



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

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June 2, 2016

Quentin D. Wheeler  
President  
State University of New York  
College of Environmental Science and Forestry  
1 Forestry Drive  
Syracuse, New York 13210

Re: Case No. 02-16-2044  
State University of New York (SUNY) College of Environmental Science and Forestry

Dear President Wheeler:

This letter is to notify you of the determination made by the U.S. Department of Education, New York Office for Civil Rights (OCR), in the above-referenced complaint filed against SUNY - College of Environmental Science and Forestry (the College). The complainant alleged that the College discriminated against her on the basis of her disability, by failing to effectively provide her with the auxiliary aid of note taking in the XXXXXXXX, XXXX, XXXXXXXXX and XXXXXXXX XX XXXX courses she took during the spring 2015 semester (Allegation 1); and the auxiliary aid of notetaking and/or the academic adjustment of the opportunity to take missed quizzes on make-up dates for her XXXXXXXX XXXXXXXXXX Lab course during the fall 2015 semester (Allegation 2).

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs or activities receiving 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 (ADA), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. Under the ADA, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities. The College is a recipient of financial assistance from the Department and is a public post-secondary education system. Therefore, OCR has jurisdictional authority to investigate this complaint under Section 504 and the ADA.

The regulation implementing Section 504, at 34 C.F.R. § 104.44, requires recipients to modify academic requirements when necessary to ensure that the requirements are not discriminatory on the basis of disability, and to take steps to ensure that no qualified individual with a disability is subjected to discrimination because of the absence of educational auxiliary aids and/or services.

At the postsecondary level, it is the student's responsibility to disclose a disabling condition and to request academic adjustments or auxiliary aids and services. In reviewing allegations regarding the provision of academic adjustments or auxiliary aids and services, OCR considers whether: (1) the student provided adequate notice to the recipient that the academic adjustments or auxiliary aids and services were required; (2) the academic adjustments or auxiliary aids and services were necessary; (3) the appropriate academic adjustments or auxiliary aids and services were provided; and (4) the academic adjustments or auxiliary aids and services were of adequate quality and effectiveness.

In reaching its determination, OCR interviewed the complainant and staff of Syracuse University. OCR also reviewed information and documentation that the complainant, the College, and Syracuse University provided.

During the course of the investigation, OCR determined that Syracuse University provides disability services to students at the College pursuant to a contractual agreement between Syracuse University and the College. Syracuse University's Office of Disability Services (ODS) determines the eligibility of the College's students for academic adjustments and/or auxiliary aids, and prescribes the manner in which these are implemented. The College's Office of Student Affairs works as a liaison with Syracuse University's ODS and assists students in resolving any complications that may occur, but does not determine eligibility for or prescribe the manner in which academic adjustments and/or auxiliary aids are implemented. Accordingly, OCR determined that it was necessary to open a separate complaint against Syracuse University. Syracuse University is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint against Syracuse University under Section 504.

OCR determined that the complainant enrolled as an undergraduate student at the College in September XXXX. On or about XXXX XX 2014, the complainant registered with Syracuse University's ODS as a student with a disability,<sup>1</sup> and Syracuse University's ODS approved the complainant to receive academic adjustments and auxiliary aids, including note-taking, for the fall 2014 semester. The complainant, however, withdrew from the College during the XXXX XXXX semester.

In or around XXXXXXXX 2014, the complainant XXXXXXXXXX at the College, and registered for four courses for the spring 2015 semester: XXXXXXXXXX (Course 1); XXXXXXXXXX (Course 2); XXXXXXXXXX (Course 3); and XXXXXXXX XX XXXX (Course 4). On XXXXXXXX XX, 2014, the complainant met with her Syracuse University ODS advisor, and requested academic adjustments and auxiliary aids for the spring 2015 semester, including note-taking. Syracuse University's ODS issued an ODS Accommodation Authorization Letter, dated XXXXXXXX XX, 2014 (Accommodation Letter 1), approving the complainant to receive notetaking for all of her courses, in addition to other academic adjustments and auxiliary aids.<sup>2</sup>

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<sup>1</sup> OCR determined that the complainant identified herself as XXXXXXXXX; and stated that she had had numerous XXX XXXXXXXXXX, which limited her ability to write and to use a computer (or other device) to take notes electronically.

<sup>2</sup> Specifically, Syracuse University's ODS also approved the complainant to receive the following: (a) XXXXXXXX XXXX XX XXXXXXX XXX XXXXXXX XXXXXXX XXXXXXX XXXXXXX XXXXXXX XXXXXXX XXXXXXX XXX

Accommodation Letter 1 specifically stated, “Note-taking assistance may be provided, when available by the professor or another student in the class.”

