



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION I
5 POST OFFICE SQUARE, 8th FLOOR
BOSTON, MASSACHUSETTS 02109-3921

May 27, 2020

President Peter Salovey
By email: president@yale.edu

Re: Complaint Nos. 01-18-2020 & 01-18-2123
Yale University

Dear President Salovey:

This letter is to advise you of the outcome of the above-referenced complaints that the U.S. Department of Education (Department), Office for Civil Rights (OCR) received against Yale University (University). On April 18, 2018, OCR opened the following allegation for investigation in Complaint No. 01-18-2123:

Whether the University discriminated against the Complainant's daughter (Student) on the basis of disability by failing to engage in an interactive process regarding her request that the University recalculate her XXXXXX financial aid package to remove the "Student Income" and "Yale Term-time Job" line items, in violation of 34 C.F.R. § 104.43(a) (Allegation 1).

On January 3, 2018, OCR opened the following allegation for investigation in Complaint No. 01-18-2020:

Whether the University discriminated against the Student on the basis of disability by denying her request that the University grant the Complainant independent card access to the Student's University housing, in violation of 34 C.F.R. § 104.43(a) (Allegation 2).

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.

During the investigation, OCR reviewed documents provided by the Complainant, the Student, and the University, and interviewed the Complainant and Student. After carefully considering all of the information obtained during the investigation, OCR found insufficient evidence to support Allegation 2. Before OCR completed its investigation of Allegation 1, the University expressed a willingness to resolve the allegation on April 14, 2020. OCR's findings and conclusions are discussed below. Hereinafter, you will be referred to as "the University President."

Background

The Complainant informed OCR that the Student “suffers from XXXXXXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXX. The University informed OCR that it considered the Student to be a qualified individual with a disability from the fall of XXXX through her XXXXXXXXXXXXXXXX from the University on XXXXXXXXXXXXXXXX. The Student has since graduated from the University.

Allegation 1

On XXXXXXXXXXXXXXXX, the Complainant sent an email to the University President and the Director of Undergraduate Financial Aid (UFA Director) stating that the Student “should not be expected to have a student income or term time job as it is not consistent with her disability.”

On XXXXXXXXXXXXXXXX, the Complainant sent another email to the same individuals asking whether “the financial aid calculation will assume [the Student] will earn money from a term time job that she is not able to perform because of her disabilities” and whether “the financial aid calculation will assume she worked over the summer,” as “this is not possible with her disabilities.” The Complainant wrote that if the recipients of his email required “a confirmation of [the Student’s] situation,” he could ask the Student “to contact her medical care professionals in order to provide evidence of this.” The University provided OCR a document entitled “XXXXXXX Need Analysis Report,” dated that same day, which includes a notation stating that the Complainant “requested that the student effort [be] removed due to disability [sic],” and the UFA Director was “looking into it.” That evening, the UFA Director responded that “any disability accommodation request must be made directly through the Resource Office on Disabilities [ROD].”¹

The following day, the University emailed the Student a letter outlining her XXXXXXX financial aid package. That letter states, in the “Family Contribution” section, “Student Income \$XXXX,” and in the “Self-Help” section, “Yale Term-time Job \$XXXX” for the fall XXXX semester.

On XXXXXXXXXXXXXXXX, the Student sent an email to ROD’s Associate Director and Senior Administrative Assistant to “request to be absolved of the student income and student term-time job charges . . . as an accommodation for [her] disabilities.” She noted that she “took courses online through” the University’s Summer Session “instead of working” that summer, and had “never been able to hold a term-time job because of [her] disabilities (that’s also why [she] didn’t work over the summer),” so the University was “placing an unreasonable financial burden on” her.²

On XXXXXXXXXXXXXXXX, the ROD Director responded, without further explanation, that ROD “isn’t in a position to determine” if the Student “could not work last spring, over the summer or during this term.” The Student responded that same day, inquiring whether she needed “a note

¹ ROD has since been renamed Student Accessibility Services. See <https://sas.yale.edu/>.

² The University informed OCR that in the summer of XXXX, it “refunded the [Student’s] tuition for a summer school class from which she withdrew on the last day of the class, an accommodation not usually granted, and, as a further accommodation, . . . agreed not to record a ‘W’ for withdrawal on her academic record, which is the usual result following a late withdrawal.”

from [her] XXXXXXXX saying [she] was/am not able to work?” That same day, the ROD Director responded that she could “certainly address it” if the Student had “a doctor who can state that” she had “not been able to work and cannot work presently.”

