at the front desk said that she would have to consult with a supervisor and get back to the Complainant because she could not find her DSS file. She did not recall the employee's name. There is nothing in the Complainant's DSS Log documenting any contact with DSS on June XX, 2018. Specialist 1, who was assigned to work the front desk that day, told OCR that she had no contact with the Complainant on June XX, 2018.

The first XXXXXXXX test was during the second week of class, June 18-21, 2018. The Complainant earned a XX% score which was considered an X.

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<sup>2</sup> OCR did not summarize factual details concerning the Complainant's experience in her XXXXXXXX class in this letter because she told OCR that that she was successful in that class and earned an overall X grade because the XXXXXXXX Professor accommodated her informally without DSS involvement.

The College and the Complainant agree that she went to DSS on June XX, 2018 to inquire about getting her accommodations reinstated. This was the eighth day of her class. The Complainant's DSS Log entry of that date documented this contact as follows. The Complainant spoke with Specialist 1 at the front desk. Specialist 1 told the Complainant that she would need a readmit appointment with a Counselor because it had been over a year since she had contacted DSS. Specialist 1 told the Complainant that DSS was booked for appointments until mid-July 2018. The Complainant replied that her classes would be over by then; she wondered if there was anything that could be done so that she could receive accommodations for the summer 2018 semester.

The Complainant and Specialist 1 both confirmed to OCR that when they met on June XX, 2018 the first available Counselor appointment was on July XX, 2018. They also agreed that the Complainant said that this appointment would be too late because her classes would be over by then. The Complainant told OCR that she did not keep this appointment for that reason.

The Complainant provided OCR with a copy of an email exchange between her and the XXXXXXXX Professor; the Complainant's email was dated June XX, 2018, but the Professor's reply was undated. The Complainant wrote that on June XX, 2018 she went to DSS to try to make an appointment to get services for the summer semester due to her disability. She said that DSS informed her that it had no appointments until July XX, 2018, and by that time the semester would be over. The Complainant asked what the Professor recommended that she do. The Professor replied, informing her that he had no authority or expertise to set up any accommodations for her. He wrote that he hoped that the Complainant could appeal and get an earlier appointment with DSS. The Professor told OCR that he did not recall receiving or replying to the Complainant's email.

The XXXXXXXX Professor informed OCR that he did recall following up with the Complainant and the other two female students verbally before the next test because he wanted to know if he needed to accommodate them.<sup>3</sup> The Professor said that the Complainant told him that she did not get a DSS appointment and said that she was disappointed and very unhappy. The other two students also told him that they had been unable to get a DSS appointment. The Professor asked the students "why not?", and they said they just could not get an appointment. The Professor said that he told the students that he would talk to the DSS Director.

The XXXXXXXX Professor told OCR that he spoke to the DSS Director a second time<sup>4</sup> after learning that the three female students had been unable to get a DSS appointment. He said that the Director told him that DSS had been booked up with appointments prior to the summer semester beginning and had not gotten through those appointments yet. The Professor said that he asked the Director if he could just squeeze these three students in, but the Director replied that he could not.

The DSS Director told OCR that he was not aware of the Complainant or any other students unable to schedule a timely appointment with DSS during summer 2018 until he was informed of the Complainant's situation through notice of the OCR complaint. When asked if he had been contacted by faculty members expressing concern about the Complainant or other students not being able to schedule a timely appointment with DSS, the Director said that he had not. He did not mention a second conversation with the XXXXXXXX professor.

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<sup>3</sup> The XXXXXXXX Professor did not recall the date of this conversation.

<sup>4</sup> The XXXXXXXX Professor could not recall the date of this conversation.

The second XXXXXXXX test was during the third week of class, June 25-28, 2018. The Complainant earned an XX% score which was considered a X.

The third and fourth XXXXXXXX tests were during the fourth week of class, July 2-5, 2018. The Complainant earned a XX% score on the third test which was considered a X; she earned a XX% score on the fourth test which was considered a X.

The fifth XXXXXXXX test was during the fifth week of class, July 9-12, 2018. The Complainant earned a XX% score on the fifth test which was considered a X. Finally, the final was on the first day of the sixth week of class, July 16, 2018, which was also the last day of class. The Complainant earned an XXXX% score on the final which was considered a X.

