



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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September 18, 2023

Sunil Kumar
President
Tufts University
By email: president@tufts.edu

Re: Complaint No. 01-23-2011
Tufts University

Dear President Kumar:

This letter advises you of the outcome of the U.S. Department of Education, Office for Civil Rights (OCR) investigation of Tufts University (University). OCR opened an investigation after receiving a complaint alleging that the University discriminated against the Student on the basis of disability. As explained further below, before OCR completed its investigation, the University 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. Section 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 University receives federal financial assistance from the U.S. Department of Education, OCR has jurisdiction over it pursuant to Section 504.

OCR opened the following allegations for investigation:

- Whether the University discriminated against the Student on the basis of disability by refusing to allow the Student to take a medical leave as a result of her disability, in violation of 34 C.F.R. Sections 104.4(a) and (b), and 104.43(a); and
- Whether the University discriminated against the Student on the basis of disability by refusing to allow the Student to complete the [redacted content] with an incomplete due to her disability, in violation of 34 C.F.R. Sections 104.4(a) and (b), and 104.43(a).

Legal Standard

The Section 504 regulation, at 34 C.F.R. § 104.43(a), provides that a qualified person 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. The regulation at § 104.44(a) requires a university to modify its academic

requirements as necessary to ensure that such requirements do not discriminate or have the effect of discriminating on the basis of disability against a qualified student with a disability.

Universities may establish reasonable requirements and procedures for students to provide documentation of their disability and request modifications to their policies, practices, and procedures. 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 their disability and the need for modifications due to the disability, the university must consider the requested modifications in a timely manner. If a university denies a request for a modification, it should clearly communicate the reasons for its decision to the individual with a disability so that he or she has a reasonable opportunity to respond and provide additional documentation that would address the university's objections. While a university must provide the student with appropriate modifications and services that are necessary to afford the student an equal opportunity to participate in a school's program, it is not required to make modifications or provide services that would result in a fundamental alteration of the university's program or impose an undue burden.

This deliberative procedure consists of 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 with a disability. Whether a university has to make modifications to its policies, practices, or procedures depends on the individual circumstances of each case, and requires a fact-specific, individualized analysis of the circumstances of the student with a disability and the accommodations that might allow the student to enjoy meaningful access to the program.

Findings of Fact

During the [redacted content], the Student attended the [redacted content] prior to beginning her [redacted content] at the University. The Student's admission letter stated that she had "been accepted to the School of Arts and Sciences as a [redacted content]" ¹ The University represented to OCR that successful completion of the [redacted content].

Almost immediately after starting the [redacted content], the Student began experiencing a number of health issues and requested assistance from the University. Beginning in [redacted content], the Student started receiving a number of non-academic accommodations. ² The University represented that these accommodations were provided as interim accommodations even though the University had not yet received the appropriate documentation from the Student, which it repeatedly requested. Throughout the [redacted content], a Student Accessibility and Academic Resources (StAAR) Accessibility Specialist and the Dean of Student Affairs' (DOSA) Associate Director reached out to the Student numerous times to provide support and follow-up. As the [redacted content] progressed, the Student stated her health significantly declined.

¹ The Student's admission letter is as a member of the [redacted content]. The Student [redacted content], which led to her attending the [redacted content].

² The Student received accommodations related to [redacted content].

On [redacted content], the DOSA Associate Director met with the Student to discuss the Student’s on-going health issues. The DOSA Associate Director’s notes from the meeting indicate that she asked the Student if she had “[redacted content],” but the Student said she was not interested. The DOSA Associate Director concluded the meeting by connecting the Student with other services and reiterating that if the Student changed her mind, she could reach out to “[redacted content].”

On [redacted content], the Student emailed the DOSA Associate Director and the [redacted content] Director about her health concerns over the course of the program.³ On [redacted content], the DOSA Associate Director responded offering additional support and encouragement, and stating, “[redacted content]”

On [redacted content], the Student reached out to the professor of her [redacted content] course requesting “[redacted content],” and explaining her health issues over the course of the program. The professor immediately responded that the Student could take an incomplete in the course, and stated, “[redacted content].” Later that day, the Complainant emailed the DOSA Associate Director requesting that the Student be granted an incomplete in her [redacted content] course, and a one-week extension in her [redacted content] course, “[redacted content]” to her University scholarship. After receiving the email from Complainant, the DOSA Associate Director emailed the [redacted content] Director asking that they discuss these requests and stating, “[redacted content].”

On [redacted content], the DOSA Associate Director emailed the Student stating, “[redacted content].” The DOSA Associate Director went on to state that the StAAR Center had “[redacted content]” based on the documentation submitted to that point. She concluded, “[redacted content]” There was no indication in any of the DOSA Associate Director’s emails that there was a time limitation on when the Student could request a leave.

On [redacted content], the Student emailed the Director of [redacted content] and the DOSA Associate Director to inform them that she was taking an incomplete in her [redacted content] course due to her disability. The Student concluded the email by asking the Director what effect the incomplete would have on her scholarship. The University did not produce to OCR any response to this email. The Complainant provided a copy of a [redacted content] for the [redacted content] in the Student’s name, signed by the Director of [redacted content].

On [redacted content], the Student contacted her [redacted content] professor asking to take an incomplete for the course due to her disability, which the professor granted.