On XXXXXXXXXXXX, the Complainant forwarded to the ROD Director a letter from her treating XXXXXXXX, dated XXXXXXXXXXXX, which states that the Student had “been under [his] care since XXXXXXXXXXXX.” He reported that she “has XXXXXXXXXXXXXXXXXXXX XXXXXXXX that could deteriorate upon additional XXXX,” and on “her last phone conversation, she seemed somewhat overwhelmed with her school and expectation to work.” The XXXXXXXX concluded that, “[c]onsidering her condition, she was unable to work over the summer XXXX and remains unable to work during the fall semester of XXXX.”³

On XXXXXXXXXXXX, the ROD Director informed the Student that “the required student contribution may be made through either employment or through loans,” and if the Student was unable to work, she “may cover the student contribution through a loan.” The ROD Director encouraged the Student “to reach out to the [UFA] Office . . . for advice on the best options for the modest loan that will be necessary.”

On XXXXXXXXXXXX, the Complainant responded that this would result in the Student having “a larger financial burden” than “[a]ble bodied students” “because of her disability.” The following day, he sent the ROD Director a “Grievance Complaint under . . . Section 504” regarding the ROD Director’s failure to grant the Student’s request and asked that she “forward[] it to the appropriate people.” The Complainant subsequently informed OCR that he paid the University \$XXXX for the “Student Income” and “Yale Term-time Job” portions of the Student’s “Family Contribution” for the fall XXXX semester.

The University informed OCR that, because the required student effort portion of the financial aid award “may be, and is often, met not only with student work but also with financial contributions from other sources or through loans, the request was not reasonable.” At the time of the Student’s request, the University’s website stated that the two components of “Student Effort” – “Student Employment” and “Student Summer Income Contribution” – may be met by a “job, outside scholarship, other family resources, or loan.”⁴ However, the University’s website currently states that the University’s “financial aid policies have been crafted to ensure that every

³ The Student reported to the College Board that she earned \$XXXX in wages in XXXX, earned \$XXXX in wages in XXX, and expected to earn no wages during the summer of XXXX or during the XXXXXX school year because she could not “work during term time because she is disabled.”

⁴ <https://web.archive.org/web/20171005041357/http://finaid.yale.edu/award-letter/financial-aid-terminology/student-effort>. The University’s website stated that the “Student Summer Income Contribution” was the “standard amount[]” that a student was “expected to contribute from summer-employment income toward educational costs,” and noted that “[m]ost non-Canadian international students do not have an expected Student Summer Income Contribution.” <https://web.archive.org/web/20171005041402/http://finaid.yale.edu:80/award-letter/financial-aid-terminology/student-summer-income-contribution>. It stated that “Student Employment” was the “standard minimum amount[]” that “a student should anticipate contributing financially from term-time employment,” and noted that students “work on campus an average of eight to twelve hours a week during the academic year to fulfill their Student Employment expectation.” <https://web.archive.org/web/20170924043537/http://finaid.yale.edu:80/award-letter/financial-aid-terminology/student-employment>. It also stated that “[o]utside merit scholarships may be used to cover” these amounts, and students “who choose not to work . . . may also take out loans to fulfill” these expectations (emphasis added). The University informed OCR that these expectations are “the same for all upper-level students receiving financial aid from” the University.

Yale Financial Aid Award meets 100% of a family’s Demonstrated Financial Need without requiring that student or family to take out loans,” and “every student and family is provided a viable option to pursue a Yale education without taking on any loan debt.”⁵

Allegation 2

On XXXXXXXXXXXX, the Student emailed the ROD Director to inform her that “[b]ecause [her] father [wa]s acting as [her] caregiver” that semester, she would “like to request he be given card access to [her] entryway and the basement/laundry room”⁶ to help her “complete daily tasks when [she] barely ha[d] the energy/motivation to leave [her] bed.” The ROD Director responded that the Head of her Residential College (College Head) was “the right place for [her] to make the request.”⁷

On XXXXXXXXXXXX, the Student sent the College Head an email requesting permission for the Complainant to “be given card access to [her] entryway and the [residential college] basement.” She stated that the Complainant was “functioning as [her] caregiver this semester, and the access would allow him to help [her] in a number of ways,” including helping her to “do [her] laundry, bring [her] food, or knock on [her] door to make sure [she was] on time for important appointments.” Later that day, the College Head responded that the Residential College did not “give ID access to parents,” which “would be unprecedented,” but the Student “should of course feel free to speak to people in the Yale College Dean’s Office about this, in case [she] want[ed] to inquire further.”

The Complainant informed OCR that, on XXXXXXXXXXXX, the Student “was not well enough to come downstairs and [the Complainant] could not gain access to her to provide food, company and other services to assist her.” Consequently, the Student “could not eat which worsened her condition.” The evidence in the record does not indicate that the University was aware of this incident.