OCR determined that Syracuse University’s ODS note-taking services policies and procedures for academic year 2014-2015 (the 2014-2015 Policy) stated that once Syracuse University’s ODS had approved a student’s request for note-taking as an auxiliary aid, the student then had to attend the first week of a course and thereafter meet with a Syracuse University ODS counselor in an “interactive process” to request a specific note-taker for that course. Syracuse University’s ODS required the student to complete a request for notes form (a hard-copy paper version) and additionally self-enroll in Syracuse University’s ODS Blackboard Organization system to obtain on-line access to notes. Following the student’s request for a note-taker, Syracuse University’s ODS staff then began the process of finding and hiring a note-taker by sending a standard electronic mail message (email) to the entire course roster seeking a note taker and waiting for replies. If there were no replies to the initial email, Syracuse University’s ODS sent a second email to the course roster. If there were no replies to the second email, Syracuse University’s ODS staff reached out to the professor and asked for assistance with finding a note taker. Syracuse University’s ODS staff informed OCR that note-taking was provided only by peer note takers (other students currently in the course). If a note taker was found for the course, then Syracuse University’s ODS staff required that the note-taker complete required paperwork, and reviewed the note-takers grade point average. Note-takers also required faculty sign-off to serve in the role. If hired, the note-taker received a monetary stipend. Syracuse University’s ODS Director also informed OCR that as a general matter, some courses (e.g., art studio or a lab) are not eligible for the provision of note-takers, because notes are not necessary.

OCR determined that the 2014-2015 Policy also required a student to record his/her own notes until Syracuse University’s ODS provided a note-taker or if Syracuse University’s ODS was unable to secure a note taker. Syracuse University’s ODS Director informed OCR that in that case, Syracuse University’s ODS provided a student with a smart pen; a student could record on his/her own device (i.e. a smart phone); or Syracuse University’s ODS provided a digital recorder. OCR further determined that Syracuse University’s ODS Request for Note taking Services form (signed by a student and the Syracuse University ODS counselor) required a student to agree to “always take [his/her] own set of notes in class, and use the note taking service as a supplementary set.” The form also stipulated that if a class note taker was not identified for a student’s class, then the student would work with his/her counselor to explore other options (e.g. recording lectures); and, required a student to inform his/her Syracuse

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<sup>3</sup> It also required the student to agree to the following, “[I] will request an accommodation for a note taker in specific classes when utilizing a set of student-generated notes will help me in situations when taking my own class notes may not be adequate for my complete study needs” and additionally to access the notes regularly from the Notes Library

University ODS counselor by email if notes were difficult to read or if notes were missing.<sup>3</sup> OCR determined that in some cases, Syracuse University's ODS advised students that if comprehensive notes were available in Blackboard, note taking assistance may not be needed; however, if note taking assistance was needed, Syracuse University's ODS would attempt to recruit note takers and the students should record the lectures until a note taker is secured.

With respect to Allegation 1, the complainant alleged that the College discriminated against her, on the basis of her disability, by failing to effectively provide her with the auxiliary aid of note-taking in the Course 1, Course 2, Course 3, and Course 4, which she took during the spring 2015 semester.<sup>4</sup> The College informed OCR that during the spring 2015 semester, the complainant was assigned note-takers for Courses 1, 2, 3, and 4; and the College provided information regarding dates when XXXXX were posted for and/or furnished to the complainant during the semester. The College acknowledged that the complainant encountered difficulties with the timely receipt of the required notes for every course; noting that it endeavored to ensure that the complainant received notes, professors modified exam schedules to address delays, and Syracuse University's ODS attempted to obtain and contact note-takers repeatedly and audited XXXXX XXXXXXXX. OCR determined that on or about XXXXXX XX, 2015, the College notified the complainant that she was XX XXXXXX XXXXXXXXXXXX, as a result of her XXXXXX for the spring 2015 semester.<sup>5</sup>

With respect to Allegation 2, the complainant alleged that the College discriminated against her, on the basis of her disability, by failing to effectively provide her with the auxiliary aid of notetaking and/or the academic adjustment of the opportunity to take missed quizzes on make-up dates for her XXXXXXXXXXXX Lab course (Course 5) during the fall 2015 semester.<sup>6</sup> OCR determined that in or around August 2015, the complainant registered for courses for the fall 2015 semester, including Course 5. On or about XXXXXXXX, 2015, the complainant requested, and Syracuse University's ODS approved the complainant to receive academic adjustments and auxiliary aids for the fall 2015 semester. OCR determined that Syracuse University's ODS issued an ODS Accommodation Authorization Letter, dated XXXXXXXX, 2015 (Accommodation Letter 2), approving the complainant to receive note-taking for all of her courses, in addition to other academic adjustment and auxiliary aids.<sup>7</sup>

