



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
THE WANAMAKER BUILDING, SUITE 515
100 PENN SQUARE EAST
PHILADELPHIA, PA 19107-3323

REGION III
DELAWARE
KENTUCKY
MARYLAND
PENNSYLVANIA
WEST VIRGINIA

November 18, 2014

IN RESPONSE, PLEASE REFER TO: **03-14-2349**

Mr. Javier Miyares, President
University of Maryland, University College
3501 University Blvd. East
Adelphi, MD 20783

Dear Mr. Miyares:

This is to notify you of the resolution of the complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against University of Maryland University College (the College). XX xxxx xxxxxx (the Complainant) alleged that the College discriminated against xxx on the basis of disability. Specifically, the Complainant alleged that xxx xxxxxxxx xxxxxxxx xxxxxxxxxx failed to provide xxx with the approved xx—phrase redacted--xx.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits 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, and its implementing regulation, 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 a public entity, the College is subject to Section 504, Title II and their implementing regulations.

The Section 504 regulations further provide that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any service, program or activity of a public entity or an entity that receives Federal financial assistance from the Department. In the context of postsecondary education, the Section 504 regulations require that a recipient make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate, or have the effect of discriminating, against qualified individuals with disabilities. A recipient may not provide a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others. The regulation also states that aids, benefits and service, to be equally effective, are not required to produce the identical result or level of achievement for persons with and without disabilities, but must afford persons with disabilities equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement. See 34 C.F.R. §§ 104.4(a); 104.4(b)(ii); 104.4(b)(2) and 34 C.F.R. § 104.44 (a). Title II of the ADA contains similar requirements.

Postsecondary institutions do not have a duty to identify students with disabilities and students are responsible for identifying any academic adjustments they may need as a result of their disabilities

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to meet the academic standards of an institution. It is the responsibility of the student to provide timely and adequate notice to the institution of his/her disability and the need for auxiliary aids or academic adjustments. Postsecondary institutions may establish reasonable procedures for students to request academic adjustments, including a requirement that students submit documentation showing the need for these academic adjustments. Students are responsible for knowing the procedures for requesting academic adjustments and following them. When a postsecondary institution has been given adequate notice of the need for auxiliary aids and services due to a disability, it is responsible for making a reasonable determination as to which auxiliary aids or academic adjustments should be provided to the qualified individual with a disability and ensuring that such necessary modifications are provided.

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a Voluntary Resolution Agreement. The provisions of the agreement must be aligned with the complaint allegations or the information obtained during the investigation and be consistent with applicable regulations. Such a request does not constitute an admission of liability on the part of a recipient, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, the College requested to resolve the complaint through a Voluntary Resolution Agreement (the Agreement), which was executed by the College on November 13, 2014. A copy of the signed Agreement is enclosed. As is our standard practice, OCR will monitor the College's implementation of the Agreement. Accordingly, OCR is concluding its investigation of this allegation as of the date of this letter.

This letter is not intended nor should it be construed to cover any other issues regarding the College's compliance with Section 504, Title II, or their implementing regulations that may exist and are not discussed herein. 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.

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.

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Thank you for your cooperation in this matter. If you have any questions, please feel free to contact Victoria Springs at 215-656-3249, or by email at victoria.springs@ed.gov.

Sincerely,

/s/

Beth Gellman-Beer
Team Leader
Philadelphia Office

Enclosure

cc: Robyn Seabrook, Deputy General Counsel