On XXXXXXXXXXXX, the Student emailed the College Head that whether or not “such an accommodation may be unprecedented,” it was “still reasonable under Section 504.” She noted that Section 504 required the University “to provide an alternative accommodation for [her] disabilities if the option [she] proposed” was not “feasible,” asked the College Head if she had any ideas, and copied the ROD Director on her email “to see if she [could provide] guidance.” The College Head responded the following day that she would “get back to [the Student] asap.”

On XXXXXXXXXXXX, the College Head emailed the Student, the Complainant, and the ROD Director that the University could not grant the Complainant “automatic access to the

⁵ <https://finaid.yale.edu/costs-affordability/understanding-student-share>. This website also states that the University “offers ample opportunity for students to work,” “students on aid are always accommodated,” and “[e]very student seeking an on-campus job can find one.”

⁶ The University’s counsel informed OCR that all residential colleges within the University may only be accessed by swiping a University-issued identification card at exterior entrances.

⁷ “The head of college . . . is the chief administrative officer and the presiding faculty presence in each residential college. He or she is responsible for the physical well-being and safety of students in the college as well as for fostering and shaping the social, cultural, and educational life and character of the college.”

<https://yalecollege.yale.edu/campus-life/residential-colleges>.

deserve accommodations. The Complainant stated that he was surprised to hear that XXXXXXXXXXXX felt threatened, as they had spent a significant amount of time together.

The University also informed OCR that it “granted access just one time XXXXXXXXXXXX to a family member of a student in a residential college” “who has severe mobility issues” due to XXXXXXXXXXXX and “a personal care assistant who helps the student get ready each morning.” In that case, “[t]he student’s mother requested, and was granted, card access so that, in the event the personal care assistant [wa]s unable to come in the morning, the mother w[ould] be able to assist the student.” The University noted that “the parent had no intention of accessing the residential college on a regular, daily basis, as the [C]omplainant in this matter stated he would. Instead, that access was granted as an additional safeguard for the student, in the unlikely event the student’s personal assistant was unable to make it in to assist the student in getting out of bed and dressed each morning.” Further, “unlike in the previous case, the [S]tudent . . . was physically able to get to the gate to let [the Complainant] into the residential college, thus negating the need to provide the highly unusual step of granting card-key access to the parent.” The University informed OCR that it “weighed the [C]omplainant’s request against this past case and determined the needs were not similar.”

Legal Standards

The Section 504 regulation, at 34 C.F.R. § 104.43(a), provides that a qualified individual with a disability may not be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any postsecondary aids, benefits, or services on the basis of disability, including participation in a university’s financial aid programs and employment of students. Such discrimination in financial aid programs or employment may include a failure to make reasonable modifications in a university’s policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability.

Regarding financial aid, the Section 504 regulation, at 34 C.F.R. § 104.46(a)(1)(i), states that, in providing financial assistance to qualified individuals with disabilities, a university may not, on the basis of disability, provide less assistance than is provided to individuals without disabilities, limit eligibility for assistance, or otherwise discriminate. Regarding student employment, the Section 504 regulation, at 34 C.F.R. § 104.46(c), states that a university that employs any of its students may not do so in a discriminatory manner. Pursuant to 34 C.F.R. § 104.12(b)(2), universities “shall make reasonable accommodation” in employment practices to “known physical or mental limitations,” including “job restructuring” and “part-time or modified work schedules.”

Universities may establish reasonable requirements and procedures for students to provide documentation of their disability and request reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability. Students are responsible for obtaining disability documentation and for knowing and following the procedures established by the university. Once the student has provided adequate notice and documentation of his/her disability and the need for modifications due to the disability, the university must provide the student with appropriate reasonable modifications that are necessary to afford the student an equal opportunity to participate in the university’s program

or activity. However, the university is not required to make modifications that would result in a fundamental alteration of the university’s program or activity or impose an undue burden.

In determining what modifications are appropriate for a student with a disability, the university should familiarize itself with the student’s disability and documentation, explore potential modifications, and exercise professional judgment. The question of whether a university has to make modifications to its requirements is determined on a case-by-case basis. OCR generally does not substitute its judgment for that of qualified educators and professionals regarding modifications. Instead, OCR reviews relevant factual evidence to determine whether a university acted in a reasonable manner and whether it took appropriate steps consistent with Section 504 in making decisions regarding a student’s eligibility for modifications. Section 504 envisions a meaningful and informed process with respect to the provision of modifications, e.g., through an interactive and collaborative process between the university and the student. If a university denies a request for a modification, it should clearly communicate the reasons for its decision to the student so that the student has a reasonable opportunity to respond and provide additional documentation that would address the university’s objections.