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<sup>4</sup> Specifically, the complainant asserted that for Course 1, the College failed to provide her with a note-taker until about three weeks after Course 1 began, and the note-taker would not post notes until after quizzes and exams had passed (about once every three to four weeks); for Course 2, the note-taker dropped the course after five weeks and the College never found a replacement note-taker; for Course 3, the College did not provide a note-taker for lectures until week nine of the course, and never provided a note-taker for the lab component of Course 3; and, for Course 4, the College did not provide a note-taker until week nine or ten of Course 4, and the note-taker posted blank handouts with no notes added and provided the notes late in most instances.

<sup>5</sup> According to the complainant's transcript for the spring 2015 semester, she received the following grades in Courses 1 through 4: Course 1 (B); Course 2 (Withdrawal Pass); Course 3 (C-); and Course 4 (D).

<sup>6</sup> Specifically, the complainant asserted that because the College failed to provide note-taking services in Course 5, she had to take missed quizzes on make-up dates during the fall 2015 semester for this lab course. The complainant asserted that she did not receive the teaching assistants' notes for Course 5 until week five of the semester.

<sup>7</sup> OCR determined that Accommodation Letter 2 authorized the complainant to receive academic adjustments and auxiliary aids for the fall 2015 semester that were substantially identical to those included in the complainant's prior accommodation authorization letters, including the note-taking services.

Syracuse University ODS staff reported that Syracuse University's ODS note-taking services policies and procedures for academic year 2015-2016 (the 2015-2016 Policy) changed from the previous year. Syracuse University's ODS staff stated that the note-taking program in effect for academic year 2014-2015 was unwieldy, sometimes too long a process, and did not consistently result in securing note-takers for all requests.<sup>8</sup>

In an email to the Course 5 XXXXXXXX XXXXXXXXXXXX XXXXXXXX XXXXXXXXXXXX dated XXXXXXXX X, 2015, the complainant requested a note-taker for the course and submitted a copy of Accommodation Letter 2 and a personal statement addressed to her professors that described her disability-related needs. OCR determined that Syracuse University's ODS did not provide the complainant with a peer note-taker for Course 5 during the fall 2015 semester. As stated above, the Syracuse University XXX XXXXXXXXXXX reported that as a general matter, note-takers were not deemed necessary for lab courses. The College asserted, however, that the XXXXXXXX XXXXXXXXXXX provided the complainant with notes, albeit several weeks after the start of Course 5, and afforded the complainant an opportunity to make-up missed quizzes in Course 5 during the fall 2015 semester. OCR determined that on or about XXXXXXXX X, 2015, the complainant dropped Course 5.

On June 2, 2016, the College and the University voluntarily entered into the attached resolution agreement to resolve the complaint allegations without further investigation. OCR will monitor implementation of the resolution agreement. If the College and/or the University fail to comply with the terms of the resolution agreement, OCR will resume its investigation.

This letter should not be interpreted to address the College's or University'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. The complainant may file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the College and the University 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, it will

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<sup>8</sup> OCR determined that the changes to the policy were to incorporate a 48-hour turnaround time for the note-taker to return a note-taking agreement to Syracuse University's ODS; and if returned, Syracuse University's ODS requested that the note-taker post notes right away; that the second email to the course roster be sent 48 hours after the first email if there were no responses to the first email; and that Syracuse University's ODS staff directly contact students to determine whether the notes were still necessary. The modified procedure also provided for more frequent auditing (i.e. more than 4 times a semester) of whether notes were of adequate quality. The revised process also required Syracuse University's ODS staff to monitor whether the notes had been timely posted (i.e. once per week).

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.

If you have any questions regarding OCR's determination, please contact Michele Ginter-Barbara, Compliance Team Investigator, at (646) 428-3816 or [michele.ginter-barbara@ed.gov](mailto:michele.ginter-barbara@ed.gov); Jane Tobey Momo, Senior Compliance Team Attorney, at (646) 428-3763 or [jane.momo@ed.gov](mailto:jane.momo@ed.gov); or, Nadja Allen Gill, Compliance Team Leader, at (646) 428-3801 or [nadja.r.allen.gill@ed.gov](mailto:nadja.r.allen.gill@ed.gov).

Sincerely,

/S/  
Timothy C.J. Blanchard

Encl.

cc: XXXXX XXXXXXXX, Esq.