



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

50 BEALE ST., SUITE 7200
SAN FRANCISCO, CA 94105

REGION IX
CALIFORNIA

May 1, 2015

Dr. Chui L. Tsang
Superintendent/President
Santa Monica College
2714 Pico Boulevard
Santa Monica, CA 90405

(In reply, please refer to case no. 09-15-2024.)

Dear Dr. Tsang:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed against Santa Monica College (College). The Complainant¹ alleged discrimination on the basis of disability. Specifically:

1. In fall 2014, the College failed to provide the Complainant with auxiliary aids and services necessary to ensure effective communication so that the Complainant could participate in the education program in a nondiscriminatory manner and;
2. The College retaliated against the Complainant after the Complainant complained that, the sign language interpreters provided to the Complainant were not qualified or failed to show up for class and no substitutes were provided, when the College would not respond to the Complainant's communications in a timely manner and;
3. The College failed to respond adequately to internal complaints the Complainant made on September 23, 2014 and October 1, 2014 stating that the Complainant had not been provided effective communication in the Complainant's classes.

Legal Authority

OCR investigated the complaint under the authority of Section 504 of the Rehabilitation Act of 1973 and its implementing regulation. Section 504 prohibits discrimination on the basis of disability in programs and activities operated by recipients of Federal financial assistance. OCR also has jurisdiction as a designated agency under Title II of the Americans with Disabilities Act of 1990 and its implementing regulation over complaints

¹ OCR notified the College of the Complainant's identity when the investigation began. We are withholding the Complainant's name from this letter to protect his privacy.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

alleging discrimination on the basis of disability that are filed against certain public entities. The College receives Department funds, is a public education system, and is subject to the requirements of Section 504 and Title II.

Investigation

OCR began gathering evidence through reviewing documentation provided by the College and the Complainant. During the course of the investigation, OCR learned the following:

- The Complainant was enrolled in classes at the College during the fall 2014 semester.
- On or about September 3, the Complainant complained to College staff regarding his request for interpreter services for an accounting professor office hours. The Complainant also voiced concerns that an interpreter for a class was late and the Complainant's interaction with the deaf and hard of hearing (DHH) supervisor was negative.
- Documentation submitted by the College shows that, between September 3 and October 20, 2014, Disabled Student Programs (DSP) staff and College administrators met with the Complainant several times to address the Complainant's concerns.
- The College maintains that College staff responded quickly to address issues raised by the Complainant and it acted quickly to find interpreters that possessed the requisite skills to work with the Complainant.
- The College provides sign language and real time captioning services as well as note-taking services to its deaf and hard of hearing students.
- Currently, a full-time supervisor, two full-time interpreters, two 30 hour interpreters, and one 20 hour interpreter are tasked with addressing the specific educational needs of the College's deaf and hard of hearing students. The College also contracts with interpretation service agencies to ensure that the needs of deaf and hard of hearing students are met.
- Notwithstanding the College's stated commitments to providing quality services for its deaf and hard of hearing students, the Complainant believes that the College's responses to his concerns were not sufficient, and the College provided him with unqualified interpreters as retaliation because he complained to College officials about interpreter services.
- The College stated to OCR that it had begun to make changes to its services to deaf and hard of hearing students. Specifically, in order to improve its services to deaf and hard of hearing students, the College has changed the manner in which services for the deaf and hard of hearing students are implemented and is continuing to review how such services are being implemented.

Prior to the conclusion of the OCR investigation, and before OCR reached compliance determinations, the College expressed an interest in taking action to resolve the allegations in this complaint. Under Article III, Section 302 of OCR's Case Processing Manual a complaint may be resolved before the conclusion of an investigation when the College expresses an interest in such a resolution and agrees to a resolution that is aligned with the complaint allegations and consistent with applicable regulations. On April 24, 2015, the College provided OCR with a signed Resolution Agreement (Agreement). As such, OCR is closing the investigative activity of this matter as of the date of this letter.

Conclusion

OCR concludes that the actions agreed to by the College in the enclosed Resolution Agreement will resolve the compliance issues in this case. 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 Complainant may file another complaint alleging such treatment.

The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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, we 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.

We wish to thank the College, especially Robert Myers, Campus Counsel, for his cooperation and assistance in resolving this matter. If you have any questions about this letter or OCR's resolution of this complaint, please contact G. Anthony Brown, Civil Rights Attorney, at (415) 486-5547.

Sincerely,

/s/

James Wood
Team Leader

cc: Robert Myers, Campus Counsel