

[Edited for educational purposes¹]

Complaint No. 10-92-2080

April 21, 1993

Skagit Valley College

This letter is to notify you that the Office for Civil Rights (OCR) has completed its investigation of the above-referenced complaint against Skagit Valley College (College). The complainant alleged that the College discriminated against her on the basis of disability by prohibiting her from registering for classes and banning her from the College campus.

The issue investigated was whether the College discriminated against the complainant on the basis of disability by prohibiting her from reenrolling in the College for fall quarter 1992. See 34 CFR 104.4 and 104.43(c) and 28 CFR 35.104.

As a result of our investigation, OCR identified an area of noncompliance with Section 504 and the ADA, and the College has agreed to take the voluntary remedial actions set forth in the enclosed Settlement Agreement (Agreement). OCR has concluded that upon full implementation of the Agreement, which OCR will monitor, the College will be in compliance with Section 504 and the ADA concerning the identified violation of law. The findings of fact and conclusion with respect to the issue investigated are set forth below:

Findings of Fact

1. The complainant was enrolled at the Whidbey Island campus of the College in spring quarter 1992. No disciplinary or health concerns had been raised during previous periods of enrollment at the College.

4. After an incident of behavior in the campus library on May 8, 1992, during which the complainant was loud and argumentative and had shoved the librarian, the complainant was removed from campus and was summarily suspended.

6. Shortly after being suspended from the College on May 8, 1992, the complainant was hospitalized and was given a psychiatric diagnosis of Bipolar Disorder Manic Type (Manic Depressive Disorder).

9. On July 2, 1992, the complainant and College officials briefly discussed the complainant's medical treatment, and the complainant expressed the desire to return to the College. The dean

¹ The full text of this document may be found at 4 NDLR para. 71

informed the complainant that the complainant could not return to the College unless health care providers issued a letter that the complainant would no longer be disruptive and would benefit from returning to the College. When the dean articulated the need for an assurance regarding possible disruptions, he did not have objective information concerning whether the complainant's disruptive behavior was likely to recur or what the prognosis was regarding the complainant's health status.

10. On September 16, 1992, the College received a September 15, 1992, letter from the complainant's health care providers. The letter informed the College that the complainant was stable, actively involved in treatment, receiving medication management services, and had support services available to aid in the transition back into the mainstream.
11. The dean discussed the September 15, 1992, letter with one of the complainant's health care providers and concluded that the conversations did not provide information beyond that in the September 15, 1992, letter and, thus, did not support a decision to reenroll because it did not address the dean's desire for an assurance that the complainant would not be disruptive. On October 30, 1992, the dean sent a letter to the complainant's health care provider restating the College's need for written confirmation that the complainant would not be disruptive in class and seeking an opinion as to whether or not the complainant was ready to resume her education at the College.
12. While the dean and the complainant's health care providers do not agree as to the specific statements made during the discussions of the September 15, 1992, letter, the dean's position is that the health care providers did not expand on the September 15, 1992, letter and responded to his request in a guarded manner suggesting less than full support; and it was the counselor's (one of the two providers) position that he made it clear that the letter reflected that the complainant's medical condition was no impediment to returning to the College. The testimony supports a finding that the health care providers did not make any negative statements indicating that the complainant would have difficulty returning to school, and the College did not receive information from any other medical professional that the complainant posed a risk to health and safety or was unable to return to the educational program due to disability.
13. In part, the College's request for assurances from health care providers was based on perceptions of the complainant's behavior during phone conversations with College officials in early September 1992. The complainant's conduct cited by College officials included interruptions, inappropriate anger and frustration, accusations of discrimination, and a unilateral termination of the call by hanging up the phone. The subject matter of the call involved a dispute over the complainant's status, including the question of whether the complainant had been discriminated against. College officials did not identify specific statements that were a threat to health or safety or that had a direct relationship to the educational setting.

Analysis and Conclusion

The issue investigated was whether the College discriminated against the complainant on the basis of disability by prohibiting her from reenrolling in the College for fall quarter 1992.

In deciding whether a disabled student is qualified to be admitted to its program, Section 504 and the

ADA requires that the recipient make a fair, stereotype-free assessment based on reasonably reliable information from objective sources, such as knowledgeable medical professionals. Appropriate weight may be given to legitimate concerns such as avoiding exposing others to significant health and safety risks that cannot be eliminated through reasonable modifications. OCR gathered documentary information from the parties and conducted interviews to determine whether the College had a supportable basis for determining the student was not qualified, due to disability, to participate in its program.

The College's decision to deny the complainant's request to reenroll was based upon the College's opinion that the complainant, because of her mental illness, may have been unable to adhere to College rules prohibiting disruption of the educational process. Because of this concern, the College required the complainant to provide a letter from health care providers that the complainant would not engage in disruptive behavior in the future. In support of its decision to deny the complainant readmission to its program, because of an inadequate assurance that the complainant would not be disruptive in the future, the College considered: the complainant's diagnosis of mental illness in May 1992; a telephone conversation with the complainant in early September 1992 which College officials determined reflected an inappropriate argumentative attitude; a September 15, 1992, letter from the complainant's health care providers reflecting that her condition was stable and she had support services to reenter the mainstream; and conversations with the complainant's health care providers during which the providers reaffirmed their position in the September 15, 1992, letter.

Because the College had been informed that the complainant's condition was stable, that the complainant could reenter the mainstream, and did not receive information from the complainant's health care providers or any other medical professional that the complainant's disability posed a serious risk to health and safety or precluded her enrollment, OCR concludes that the College did not adhere to Section 504 and ADA requirements by requiring an additional statement from the complainant as a precondition to qualify for participation in its program. This requirement was imposed out of a concern that the complainant's disability would result in behavior that would be inconsistent with the College's educational program. The College had a legitimate interest in assessing whether the complainant would be able to successfully participate upon reenrollment. However, because the College did not have a reliable basis for assessing that the complainant could not participate successfully, the resulting decision was discriminatory based on disability. The College, in effect, relied on its own fears rather than accepting the available professional opinion about the complainant's current condition and its relationship to the College's programs.

I would like to thank you for the cooperation extended to my staff during the investigation and resolution of this case. *****

Regional Civil Rights Director

Region X