The XXXXXXXX Professor and the Complainant both confirmed that she received no formal or informal accommodations in her XXXXXXXX class. The Complainant's overall grade in this class was a X. She told OCR that she was not happy with that grade and believed that it was directly related to the fact that she did not receive accommodations in the class.

Aside from reviewing the Complainant's experience with scheduling a Counselor appointment in the summer 2018 semester, OCR also gathered general information about the timing of scheduling DSS Counselor appointments for students at the College. OCR interviewed College personnel, reviewed DSS scheduling documents for the summer 2018 semester, examined fall 2018 semester DSS student survey information, and obtained information from the two other female students who requested accommodations for the summer 2018 semester XXXXXXXX class, Student 1 and Student 2.

Specialist 1 told OCR that there were only three Counselors in DSS and that it was hard for them to see all of the students who need appointments. DSS has regularly scheduled hours between semesters, including between the spring and summer 2018 semesters. During summer 2018 semester the campus was closed on Fridays. On the other days of the week, DSS operated Monday, Wednesday, and Thursday from 8 AM to 5 PM, and Tuesday from 8 AM to 7 PM. Counselor 1 also said that DSS gets very booked and impacted with appointments, and does not have enough Counselors for the number of students they have.

As noted above, the DSS website notifies students that Counselor appointments generally take place within two weeks of the student applying for services and providing documentation of disability. However, DSS personnel told OCR that the time between an appointment request and the actual appointment can vary based upon the time of the semester. The DSS Director, Counselor 1, and Specialist 1 told OCR that shortly before the semester begins and one to two weeks into the semester are peak times for students needing appointments to set up services. Counselor 1 said that, during these peak times, appointments may not be scheduled until two to three weeks from the date of the request. Specialist 1 also told OCR that appointment wait times are sometimes more than two weeks.

Specific to summer semester, Specialist 1 told OCR that DSS does not have as many available appointments during this semester because campus is closed on Fridays and most of the Counselors take time off. Counselor 1 stated that DSS gets flooded at the beginning of summer semester and cannot get services in place before school starts; she said that summer semester is probably the trickiest in terms of being busy with students. The Counselors' schedules showed that from June 11 (the first day of most summer classes) through July 16, 2018 (the last day of many summer classes), all three Counselors were in the office a total of five school days. Only two Counselors were in the office a total of five school days.

Only one Counselor was in the office a total of six school days. No counselors were in the office a total of four school days.

DSS personnel and the two professors that OCR interviewed did not believe that delays in getting a timely Counselor appointment was a widespread problem at the College. DSS also conducted a survey in fall 2018, including a question about student satisfaction with the timeliness of receiving a DSS appointment. Of the 124 students who responded to this question, 75 were satisfied, 22 were moderately satisfied, 14 were neither satisfied nor dissatisfied, seven stated that the question was not applicable to them, two were moderately dissatisfied, and four were dissatisfied.

A review of DSS scheduling documents for the summer 2018 semester showed a wide range of wait times between the date of a student's Counselor appointment request and the date the appointment occurred. OCR counted this time period in calendar days based on the District's website notice and stated practice of generally scheduling Counselor appointments within two weeks of receipt of documentation. Seven students got appointments between one and seven days from request (within one week), 17 got appointments between eight and 14 days (within two weeks), 15 got appointments between 15 and 21 days (within three weeks), 26 got appointments between 22 and 28 days (within four weeks), 22 got appointments between 29 and 35 days (within five weeks), two got appointments between 36 and 42 days (within six weeks), four got appointments between 43 and 49 days (within seven weeks), and two got appointments between 50 and 56 days (within eight weeks). The College reported that two of the appointments, one that took place 43 days after the request and one that took place 56 days after the request, were delayed because the students had to finish high school before meeting with DSS. Excluding these two, a total of 71 of the remaining 91 students (78%) who requested appointments waited more than two weeks for a Counselor appointment during the summer 2018 semester. OCR also noted that DSS scheduled 39 summer 2018 Counselor appointments for students who would not enroll until fall 2018, which further limited the number of appointments available for students needing accommodation during the summer semester.

