



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

1350 EUCLID AVENUE, SUITE 325  
CLEVELAND, OH 44115-1812

REGION XV  
MICHIGAN  
OHIO

December 3, 2021

Via E-mail Only to [emily.spivack@squirepb.com](mailto:emily.spivack@squirepb.com)

Emily R. Spivack, Esq.  
Senior Associate  
Squire Patton Boggs (US) LLP  
4900 Key Tower  
127 Public Square  
Cleveland, Ohio 44114

Re: OCR Docket No. 15-19-2026

Dear Ms. Spivack:

This letter is to notify you of the disposition of the above-referenced complaint filed on XXXXX XXXXX XXXXX, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Hiram College (the College) alleging that the College discriminated against a student (the Student) based on disability. Specifically, the complaint alleged that:

1. The College inappropriately challenged the Student about her need for XXXXX by her XXXXX XXXXX before she matriculated into the College in XXXXX XXXXX by requesting information and documentation about XXXXX XXXXX XXXXX.
2. XXXXX – PARAGRAPH REMOVED - XXXXX .

OCR enforces 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, which prohibit discrimination on the basis of disability by recipients of federal financial assistance. As a recipient of federal financial assistance from the Department the College is subject to this law.

Based on the complaint allegations, OCR opened an investigation of the following legal issues:

- Whether the College, on the basis of disability, excluded a qualified person with a disability from participation in, denied her the benefits of, or otherwise subjected her to discrimination under any of its programs or activities in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.4.
- Whether a student was subjected to harassing conduct on the basis of disability by one or more of the student's peers that was sufficiently severe, persistent, or pervasive to interfere with her ability to participate in or benefit from the College's educational

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program and, if so, whether the College failed to investigate promptly and to respond appropriately, in violation of 34 C.F.R. §§ 104.4 and 104.7(b).

In reaching a determination, OCR reviewed documents provided by the Complainant and the College and interviewed College staff. OCR also attempted to interview the Student. However, she did not attend a scheduled interview and did not respond to a follow up attempt to reschedule the interview. After carefully considering all of the information obtained during the investigation, OCR is dismissing Allegation #1 as resolved. With respect to Allegation #2, OCR found cause for concern that the College did not adequately respond to the Student's report of disability-based harassment in violation of Section 504. OCR also found cause for concern that the College is not in compliance with certain procedural requirements of Section 504. However, prior to the completion of OCR's investigation, the College asked to resolve this allegation pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). OCR has drafted a proposed resolution agreement, which once implemented, will fully address the compliance concerns OCR identified.

## Background

The Student attended the College during XXXXX XXXXX XXXXX XXXXX XXXXX  
XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX  
XXXXX. The Student has disabilities including XXXXX XXXXX XXXXX, which were  
reported to the College's Director of Counseling, Health, and Disability Services (DS Director)  
in e-mails in XXXXX XXXXX XXXXX, as the Student was preparing to enroll in the College.

**Allegation #1 – Questions related to XXXXX XXXXX, prior to XXXXX XXXXXsemester**

## Facts

[illegible]

In response to this allegation, the College asserted to OCR through counsel's written statement that:

“The college fully investigated [the] Student's vague complaints of unspecified harassment until such time as she reported being satisfied with the outcome, never finding any proof of XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX.”

The College’s written statement indicated that the Student made a report of alleged harassment on XXXXX XXXXX XXXXX in an email to the Director of XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX). The DS Director was copied on the email. The College provided OCR with a copy of the email, in which the Student stated in relevant part:

XXXXX – PARAGRAPH REMOVED - XXXXX

The College asserted that, following that email, the XXXXX XXXXX “asked the on-site XXXXX XXXXX to contact [the] Student about her allegations of harassment and to make suggestions, if necessary, for remediation.” The College’s written statement also said that the Student never identified any specific individuals who she believed were involved in her allegations, and that, after her first complaint, “XXXXX XXXXX regularly checked in with [the] Student regarding her experiences.” The College’s written statement does not identify any other investigatory measures which were taken in response to the Student’s report of harassment.

