



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

May 18, 2022

Dean Lisa Freudenheim
By email: lfreudenheim@nesl.edu

Re: Complaint No. 01-22-2036
New England Law | Boston

Dear Dean Freudenheim:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education, Office for Civil Rights (OCR) received against New England Law | Boston, which OCR will refer to as the Law School. The Complainant alleged that the Law School discriminated against her on the basis of disability by:

1. failing to timely respond to her request for academic adjustments, and inappropriately denying XXXXXXXXXXXX academic adjustments that she requested; and
2. never providing her with a XXXXXXXXXXXX, despite having approved that academic adjustment.

As explained further below, the Law School expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in any program or activity receiving federal financial assistance from the U.S. Department of Education. Because the Law School receives federal financial assistance from the U.S. Department of Education, OCR has jurisdiction over it pursuant to Section 504.

OCR opened the following legal issues for investigation:

1. Whether the Law School discriminated against the Complainant on the basis of disability by failing to timely respond to her request for academic adjustments, and by inappropriately denying necessary academic adjustments that she requested, in violation of 34 C.F.R. § 104.44; and
2. Whether the Law School discriminated against the Complainant on the basis of disability by failing to provide her with an approved academic adjustment, in violation of 34 C.F.R. § 104.44.

During the investigation, OCR reviewed documents provided by the Complainant and the Law School and interviewed the Complainant and a Law School staff member. On March 29, 2022, the Law School expressed an interest in resolving the complaint pursuant to Section 302 of OCR's *Case Processing Manual*.

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

Background

The Complainant XXXXXXXX at the Law School as a XXXXXXXXXX law student in the XXXXXXXXXX. Prior to the start of her XXXXXXXXXXXXXXXX, the Complainant emailed the Law School’s Office of Student Services on XXXXXXXXXXXXXXXX, stating that she had XXXXXXXX, had yet to get access to her XXXXXXXXXXXXXXXX, and wanted to apply for academic accommodations. She attached documentation to this email supporting her XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX diagnosis. The next day, Student Services confirmed receipt of the documentation and provided the Complainant application forms that she needed to complete to request accommodations. The Complainant filled out and submitted the forms to Student Services that day, asking that they let her know if they needed anything else from her and inquiring what the next steps were. On the application, the Complainant stated that she had been diagnosed in XX that she had been approved for XXXXXXXXXXXXXXXXXXXXXXXX” on the Law School Admission Test (LSAT), that she had received XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX in the past, and that she believed she required XX at the Law School. Student Services confirmed receipt of the Complainant’s email on XXXXXXXXXXXXXXXX and informed the Complainant that they would be in touch regarding any additional information that may be needed.

The Law School’s academic calendar states that fall term classes began on August 23, 2021. On XXXXXXXXXXXXXXXX, the Complainant emailed the Law School’s Director of Student Services (Director) – who was also the Law School’s Section 504 Coordinator throughout the relevant period – to inquire whether her accommodations request would be finalized before classes began.¹ On XXXXXXXXXXXXXXXX, Student Services responded that they would get back to her soon with an update. The Director informed OCR that the Law School does not act right away on requests that come in before the start of the academic year because some students do not XXXXXXXXXXXXXXXX or XXXXXXXXXXXXXXXX.

On XXXXXXXXXXXXXXXX, the Complainant emailed the Director that she was XX and asked to schedule an appointment with Student Services. The Director offered to schedule a meeting with the Complainant the following week, to which the Complainant responded with her availability that week. It is unclear whether this meeting occurred.

The Complainant emailed Student Services on XXXXXXXXXXXXXXXX to confirm that she had previously submitted a XX and completed the necessary forms from Student Services. She included a “XXXXXXXXXXXXXXXXXXXXX” in which she explained that XX XX XX, which she corroborated with

¹ References to the Director in this letter are to the former Director of Student Services, who is now the Law School’s Assistant Dean.

adjustments. 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 recipient and the student. If a recipient 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 recipient’s objections.

Analysis

OCR is concerned that the Law School took more than XXXX months to finalize XXX of the Complainant’s XXXX requested accommodations and may have taken nearly XXX months to clearly address the XXXX. While one of the accommodations – XXXXXXXXXXXXXXXXXXXX – was not time-sensitive, and thus the Complainant appears not to have been prejudiced by the delay, the delay in granting the other XXX accommodation requests appears to have impacted the Complainant’s opportunity to benefit equally from course instruction. OCR is also concerned that when the Law School did grant the XXXX accommodation – for XXXXXXXXXXXXXXXXXXXX – it appears not to have instructed the Complainant on how to access the accommodation or notify its IT staff of the accommodation so they could take appropriate action. As a result, the Complainant lost the opportunity to access the first several weeks of XXXXXXXXXXXXXXXXXXXX during the XXXXXX semester and was ultimately not able to access any XXXXXXXXXXXXXXXXXXXX prior to XXXXXXXXXXXXXXXX. Furthermore, the Complainant is apparently still not aware of how to access XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX class. OCR is also concerned that the Law School, while ostensibly granting the Complainant access to XXXXXXXXXXXXXXXX for all of her classes, appears to have determined that it was not appropriate to XXXXXXX XXXXXXXXXXXXXXXX without notifying the Complainant of that determination or the reasons for it.

OCR is also concerned that the Law School told the Complainant that she would only be provided XXXXXXXXXXXXXXXX if there was a XXXXXXXX volunteer available to XXXXXXXXXXXX, and because no XXX until mid-way through the XXXXXXX semester, the Complainant never received that accommodation prior to that point – and it is unclear how consistently the Complainant subsequently received XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX was identified. While the Law School appears to have acknowledged that XXXXXXXXXX are a necessary accommodation for the Complainant based on her disability by granting that accommodation, it has not committed to ensuring that the accommodation is provided to the Complainant and has instead placed the obligation to provide that accommodation on XXXXXXX volunteers who, unlike the Law School, are not subject to the requirements of Section 504. Further, with respect to XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX, OCR is concerned that the Law School appears to be substituting one requested accommodation for another and viewing them as interchangeable, without any explanation or indication that the two accommodations are in fact interchangeable.

Resolution

Pursuant to Section 302 of OCR’s *Case Processing Manual*, the Law School expressed an interest in resolving this complaint and OCR determined that a voluntary resolution is

appropriate. Subsequent discussions between OCR and the Law School resulted in the Law School signing the enclosed Agreement which, when fully implemented, will address all of the allegations raised in the complaint. OCR will monitor the Law School's implementation of the Agreement.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the Law School'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. OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the Law School must 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. 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.

Sincerely,

/s/ Paul Easton

Paul Easton
Compliance Team Leader

Enclosure

cc: Alicia Ward, Esq. (*by email*: award@hrwlawyers.com)
John Graff, Esq. (*by email*: jgraff@hrwlawyers.com)