



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

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

March 17, 2021

Via E-mail Only to AllenCynthiaS@jccmi.edu

Ms. Cynthia Allen
Senior Vice President/Chief Operating Officer
Jackson Community College
2111 Emmons Road
Jackson, Michigan 49201

Re: OCR Docket No. 15-20-2247

Dear Ms. Allen:

This letter is to notify you of the disposition of the above-referenced complaint filed on August 24, 2020, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Jackson Community College (the College) alleging that in XXX XXXX, the College discriminated against a student with a disability (the Student) when instructors did not provide XXXX approved academic adjustments during assessments and treated XXXX differently than students without disabilities during the assessments.

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. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, 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 these laws.

Based on the complaint allegations and because in XXX XXXX the Student filed an internal complaint with the College alleging a similar allegation based on the same operative facts, OCR opened a limited investigation to review the results of the College's determination and assess whether the College provided a comparable resolution process pursuant to legal standards that are acceptable to OCR. The allegations in the complaint raise the following legal issues:

- Whether the College 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).
- Whether the College 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 Section 504 implementing regulation at 34 C.F.R. § 104.4 and the Title II implementing regulation at 28 C.F.R. § 35.130.

During its investigation to date, OCR reviewed documents provided by the Student and the College and spoke with the Student and College staff. 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 was 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 evidence obtained by OCR, to date, shows that the Student was approved for and provided with academic adjustments, including extended time for tests and assessments, for XXX years at the College. According to the Student, however, in XXX XXXX XXXX failed skills assessments in two XXX courses that taught practical skills because the instructors failed to provide XXXX with extended time and treated XXXX differently than other students on the basis of disability.

The Student filed an internal complaint, which was investigated by the College. The investigative file showed that the investigator interviewed all relevant parties, and took notes of the interviews, and issued an investigative report (report).

With regard to the Student's allegation that the instructor treated XXXX differently during XXX assessment, the report documented that the instructor explained that XXXX comments to the Student were necessary to correct XXX but that XXXX failed the assessment for a different issue, failure to XXX. The report further documented that the instructor who tested XXXX on XXX evaluation asked questions of the Student during the assessment, because XXXX was using incorrect terminology and XXXX needed XXXX to clarify XXX. XXXX said this would not have been necessary with a student who was properly verbalizing their actions. The report concluded that the instructors did not treat the Student differently on the basis of disability. With regard to this allegation, the information demonstrates that the College provided a comparable resolution process pursuant to legal standards that are acceptable to OCR.

With regard to the Student's allegation that the College failed to implement XXXX approved academic adjustments, OCR reviewed the results of the College's response and found that the information demonstrates that the College did not apply legal standards acceptable to OCR nor did it provide the Student with a comparable resolution process. Therefore, OCR determined that it was appropriate to proceed with further investigation of the underlying allegations.

The report addressed the matter of whether the academic adjustment of extended time was available to students in the XXX program. The report included statements from numerous personnel in XXX and the XXX school regarding how academic assessments are made available to students during clinicals and skills assessments. The report stated that the Center for Student Success is operating under the belief that extended time on assessments should be viewed by the

XXX Department as endangering XXX and would therefore not be permitted. Therefore, this is the information they are providing to students. Some XXX faculty indicate that although students have approved accommodations the use of the accommodations for skills assessments are discouraged in order to prepare students for XXX. Other XXX faculty state that the accommodation of additional time or scheduling assessments at the end of the day would be allowed if the student requests it. The report included a recommendation of specific steps to improve the process and communication of the process among College personnel and students.

Based on the above, OCR obtained information and has identified issues that can be addressed through a resolution agreement. 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 March 17, 2021, the District 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 District'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 District 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 District's first monitoring report by April 1, 2021. For questions about implementation of the Agreement, please contact XXX. XXXX will be overseeing the monitoring and can be reached by telephone at (XXX) XXX-XXXX or by e-mail

Page 4 – Ms. Cynthia Allen

at XXX@ed.gov. If you have questions about this letter, please contact me by telephone at (XXX) XXX-XXXX.

Sincerely,

/s/

Sacara E. Miller
Supervisory Attorney/Team Leader

Enclosure