The College’s data response contained, among other items, an email from XXXXX XXXXX XXXXX to the DS Director stating that she witnessed the harassment, documentation of interactions the XXXXX XXXXX had with the Student, and e-mail correspondence between the Student and College personnel, and between College personnel. Relevant documents include the following:

- A XXXXX XXXXX XXXXX email from the XXXXX XXXXX to the DS Director, where she states in relevant part that “XXXXX - SENTENCE REMOVED - XXXXX .”
- A XXXXX XXXXX XXXXX, e-mail in which the XXXXX XXXXX forwarded the Student’s XXXXX XXXXX complaint e-mail to XXXXX XXXXX XXXXX, and characterized the Student’s complaint as being about “some harassment she feels she may be receiving XXXXX XXXXX.” In this e-mail, the XXXXX XXXXX asked the XXXXX XXXXX if they XXXXX could “check in with [the Student] and ask her about this?” The XXXXX XXXXX also asked in that e-mail if there was anything the XXXXX XXXXX XXXXX “feel we need to do?” The XXXXX XXXXX also wrote in that e-mail that he spoke with the Student about her complaint briefly on XXXXX XXXXX, and informed her that the XXXXX XXXXX would be reaching out to her.
- An XXXXX XXXXX XXXXX, e-mail from the Student to one of XXXXX XXXXX XXXXX XXXXX, in which she writes that she has decided to XXXXX XXXXX XXXXX XXXXX after the XXXXX XXXXX XXXXX, and that that decision “...is due to harassment around campus and also because of medical reasons...”
- An XXXXX XXXXX XXXXX, e-mail in which XXXXX XXXXX forwarded the Student’s XXXXX XXXXX XXXXX e-mail to the Vice President, and says he did not know “what kind of harassment she has experienced.” The data also shows that the Vice

President forwarded that e-mail the same day to the DS Director, the XXXXX, and the College's Director of Student Health Services, asking who is the best person to reach out to the Student, asking the Director of Student Health Services to reach out to the Student since the Student is "citing medical," and asking for their thoughts in general.

- XXXXX XXXXX XXXXX XXXXX XXXXX notes taken by an unnamed XXXXX XXXXX and the XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX, which state that the Student has withdrawn from the College, and state "XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX ... XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX."

Other than the measures described above, the College's data response does not show that any other investigatory steps or measures were taken following the Student's XXXXX XXXXX XXXXX complaint of harassment. In an interview with OCR, the DS Director stated that he was not aware of what, if any, investigatory measures College personnel took in response to the Student's complaints. He stated that to his knowledge, no one at the College followed up with the Student to ask her who was responsible for the incidents, no one otherwise investigated who was responsible, and no one explained to the Student how to file a formal complaint of disability harassment.

The College did not provide OCR with any procedures that governed the College's response to disability discrimination and harassment complaints at the time the Student was enrolled in the College. OCR located the College's current Section 504 grievance procedures on its website, but noted they were not easy to find. OCR entered a number of terms in the search box on the College's website, including "disability discrimination" "disability grievance procedures" and "Section 504 grievance procedures" but the website indicated there were no results. In addition, there is no reference to the procedures in the College's student handbook. OCR ultimately found the procedures by visiting the College's disability services' webpage and looking under a link entitled "other forms." However, the name of the procedures "Section 504 grievance procedures" makes no reference to disability discrimination and harassment; thus, it is unclear how a student would know that the procedures apply to disability discrimination and harassment. Further, the procedures as written do not apply to disability discrimination and harassment carried out by students or third parties, and the procedures contain the incorrect contact information for OCR.

In addition, the DS Director, who is listed as the contact person for the College's current Section 504 grievance procedures, told OCR that he is not familiar with the College's Section 504 grievance procedures and is not responsible for handling such grievances. Further, while the College identified the DS Director as the College's Section 504 coordinator, the DS Director informed OCR he is not the College's Section 504 coordinator and he did not know who held this position.

OCR attempted to interview the Student to get additional information regarding the harassment she experienced as well as what actions the College took to address her XXXXX XXXXX XXXXX email. For example, OCR wanted to ask the Student if any additional incidents occurred after the College's response, and whether the harassment she cited as part of the reason she left the College was related to her disability. However, as noted above, the Student did not

attend her scheduled interview with OCR and did not respond when OCR attempted to reschedule. The documentation provided by the College indicates that the Student XXXXX  
XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX. Specifically, the College's  
documentation included an XXXXX XXXXX XXXXX e-mail from the Student, where she  
stated that she was XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX,  
and a XXXXX XXXXX XXXXX, e-mail between College staff, showing that the Student's  
XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX  
XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX .

## Legal Standard

The regulation implementing Section 504, at 34 C.F.R. § 104.4(a), states that no qualified individual 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 federal financial assistance.

Disability harassment is a form of disability discrimination prohibited by Section 504. Disability-based harassment is intimidating or abusive behavior based on disability that is so severe, pervasive, and/or persistent that it creates a hostile environment that interferes with or denies a student's ability to participate in or benefit from a school's educational program or activities. When disability harassment denies or limits a student's ability to participate in or benefit from a recipient's programs, the recipient must take immediate and appropriate action to address the harassment, prevent its recurrence and, where appropriate, remedy its effects on the student and others.