In addition, documentation showed that a number of Counselor appointments in summer 2018 semester occurred on or after the first day of classes, indicating that the student did not have accommodations in place on the first day of classes. Some of these students requested the appointment after the semester began, but not all. Of those requested before the semester began, two appointments took place on the first day of classes, seven took place on the second, seven took place on the third, two took place on the fourth, two took place on the sixth, three took place on the seventh, three took place on the 10<sup>th</sup>, three took place on the 11<sup>th</sup>, three took place on the 14<sup>th</sup>, two took place on the 16<sup>th</sup>, five took place on the 17<sup>th</sup>, five took place on the 18<sup>th</sup>, one took place on the 20<sup>th</sup>, and one took place on the 21<sup>st</sup>. OCR noted that some summer classes, such as the Complainant's XXXXXXXX class, ended on July 16, 2018; students enrolled in those classes who had a DSS appointment on the 20<sup>th</sup> or 21<sup>st</sup> day would have already completed the class(es).<sup>5</sup>

OCR also requested information from Student 1 and Student 2 who had been enrolled in the same XXXXXXXX class as the Complainant. OCR interviewed Student 1, who stated that after class started she realized that she was not getting enough time on her tests. She sent an email to the XXXXXXXX Professor on July 2, 2018, he replied the same day, and they talked in person on or around July 3, 2018. She said that she told the XXXXXXXX Professor that she was not getting enough time on his tests; he replied that the only way for her to get extra time on tests was to go through DSS.

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<sup>5</sup> OCR excluded from its count days when classes were not in session, including weekends, holidays, and Fridays.

Student 1 told OCR that she sent DSS an email on July X, 2018. She confirmed that this was the first time that she had contacted DSS since she enrolled at the College. Student 1 stated that DSS replied on July X, 2018 and she was able to meet with the DSS Director on the same day. She said that the Director reviewed her documentation, approved her accommodations, and provided her with an accommodation letter. Student 1's approved accommodations related to testing and included extended time to complete her tests. She told OCR that she had no knowledge of other students who had a problem getting a timely appointment with DSS. She did not recall other female students asking the XXXXXXX Professor about accommodations or telling him they could not schedule a timely appointment with DSS.

OCR requested to interview the other female student, Student 2, but she preferred to respond to the questions via email and provided the following information. Summer 2018 was Student 2's first semester at the College. She spoke with the XXXXXXX Professor at the beginning of class about getting accommodations; she asked about receiving more time for testing, if needed. The Professor sent her to DSS to request accommodations. Student 2 went to DSS but did not receive accommodations during summer 2018. She understood that DSS was still processing her application and file from a previous school. Student 2 stated that her accommodations were not approved until fall 2018. When asked if she knew of other students who had been unable to get a timely appointment with DSS, Student 2 replied "not applicable." DSS scheduling documents show that Student 2 requested a Counselor appointment on June XX, 2018, the first day of the second week of her XXXXXXX class. However, DSS did not schedule the appointment with Counselor 2 until July XX, 2018, which was 28 days after the request and was the last day of the XXXXXXX class.

## **Analysis**

Based on the evidence summarized above, OCR found that the College did not comply with Section 504 and Title II requirements because it failed to schedule the Complainant an appointment with a DSS Counselor in time for her to receive accommodations during summer 2018 semester. The evidence shows that once a College student requests DSS services and provides documentation of disability, DSS sets up an appointment for the student to meet with a Counselor and engage in the interactive process to determine what accommodations are necessary. Such meetings are required for initial requests, if a student's disability-related needs change, and/or if a student does not attend the College for a significant period of time and returns to reactivate DSS services. As such, it is important that these appointments are scheduled to occur in a timely manner to ensure that students with disabilities receive any accommodations necessary for them to equally participate in the College's educational program.

The Complainant had approved accommodations during the 2016-17 academic year, including testing accommodations. Because she had a break in enrollment and accessing DSS services, DSS deactivated her file. She reenrolled for the summer 2018 semester. Although there were conflicting facts, the preponderance of the evidence shows that the Complainant first contacted DSS to inquire about reinstating her services on June XX, 2018, the eighth school day of summer semester. DSS required her to meet with a Counselor to reinstate her services but the first available appointment was on July XX, 2018, which was 32 days later and after both of her classes had ended. At the time, the Complainant asked if anything could be done so that she could receive her accommodations for summer 2018 semester. However, DSS did not provide her with the option of an earlier appointment date or any other process through which she could begin to receive her accommodations sooner.

The Complainant promptly notified her XXXXXXX Professor that she had been unable to get an appointment with a DSS counselor and asked for his guidance. Although he had no authority to set up



accommodations for her without DSS involvement, the Professor spoke with the DSS Director about the Complainant not being able to schedule a timely Counselor appointment. However, the DSS Director reportedly told the Professor that no earlier appointments were available.

