



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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April 19, 2018

Mr. Derek Brandes  
President  
Walla Walla Community College  
500 Tausick Way  
Walla Walla, Washington 99362

Re: Walla Walla Community College  
OCR Reference No. 10182025

Dear Mr. Brandes:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) is concluding its investigation of the above-referenced complaint against Walla Walla Community College (college) as a result of the enclosed signed Resolution Agreement (agreement). The complaint alleged that the college discriminated against a student on the basis of disability when it failed to provide auxiliary aids and adjustments to address the student's disability needs from September 2017 through November 2017.

As explained below, prior to completion of OCR's investigation, the college expressed an interest in voluntarily resolving the complaint and signed the enclosed agreement to address the complaint allegation.

OCR initiated its investigation under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504) and Title II of the Americans with Disabilities Action of 1990 (Title II), and their implementing regulations. These statutes prohibit discrimination on the basis of disability in programs and activities that receive federal financial assistance and by public entities, respectively. The college is a recipient of federal financial assistance from this Department and is a public entity. It is, therefore, subject to Section 504 and Title II.

The regulation implementing Section 504 at 34 C.F.R. § 104.4(a) states that no qualified person with a disability shall, on the basis of disability, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance. The Section 504 implementing regulation at 34 C.F.R. § 104.4(b)(1)(i)-(iv) states that in providing any aid, benefit, or service, a recipient may not on the basis of disability: (i) deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service; (ii) afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others; (iii) provide a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others; or, (iv) provide different or separate aid, benefits, or services to persons with disabilities or to any class of persons with

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disabilities unless such action is necessary to provide qualified persons with disabilities with aid, benefits, or services that are as effective as those provided to others. The regulation implementing Title II is interpreted consistently with the regulation implementing Section 504 as it relates to different treatment.

The regulation implementing Section 504, at 34 C.F.R. § 104.44(a), provides that a recipient shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate on the basis of disability against a qualified disabled student. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory. The regulation implementing Title II, at 28 C.F.R. § 35.130(b)(7), provides that a public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program or activity.

When determining whether a recipient provided academic adjustments in accordance with Section 504 and Title II, OCR examines the following: (1) whether the student provided adequate notice in accordance with required procedures of the need for academic adjustments; (2) whether reasonable academic adjustments were provided; and, (3) whether the academic adjustments provided were of adequate quality and effectiveness.

OCR's investigation to date showed that while the college has a procedure in place for students with disabilities to request accommodations/academic adjustments, and the student followed the procedure and provided the college with notice of his need for accommodations in fall 2017. The college approved several accommodations for him, including a note taker, a "quiet testing location," and "powerpoint slides ahead of time." There was confusion during the fall quarter among college staff as to whether and to what extent the student was receiving these accommodations in his biology class. After the student dropped the biology class, it became clear to college staff that the student had never had a note taker or a complete set of class slides for the biology class. Accordingly, OCR has a concern that the college did not provide the student with reasonable academic adjustments for the fall 2017 biology class.

In accordance with Section 302 of the OCR *Case Processing Manual*, a complaint may be resolved at any time when, prior to the point when the Regional Office issues a final determination under CPM Section 303, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them with an agreement. In this case, on March 5, 2018, the college requested to resolve the complaint prior to the conclusion of OCR's investigation. In light of the college's willingness to address the concerns identified by OCR comprehensively without further investigation, OCR determined that entering into a voluntary resolution agreement was appropriate. Subsequent discussions with the college resulted in the college signing the enclosed agreement.

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.

This concludes OCR's investigation of the complaint. The complainant may have the right to file a private suit in federal court regardless of OCR's determination.

Please be advised that the college 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.

OCR will monitor the implementation of the agreement and will close the complaint when OCR determines that the terms of the agreement have been satisfied. The first report under the agreement is due by **April 27, 2018**.

Thank you for the cooperation that you and your staff extended to OCR staff in resolving this complaint. If you have any questions, please feel free to contact Amy Klosterman, Attorney, at (206) 607-1622 or by e-mail at amy.klosterman@ed.gov.

Sincerely,

Barbara Wery  
Team Leader

Enclosure: Resolution Agreement