On [redacted content], the DOSA Associate Director emailed the Student inquiring about her status for the [redacted content] and “[redacted content].” The Student responded the next day, stating that she received a medical diagnosis the day before and was requesting to be placed on medical leave for the [redacted content] semester. The Student also explained that she would provide the medical documentation once it was available. After receiving the email, the DOSA

³ The Student also copied a University mental health counselor that she had been referred to by the DOSA Associate Director.

Associate Director emailed the [redacted content] Office about the request. Notes provided from the StAAR Center indicate, “[redacted content]”

On [redacted content], the DOSA Associate Director emailed the Student informing her that medical leaves are not an option for students who have [redacted content] and that she was working to see “[redacted content]” The [redacted content] Director then emailed the Student that he had recently learned that the Student had requested to take an incomplete in her [redacted content] course, and that due to requirements for the [redacted content], he will need to convey that information “to the Tufts [redacted content].” The Student responded to the Director stating, “[redacted content]” The Student also stated that she would turn in the remaining [redacted content] course assignment that day. In the data response provided to OCR, the University represented that a medical leave of absence was not available because the request came after the [redacted content] had ended and at that point, such a leave was not available due to “[redacted content]” and because of a lack of documentation of the Student’s disability.

On [redacted content], the Complainant, the Student, and a family friend met with the Dean [redacted content] and the Director [redacted content]. Based on notes provided by the University, the Dean began the meeting by asking about the Student’s [redacted content], and continued by discussing that the Student’s [redacted content] required successful completion of the [redacted content]. The notes do not indicate that the Student’s request for a medical leave or the DOSA and StAAR Center’s proposed deferral were discussed. The Dean concluded that the Student did not satisfy the requirements for [redacted content] since her [redacted content] course was still incomplete, that he would bring the information to the [redacted content], and that the [redacted content] may be rescinded.

After the meeting, the family friend wrote a letter to the Dean explaining the Student’s disability progression over the course of the [redacted content] and stating, “[redacted content].” The following day, the Dean [redacted content] sent a letter to the Student informing her that she was “[redacted content]” as she had not fulfilled the requirements of the [redacted content]. The letter highlighted the language from the Student’s [redacted content], which included the “[redacted content]” The Dean explained that one requirement was to [redacted content], but that the Student had received an incomplete in one of her courses. There is no discussion of the Student’s request for the incomplete or for a medical leave due to her disability.

Analysis

OCR’s review of the information provided to date raises some concerns with the University’s handling of the Student’s request for a reasonable modification of [redacted content] requirements to allow her to take an incomplete in a course and ultimately a medical leave, due to her disability.

At the beginning of the [redacted content], the StAAR Center worked with the student through the interactive process to provide accommodations. The correspondence provided to OCR shows that the StAAR Center and the DOSA Associate Director repeatedly reached out to the Student to obtain additional documentation regarding the Student’s disability, and did provide “interim”

accommodations to support the Student given the Student's evolving medical issues, even before documentation was provided.

However, while postsecondary students are generally responsible for knowing and following the procedures to request a reasonable modification at their university, OCR has concerns that here the University provided the Student, at best, unclear information about the University's process. The DOSA Associate Director held herself out to the Student as a source of guidance in navigating the University's accommodation process and in fact it was she who first raised the idea of the Student taking a medical leave. While the University represented to OCR that disability-related requests for course modifications, such as the request for an incomplete in the Student's [redacted content] class and an extension in the Student's [redacted content] class, needed to go through the StAAR Center, the DOSA Associate Director told the Student to negotiate these with her professors. While the University represented to OCR that the [redacted content] ended on [redacted content] and at that point it was too late for the Student to request a reasonable modification of its requirements, the DOSA Associate Director raised the option of requesting a medical leave with the Complainant as late as [redacted content].

In addition, from the information gathered to date, OCR has concerns regarding the handling of the Student's request for a medical leave. On [redacted content] the Student told the DOSA Associate Director that she wished to request a disability-related medical leave. Two days later, the DOSA Associate Director told the Student that medical leaves are not available for students who [redacted content], but there is no indication that University personnel considered whether the University was required to modify this apparent requirement in order to avoid discriminating against an individual with a disability, or whether this requested modification constituted a fundamental alteration. Indeed, the University asserted to OCR that medical leaves are not available during the [redacted content] due to "[redacted content]" but the University did not show that it had engaged in the appropriate analysis to consider whether such a leave would fundamentally alter the program, nor did the University offer any alternatives to the Student. OCR is also concerned that the Student's request for a medical leave was routed not to the StAAR Center to engage in an interactive process. Instead, it was sent to the [redacted content], which then [redacted content] with no mention of her request for a medical leave and on the basis that she had taken an Incomplete, when it was the DOSA Associate Director who had advised the Student that she could take a [redacted content] and her professor who assured her that Incompletes were "[redacted content]" Finally, while the University also relies on the fact that the Student had not provided documentation of her disability, OCR notes that the Dean [redacted content] only six days after she requested the medical leave, and there is no mention in the Dean's letter of the Student's request for the leave or her failure to provide supporting documentation.

Conclusion

Prior to the conclusion of OCR's investigation 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. Subsequent discussions between OCR and the University resulted in the University signing the enclosed Agreement which, when fully implemented, will address all of the allegations raised in the complaint.

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 a right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the University 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
Ramzi Ajami
Regional Director

Enclosure

cc: [redacted content]