Because she was unable to schedule a timely appointment with a DSS Counselor, the Complainant received no disability-related accommodations for either of her summer 2018 semester classes. She confirmed to OCR that she was successful in her XXXXXXXX class because that professor accommodated her test-taking informally; she received an X grade in that class. However, the Complainant said that she struggled on some of her tests and the examination in XXXXXXXX because she was not accommodated, earning one X, two X's, two X's, and one X; she received a X grade in that class.

For these reasons, OCR found that the College did not comply with Section 504 and Title II requirements because it failed to schedule the Complainant an appointment with a DSS Counselor in time for her to receive accommodations in her XXXXXXXX class during summer 2018 semester. OCR acknowledges that a portion of the delay resulted from the fact that the Complainant did not contact DSS until the end of the second week of the semester. However, even taking that into account, the subsequent delay of 32 days until she could meet with a Counselor was unreasonable, particularly since the offered appointment would have taken place after the semester ended.

OCR also identified a compliance concern with respect to the ability of students, in general, to schedule timely appointments with DSS Counselors in order to initiate, change, or reactivate DSS services. DSS reported practice is to schedule Counselor appointments two weeks after the student's request and provision of documentation, College personnel stated that delays in scheduling Counselor appointments are not widespread, and a recent student survey did not identify scheduling DSS appointments as a significant concern. However, in summer 2018 semester the DSS website stated that to ensure that accommodations are in place at the start of the summer semester students should submit their documents and have them reviewed by April 1, more than two months before the semester started.

In addition, some DSS personnel acknowledged that DSS does not have a sufficient number of Counselors to serve the number of students needing appointments during peak times of every semester and particularly during summer semester. For example, there were a number of days during summer 2018 semester when one, two, and even all three of the Counselors were not in the office. That, along with the fact that summer semester is shorter, the campus is closed on Fridays, and DSS schedules summer Counselor appointments for students who do not enroll until fall semester, further limits the number of available appointments for students enrolled during the summer. In addition, scheduling documentation shows that, although some students were able to meet with a Counselor within two weeks of request for the summer 2018 semester, most were scheduled for a Counselor appointment three to eight weeks after their requests. These delays likely impacted some students' timely receipt of accommodations even if the student requested the appointment and provided documentation prior to the start of the semester. Accordingly, OCR identified this as an area of compliance concern. After OCR notified the College of its findings verbally, the College partially addressed the area of compliance concern by amending its website to: notify students of their right to schedule a timely appointment with DSS personnel and to timely implementation of their approved accommodations; and clarify that the website dates for submission of documents and application for DSS services are suggested timeframes, not required deadlines.

## Resolution

To address the area of noncompliance and the compliance concern identified during the investigation, the College, without admitting to any violation of law, entered into the attached Resolution Agreement (Agreement) which is aligned with the issues investigated and the information obtained by OCR. The College agreed to: provide the Complainant an opportunity to retake one or more of her summer 2018 XXXXXXXX class tests and change her class grade if her test scores improve to that extent; modify its current system of scheduling student appointments with DSS Counselors so that appointments consistently take place within a maximum of two calendar weeks of the student's request and provision of supporting documentation, with some exceptions; and provide training and/or written guidance to relevant DSS personnel on the modified scheduling system.

Based on the commitments made in the Agreement, OCR is closing the investigation of this complaint as of the date of this letter and notifying the Complainant concurrently. When fully implemented, the Agreement is intended to address the complaint allegation. OCR will monitor the implementation of Agreement until the College is in compliance with the terms of the Agreement. Upon completion of the obligations under the Agreement, OCR will close the complaint.

This concludes OCR's investigation of the complaint and should not be interpreted to address the College's compliance with any other regulatory provision or to address any issue other than that 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 College may not harass, coerce, intimidate, retaliate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file a complaint with OCR 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, it will seek to protect, to the extent provided by the law, personal information which, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

Thank you for the courtesy and cooperation extended by you and your staff during the investigation. If you have any questions regarding this letter, please contact me at (415) 486-5555.

Sincerely,

/s/

Joseph Wheeler  
Team Leader

## Attachment

Cc: Michele A. Landenberger, Esq.  
Atkinson, Andelson, Loya, Ruud & Romo