



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, DC

September 19, 2014

Dr. Mark Dreyfus  
President  
ECPI University  
Medical Careers Institute  
Newport News Campus  
1001 Omni Boulevard, Suite 100  
Newport News, Virginia 23606

Re: OCR Complaint No. 11-14-2228  
Resolution Letter

Dear Dr. Dreyfus:

This letter is to notify you that the Office for Civil Rights (OCR) of the U.S. Department of Education (Department) has completed its investigation of the above-referenced complaint that was filed on March 25, 2014, against ECPI University, Medical Careers Institute (University). The Complainant alleged that the University discriminated against him on the basis of disability (XXXX) when it failed to provide requested academic adjustments and auxiliary aids and services during the 2013-2014 academic year.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. Because the University receives Federal financial assistance from the Department, OCR has jurisdiction over it pursuant to Section 504.

In reaching a determination on the above allegation, OCR reviewed documentation submitted by the University and the Complainant. OCR also conducted interviews of University staff and the Complainant. During its investigation, OCR identified a compliance concern with respect to the University's statement of non-discrimination as well as preliminary concerns about the University's policy and procedures regarding the provision of services to qualified students with disabilities (the Policy) and its implementation of the policy and procedures to students with disabilities. An explanation is set forth below.

### **Legal Standard**

Section 504 states 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 on the basis of disability in any program or activity that receives Federal financial

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

assistance. The regulation prohibits colleges and universities that receive Federal financial assistance from the Department from denying students the benefits of a program or activity because of disability. The Section 504 regulation requires that colleges and universities that receive Federal financial assistance make modifications to their academic requirements as necessary to ensure that the requirements do not discriminate or have the effect of discriminating against qualified individuals with disabilities. 34 C.F.R. § 104.44(a). In addition, the regulation implementing Section 504 requires colleges and universities to ensure that no student with a disability is denied benefits or services or otherwise excluded because of the absence of educational auxiliary aids for students with impaired sensory skills. 34 C.F.R. § 104.44(d). The question of whether a college or university has to make modifications to its academic requirements or provide auxiliary aids is generally determined on a case-by-case basis. Section 504 envisions an interactive process with respect to provision of academic adjustments for individuals with disabilities.

## **Discussion**

At the outset of OCR's investigation, the University acknowledged the need to make changes in its process for providing academic adjustments and auxiliary aids and services to students with disabilities as well as an interest in resolving the allegations in the complaint. OCR reviewed the data submitted by the University, including its policy and procedures, and conducted interviews of the Campus President, University Vice President, a student counselor, and the Complainant's instructor to inform the development of an appropriate voluntary resolution agreement.

OCR found that the University is not in compliance with the Section 504 regulation with regard to its notice of nondiscrimination. The Section 504 regulation at 34 C.F.R. § 104.8 requires that recipients publish a notice of nondiscrimination that states that the recipient "does not discriminate in admission or access to, or treatment or employment in, its program or activity." The notification shall also include an identification of the responsible employee designated to coordinate compliance with Section 504. The University's notice ("Statement of Nondiscrimination") does not provide a clear statement that the University does not discriminate against students with disabilities. Instead, the Statement of Nondiscrimination states that the University is in compliance with Section 504, the Americans with Disabilities Act, and several other Federal civil rights statutes. In addition, the Statement of Nondiscrimination does not identify or provide contact information for the University's Section 504 Coordinator.

OCR also identified preliminary concerns regarding the University's policy and procedures related to providing services to qualified students with disabilities and the implementation of those procedures. The procedures do not clearly explain the process a student uses to obtain academic adjustments or auxiliary aids and services. Rather, it contains inaccurate definitions of disability-related terms, includes a potentially confusing statement about when the University may not have an obligation to provide services, and indicates the University will make a unilateral decision about a student's eligibility for disability-related services. Furthermore, the policies and procedures are difficult to locate and appear segmented. OCR is concerned that the written policies and procedures do not clearly outline the steps required for a student to obtain services as a student with a disability.

## Conclusion

As a result of these open questions and the University's interest in resolving the complaint, the University agreed to sign the attached voluntary resolution agreement (Agreement), which requires the University to revise its policies and procedures, maintain records and appropriate documentation, and engage students in an interactive process to determine their needs; provide training to faculty and staff; and offer the Complainant to retake the class free of tuition with appropriate academic adjustments and auxiliary aids and services in place. The University signed the enclosed agreement, which, when fully implemented, will resolve the complaint. The provisions of the agreement are aligned with the concerns identified and the information obtained during the course of OCR's investigation, and are consistent with the applicable regulations.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the 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 have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the University may not retaliate against an individual who asserts a right or privilege under a law enforced by OCR or who files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

If you have any questions, feel free to contact Judy Briggs at (202) 453-5902 or by e-mail at [judy.briggs@ed.gov](mailto:judy.briggs@ed.gov), or Amy S. Williams at (202) 453-5933 or by e-mail at [amy.s.williams@ed.gov](mailto:amy.s.williams@ed.gov).

Sincerely,

/s/

Alessandro Terenzoni  
Team Leader, Team II  
Office for Civil Rights

Enclosure