



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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SEATTLE, WA 98174-1099

March 26, 2020

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Via e-mail only to: president@lclark.edu

Dr. Wim Wiewel
President
Lewis and Clark College
615 S.W. Palatine Hill
Portland, Oregon 97219

Re: Lewis and Clark College
OCR Reference No. 10192046

Dear Dr. Wiewel:

The U.S. Department of Education (Department), Office for Civil Rights (OCR) has completed its investigation of the referenced complaint against Lewis and Clark College (college). OCR initiated an investigation into whether:

1. the college discriminated against the student on the basis of disability by failing to implement approved academic adjustments;
2. the college retaliated against the student on the basis of sex when a professor gave her a failing personal qualities evaluation (PQE), and she was subjected to academic remediation because she complained to the Title IX office about college policies the student believed discriminated based on sex; and
3. the college retaliated against the student on the basis of disability when a professor gave her a failing PQE and she was subjected to academic remediation because she requested and received accommodations for her disability.

OCR enforces Title IX of the Education Amendments of 1972 (Title IX) and Section 504 of the Rehabilitation Act of 1973 (Section 504), which prohibit discrimination and retaliation on the bases of sex and disability, respectively, in programs and activities receiving federal financial assistance. The college receives federal financial assistance from this Department. Therefore, it is subject to Title IX and Section 504.

Regarding allegation nos. 1 and 2, OCR determined that the evidence did not support a conclusion that the college failed to comply with Title IX and Section 504 with regard to the issues investigated. OCR's findings of fact and conclusions set forth below are based upon information and documents provided by the complainant and the college. With respect to allegation no. 3, prior to the completion of OCR's investigation, the college expressed an interest

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

in resolving this allegation and signed the enclosed Voluntary Resolution Agreement (agreement) to resolve OCR's concern.

Findings of Fact- Issue No. 1 – Failure to Provide Appropriate Academic Accommodations

REDACTED

Findings of Fact- Issue No. 2 – Retaliation on the Basis of Sex Following a Meeting With the College Title IX Coordinator About a Course Attendance Policy

REDACTED

Issue No. 3 – Retaliation on the Basis of Disability

Prior to the conclusion of OCR's investigation, the college expressed an interest in voluntarily resolving this allegation. OCR's investigation to date found that the student requested academic accommodations in xxxxxxxx, that she was given a failing xxxxxxxxxxxxxxxxxxxxxxxx, which mentioned her request for accommodations, that the student's request for accommodations was discussed in a monthly staff meeting prior the faculty's decision to refer her to academic remediation, and that the student's accommodations were discussed during the academic remediation. OCR has a concern that the student was subjected to retaliation on the basis of disability when Professor A gave her a failing xxxxxxxx and subjected her to academic remediation because she requested accommodations.

In accordance with Section 302 of the OCR's CPM, a complaint may be resolved at any time when, before OCR issues its final determination, the recipient expresses an interest in resolving the complaint allegations and OCR determines that it is appropriate to resolve the issues under investigation with an agreement. In light of the college's willingness to address the concern 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 district signing the enclosed agreement, which when fully implemented, will resolve the concern identified with respect to allegation no. 3. OCR will monitor the implementation of the agreement until the college fulfills the terms of the agreement.

This letter sets forth OCR's determination in an individual OCR case and should not be interpreted to address the college's compliance with any other regulatory provisions or to address any issues other than those addressed in this letter. 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 whether or not OCR finds a violation.

The complainant has a right to appeal OCR's determination with respect to allegation nos. 1 and 2 within 60 calendar days of the date indicated on this letter. In the appeal, the complainant must explain why the factual information was incomplete, inaccurate, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case with respect to allegation nos. 1 and 2; failure to do so may result in dismissal of the appeal. If the complainant appeals OCR's determination, OCR will forward a copy of the appeal form or written statement to the recipient. The recipient has the option to submit to OCR a response to the appeal. The recipient must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

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.

Thank you and your staff for your cooperation during the investigation of this complaint. We are closing this case as of the date of this letter. If you have any questions, please contact Tina Sohaili, Attorney, at (206) 607-1634 or at tina.sohaili@ed.gov.

Sincerely,

Barbara Wery
Team Leader