Section 504 does not require a university to modify requirements that are essential to the university’s program or activity. In reviewing an institution’s determination that a specific standard or requirement is an essential program requirement that cannot be modified, OCR considers whether that requirement is educationally justifiable. The requirement should be essential to the educational purpose or objective of a program or activity. OCR policy requires, among other factors, that decisions regarding essential requirements be made by a group of people who are trained, knowledgeable and experienced in the area; through a careful, thoughtful and rational review of the program or activity and its requirements; and that the decision-makers consider a series of alternatives for the essential requirements, as well as whether the essential requirement in question can be modified for a specific student with a disability. OCR affords considerable deference to academic decisions made by post-secondary institutions, including what is or is not an essential program requirement.

A university is not required to provide a modification if it can show that the requested modification would pose an undue financial or administrative burden. Generalized conclusions are not sufficient to support a claim of undue burden. Instead, undue burden must be based on an individualized assessment of current circumstances that show a specific modification would cause significant difficulty or expense.

Analysis

Allegation 1

According to the University’s website, the University’s “financial aid policies have been crafted to ensure that every Yale Financial Aid Award meets 100% of a family’s Demonstrated Financial Need without requiring that student or family to take out loans,” and “every student and family is provided a viable option to pursue a Yale education without taking on any loan debt.” In meeting this objective, the University requires “Student Effort” that is comprised of two components: “Student Employment” and “Student Summer Income Contribution.”

In this case, the Student’s XXXXXXXX opined that the Student “was unable to work over the summer XXXX and remain[ed] unable to work during the fall semester of XXXX” because of the functional limitations imposed by her disabilities. OCR is concerned that the University denied the Student’s request to waive the “Student Income” and “Yale Term-time Job” portions of the Student’s “Family Contribution” without engaging in an interactive and collaborative process to determine whether the Student could work during the summer or fall of XXXX. OCR is also concerned that the University appears not to have offered any reasonable modifications to the Student that could have enabled her to participate in the “Student Income” or “Yale Term-time Job” components of the University’s financial aid program so as to have an equal opportunity “to pursue a Yale education without taking on any loan debt.”

Prior to the conclusion of OCR’s investigation of Allegation 1 and pursuant to Section 302 of OCR’s *Case Processing Manual*, the University expressed an interest in resolving this complaint and OCR determined that a voluntary resolution is appropriate.¹² Subsequent discussions between OCR and the University resulted in the University signing the enclosed Agreement which, when fully implemented, will address Allegation 1. OCR will monitor the University’s implementation of the Agreement.

Allegation 2

OCR has found insufficient evidence that the University discriminated against the Student on the basis of disability by denying her request that the University grant the Complainant independent card access to the Student’s residential college.

The evidence shows that the University offered the Student an alternative that it reasonably believed would meet her needs; specifically, the Complainant could call the Student to wake her up in the morning and she could escort the Complainant onto campus to pick up and deliver her laundry as well as deliver her food.¹³ The College Head provided the Student the opportunity to speak to her or to the “people in the Yale College Dean’s Office . . . in case [she] want[ed] to inquire further,” and there is no evidence that the University was on notice of any information that would have called the sufficiency of this alternative into question prior to the Student’s XXXXXXXX. Although the Complainant asserted that the University failed to recommend any other modification for the Student, there is no evidence in the record indicating that the Complainant or Student ever requested a different modification, and Section 504 does not require the University to offer a second reasonable alternative to the Student’s requested modification.¹⁴

¹² The *Case Processing Manual* is available at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

¹³ While “[r]ecipients need not provide attendants . . . of a personal nature” to qualified individuals with disabilities, see 34 C.F.R. § 104.44(d)(2), a university may be obligated to provide access to an attendant that is furnished by the individual if necessary to provide the individual equal access to the university’s programs and activities.

¹⁴ The University also determined that providing the Complainant independent card access to the residential college would fundamentally alter the residential college experience because the Complainant was seeking unescorted access the residential college on a daily basis and had engaged in communications with another student in the residential college that had caused that student to fear for his safety. The University reached this determination following a “consultative process among” the Yale College Dean’s Office and the leadership of the Student’s residential college. Because the University offered the Student an alternative that it reasonably believed would meet her needs, OCR need not determine whether providing the Complainant independent card access to the residential college would have fundamentally altered the residential college experience for all students.

Accordingly, OCR has determined that there is insufficient evidence to support Allegation 2.

Conclusion

This concludes OCR’s investigation of the above-referenced complaints. 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.

The Complainant has a right to appeal OCR’s determination regarding Allegation 2 within 60 calendar days of the date indicated on this letter. In the appeal, the Complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the Complainant appeals OCR’s determination, OCR will forward a copy of the appeal form or written statement to the University. The University has the option to submit to OCR a response to the appeal. The University must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the University.

Please be advised that the University may not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. 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. In the event that OCR receives such a request, it 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.

Sincerely,

/s/

Timothy Mattson
Compliance Team Leader

Enclosure

cc: Caroline G. Hendel, Esq. (*by email*: caroline.hendel@yale.edu)