



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

1350 EUCLID AVENUE, SUITE 325  
CLEVELAND, OH 44115

**REGION XV  
MICHIGAN  
OHIO**

December 29, 2020

**Via E-mail Only to [jhlavaty@frantzward.com](mailto:jhlavaty@frantzward.com)**

Joel Hlavaty, Esq.  
Frantz Ward LLP  
200 Public Square, Suite 300  
Cleveland, OH 44114

Re: OCR Docket No. 15-20-2246

Dear Mr. Hlavaty:

This letter is to notify you of the disposition of the above-referenced complaint filed on July 20, 2020, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Central School of Practical Nursing (the School) alleging discrimination against a student (the Student) based on disability. Specifically, the complaint alleged that the School:

1. Did not afford students, including the Student during spring 2018 and fall 2019, an opportunity to request academic adjustments and/or other accommodations as needed due to disability; and
2. XXXXX SENTENCE 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.

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

- whether the School failed to designate at least one person to coordinate its efforts to comply with the Section 504 regulation, in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.7(a);
- whether the School failed 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 the Section 504 regulation, as required by the Section 504 at 34 C.F.R. § 104.7(b);

- whether the School failed to comply with the Section 504 requirements regarding notice of nondiscrimination, in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.8;
- whether the School, on the basis of disability, excluded a student from participation in, denied a student the benefits of, or otherwise subjected a student to discrimination in its programs and activities based on the student's disability in violation of the regulation implementing Section 504 at 34 C.F.R. § 104.4;
- whether the School failed to make such modifications to its academic requirements as were necessary to ensure that such requirements did not discriminate or have the effect of discriminating, on the basis of disability, against a qualified applicant or student, in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.44(a).

During its investigation to date, OCR reviewed information provided by the Student, from the School, and information found on the School's website. To date, OCR has not interviewed School witnesses because OCR determined that this case was appropriate for Rapid Resolution Process (RRP) pursuant to Section 110 of OCR's *Case Processing Manual* and promptly attempted to resolve the complaint and obtain necessary information to make a compliance determination. OCR determined that the recipient is interested in immediately resolving the complaint allegations. RRP is an expedited case processing approach that can be used to resolve complaints during the evaluation stage or after issuance of the letter of notification.

The Student attended the School XXXXX XXXXX XXXXX XXXX. The program takes 12 months to complete and is divided into 4 "levels." Each level lasts about 3-4 months and includes 4 classes. As the 2018 school year began, the Student alleges that XXXXX SENTENCE REMOVED XXXXX. The School denies knowledge of XXXXX XXXXX XXXXX. XXXXX SENTENCE REMOVED XXXXX

XXXXX PARAGRAPH REMOVED XXXXX

According to the Student, the School had no disability services office, and no one at the School ever told her how to register as a Student with a disability, or how to request accommodations. According to the Student, whether or not her absences were excused was determined by the School's absence policies. XXXXX SENTENCE REMOVED XXXXX. XXXXX SENTENCE REMOVED XXXXX. XXXXX SENTENCE REMOVED XXXXX. Finally, the School provided OCR with evidence that the School's Student Handbook and Catalog informs students with disabilities of the process for obtaining an accommodation at the School. XXXXX SENTENCE REMOVED XXXXX.

On September 1, 2020, OCR staff researched the following URL: <https://www.cspnohio.edu/program/> at approximately 11:25 a.m. OCR staff browsed through the entire website and found no reference to (1) disability/disabilities and/or disability services or (2) Section 504. Furthermore, on December 15, 2020, OCR staff spoke with counsel for the School. In that conversation, counsel represented that although the recipient had been engaging in an "interactive process" with students who had requested services and accommodations for their

disabilities, that the recipient did not have a Section 504 coordinator designated during the 2019-2020 school year.

Pursuant to OCR's *Case Processing Manual* (CPM), OCR will generally take action only with respect to complaint allegations that have been filed within 180 calendar days of the date of the alleged discrimination. Because XXXXX SENTENCE REMOVED XXXXX—OCR is dismissing the allegations that the School failed to provide the Student with academic adjustments and subsequently dismissed her on the basis of disability. These allegations are untimely pursuant to Section 106 of OCR's case processing manual and are therefore dismissed as of the date of this letter.

With respect to the allegation that the School did not appropriately respond to requests for academic adjustments by students with disabilities, OCR obtained information and has identified issues that can be addressed through a resolution agreement. Pursuant to Section 302 of OCR's CPM, 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 issues that can be addressed through a resolution agreement. In this case, the School expressed an interest in resolving the allegations prior to the conclusion of OCR's investigation and OCR determined resolution was appropriate. When fully implemented, the resolution agreement will address all of the allegations investigated. 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 School'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 School 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 School's first monitoring report by January 30, 2021. For questions about implementation of the Agreement, please contact Mr. XXXXX. He will be overseeing the monitoring and can be reached by telephone at (216) 522-XXXXX or by e-mail at

XXXXX.XXXXX@ed.gov. If you have questions about this letter, please contact me by telephone at (216) 522-7640.

Sincerely,

/s/

Sacara E. Miller  
Supervisory Attorney/Team Leader

Enclosure