



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION XV

1350 EUCLID AVENUE, SUITE 325  
CLEVELAND, OH 44115

REGION XV  
MICHIGAN  
OHIO

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Re: OCR Docket # 15-15-2219

Dear xx xxxxx:

This letter is to notify you of the disposition of a complaint filed on xxxx xx xxxx, with the U.S. Department of Education’s Office for Civil Rights (OCR) against Wayne County Community College District (the College), alleging that the College discriminated against an individual based on disability. Specifically, the complaint alleged that the College discriminated against a student (the Student) by failing to provide agreed upon academic adjustments and auxiliary aids and services xxxxxx xxxxxx xxxxxxxx xxxxxxxx xxxxxxx xxxxxx xxxxxxxx xxxxxx xxx xxx xxx xxx xxx xxxxxx xxs.. In addition, the complaint alleged that the College failed to have policies and procedures in place to ensure that students with disabilities at the xxxxxxxx xxxxxxxx were able to obtain academic adjustments and auxiliary aids and services during the xxxx xxxxxx xxxxxxxx.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 (Section 504), which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the U.S. Department of Education (the Department). OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35 (Title II), which prohibit discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and as a public entity, the College is subject to Section 504 and Title II. Therefore, OCR had jurisdiction to investigate this complaint.

Based on the complaint allegation, OCR began investigating the following issues:

- Whether the College failed to ensure that a qualified student with a disability was not excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in its programs, activities, aids, benefits, or services in violation of the regulation implementing Section 504 at 34 C.F.R. §§ 104.4(a) and 104.43(a), and
- Whether the College failed to take such steps as were necessary to ensure that a qualified student with a disability was not excluded from participation in the College’s program or otherwise subjected to discrimination because of the absence of educational auxiliary aids as required by the regulation implementing Section 504 at 34 C.F.R. § 104.44(d).

In its investigation of this complaint to date, OCR interviewed the Student and spoke with the College’s legal counsel. Prior to the completion of OCR’s investigation, the College asked to voluntarily resolve the complaint pursuant to Section 302 of OCR’s Complaint Processing Manual (CPM) and signed the enclosed resolution agreement (the Agreement), which, once implemented, will fully address the complaint allegation. We set forth below a summary of OCR’s investigation to date.

### **OCR’s Investigation to Date**

The Student informed OCR that he has been enrolled in the College xxx xxxxx xxxxx xxxxxx. He has been identified by the College as an individual with a disability xxxxxx xxxxxxxxxxx. He stated that since his enrollment in the College, he has been approved by the College’s Academic Support office (disability services) for academic adjustments and auxiliary aids and services. He receives x xxxx xxxxx xxxxxxx xxxxxxxxxxx xxxxxx xxxxxxx xxxxx xxxxxxx xxxxxxx xxxxxxx xxxxxx xxxxxxx xxxxx.

[xx paragraph xx]

[xx paragraph xx]

[xx paragraph xx]

[xx paragraph xx]

OCR spoke with the College’s attorney who explained that during the xxxx xxxxxx semester, there were personnel changes in the disability services department and in the process that is used for obtaining disability-related services which may have resulted in confusion about how the Student was to obtain his approved services.

The College’s attorney informed OCR that the Student was xxx xxxxxxxxxxx xx xxx xxxxxxx xxxxxx xxxxxx; however, personnel who were new to the disability services position may not have known about xxx xxx xxxxxxxxxxx. The College’s attorney indicated that it is possible that the Student’s xxxxxxx xxx xxx xxxxx xxxxxxxxxxx xxxxx xxx xxxxxxxxxxx. He stated that since it is not clear that the courses the Student xxxxxxx xxxxxxx xxxxxxx xxxxx xxxxxxx xxxxxx xxxxxx xxxxxxx xxxxxxx xxxxxxx xxxxxx xxxxxx if it is determined that the College is responsible, the matter could be rectified.

### **Applicable Legal Standards and OCR Policy**

The Section 504 implementing regulation, at 34 C.F.R. §§ 104.4(a) and 104.43(a), provides that no qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance. The regulation, at 34 C.F.R. § 104.44, provides that recipients must modify their academic requirements as necessary to ensure that such requirements do not discriminate, or have the effect of discriminating, on the basis of disability and to ensure that no student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids.

### **Resolution**

As noted above, before OCR completed its investigation, the College expressed an interest in resolving the allegation pursuant to Section 302 of the Case Processing Manual. The CPM provides that a complaint may be resolved before the conclusion of an OCR investigation if a recipient asks to resolve the complaint and signs a resolution agreement that addresses the complaint allegations. Such a request does not constitute an admission of liability on the part of the College, nor does it constitute a determination by OCR that the College has violated any of the laws that OCR enforces. The provisions of the resolution agreement are to be aligned with the complaint allegations or the information obtained during the investigation and consistent with applicable regulations.

The College has signed the enclosed Agreement, which, once implemented, will fully address the complaint allegation in accordance with Section 504 and Title II. The terms of the Agreement require the College, by xxxxxxx xxx xxxxx xxxxx xxxxxxx xxxxxxx xxxxxxx xxxxx xxxxxxx xxxxx xxxxxxxxxx xxxxx xxxxxxxxxx xxxxxxx xxxxxxx to engage in the interactive process and determine what academic adjustments and/or auxiliary aids and services are necessary for the Student to have an equal opportunity to participate in xxxxxxxxxx; and provide the Student with a written assurance that all agreed upon academic adjustments and/or auxiliary aids and services (“accommodations”) will be provided.

[xx paragraph xx]

Finally, the proposed Agreement requires the College to draft or revise and submit to OCR for review and approval, policies and procedures by which students may obtain modifications to its academic requirements and auxiliary aids and services as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of disability, against qualified applicants or students with disabilities. The proposed Agreement requires the College to notify all students and faculty of the revised procedures and how to obtain a hard copy; publish the revised procedures on its website and in writing in its student and employee handbooks and any additional appropriate outlet; provide training on the new procedures to faculty and staff involved in determining academic adjustments for students with disabilities; and provide documentation to OCR demonstrating that all of the above actions were taken.

**Conclusion**

Given the foregoing, OCR considers this complaint resolved. 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 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. A complainant may file a private suit in federal court whether or not OCR finds a violation.

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 harmed individual may file another complaint alleging such treatment.

If you have any questions about this letter or the resolution of the complaint, you may contact me by telephone at xxx xxx xxxx. For questions about implementation of the Agreement, please contact xx xxxxxx xxxxxxx, who will be monitoring the College’s implementation, by telephone at xxx xxx xxxx or by e-mail at xxxxxxx xxxxxxx xxxxxxx. We look forward to receiving the College’s first monitoring report on xxxxxxx xxx xxxxxxx.

Sincerely,

Xxx xxxxxxxxxxxx  
Acting Team Leader

Enclosure