The Section 504 implementing regulation, at 34 C.F.R. § 104.7(a) requires recipient colleges to designate a person responsible for coordinating the college's efforts to comply with Section 504.

The Section 504 implementing regulation, at 34 C.F.R. § 104.7(b) also requires recipient colleges to adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504. Such procedures must apply to disability discrimination, including harassment, carried out by students, employees and third parties. Further, to be considered prompt and equitable, members of the college community, e.g., students, administrators and staff, must know the procedures exist and how to file a grievance. The recipient must make sure that all designated employees have adequate training as to what conduct constitutes disability discrimination and are able to explain how the grievance procedure operates.

## Analysis

The evidence OCR has obtained to date raises a cause for concern that the College failed to properly address the Student's complaint of disability-related harassment.

[illegible]

She stated that someone from the College responded to the incident, but that afterwards, XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX . She wrote that the behavior caused her to experience panic attacks and made her afraid to sleep at night or be alone in her room. The College had previously been notified that the Student had an XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX.

The College asserted that it fully investigated [the] Student's "vague complaints of unspecified harassment," however, the College's documents do not support that an investigation occurred. While the documentation reflects that the College had the Student's XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX, there is no documentation that the College interviewed the Student or her friend, who said she directly witnessed some of the harassment, to determine who was responsible. The DS Director, who was copied on the Student's complaint, stated that he was not aware of anyone asking the Student who was responsible for the incidents, conducting an investigation into the allegations or informing the Student about how to file a formal complaint.

The Complainant alleged that the College did not address the harassment, which continued. As noted above, OCR was unable to speak to the Student to confirm this, or to obtain additional key details regarding what additional harassment occurred, when it occurred, and the College's response. OCR noted that the Student e-mailed XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX a few weeks after her XXXXX XXXXX XXXXX complaint, to inform him that she was XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX. XXXXX XXXXX forwarded the Student's XXXXX XXXXX XXXXX e-mail to the Vice President, but stated that he did not know "what kind of harassment she has experienced." The Vice President forwarded that e-mail the same day to the DS Director, XXXXX XXXXX XXXXX, and the College's Director of Student Health Services, asking who is the best person to reach out to the Student, asking the Director of Student Health Services to reach out to the Student since the Student is "citing medical," and asking for their thoughts in general. However, the College's documentation does not reflect that the College took further action to address the report of harassment.

While the Student did not file a complaint pursuant to the College's Section 504 grievance procedures, it is unclear how the Student would have known about these procedures, as they are not in the College's student handbook, are not easily located on the College's website and do not reflect that they apply to disability harassment by fellow students. Further, the DS Director, who is listed as the contact person on the grievance procedures, stated that he was not familiar with the College's Section 504 grievance procedures and did not provide the Student with information regarding how to file a formal grievance.

In light of the foregoing, OCR has cause for concern that the College failed to adequately respond to the Student's report of disability harassment in violation of Section 504. In addition, OCR has cause for concern that the College is not in compliance with the procedural requirements of Section 504, and specifically, that the College has not properly identified a Section 504 Coordinator as required by the Section 504 implementing regulation, at 34 C.F.R. § 104.7(a), and does not have appropriate Section 504 grievance procedures as required by 34 C.F.R. § 104.7(b).

Under Section 302 of OCR's *Case Processing Manual*, allegations under investigation may be resolved at any time when, prior to the issuance of a final investigative determination, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified concerns that can be addressed through a resolution agreement. In this case, the College expressed an interest in resolving the allegations prior to the conclusion of OCR's investigation and OCR determined resolution was appropriate. On December 2, 2021, the College signed the enclosed Resolution Agreement, which, when fully implemented, will address all of the allegations in the complaint. OCR will monitor the implementation of the Resolution Agreement.

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.

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 individual 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, OCR 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.

The Complainant may file a private suit in federal court, whether or not OCR finds a violation.

OCR looks forward to receiving the College's first monitoring report by December 6, 2021. For questions about implementation of the Agreement, please contact XXXXX XXXXX, the OCR attorney who will be overseeing the monitoring. XXXXX XXXXX can be reached by telephone at XXXXX or by e-mail at XXXXX @ed.gov. If you have questions about this letter, please contact me by telephone at (216)-522-2667 or by e-mail at [Brenda.Redmond@ed.gov](mailto:Brenda.Redmond@ed.gov).

Sincerely,

/s/

Brenda Redmond  
Supervisory Attorney/Team Leader

Enclosure