



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION II

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April 12, 2017

David P. Haney, Ph.D.
President
Centenary University
400 Jefferson Street
Hackettstown, New Jersey 07840

Re: Case No. 02-17-2007
Centenary University

Dear Dr. Haney:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), in the above-referenced complaint filed against Centenary University (the University). OCR investigated the allegation that the University discriminates, on the basis of disability, by effectively imposing a housing surcharge on single dormitory rooms and dormitory rooms with air conditioning and/or kitchens provided as an accommodation for a student's disability.¹

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 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 programs and activities receiving financial assistance from the U.S. Department of Education (the Department). The University is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Section 504.

The regulation implementing Section 504, at 34 C.F.R. § 104.4(a), 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 in any program or activity that receives or benefits from Federal financial assistance. Further, the regulation implementing Section 504, at 34 C.F.R. § 104.4(b)(4), states that a recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability. In addition, the regulation implementing Section 504, at 34 C.F.R. § 104.43(a), provides that no qualified individual with a disability shall, on the basis of disability, be subjected to discrimination regarding housing in a postsecondary education program or activity.

In its investigation, OCR interviewed University staff and reviewed documentation that the complainant and the University submitted. OCR made the following determinations.

¹ When OCR initially opened the complaint for investigation, the allegation was only with regard to single dormitory rooms. After opening the complaint for investigation, the complainant requested to add air conditioning and kitchens as part of the allegation.

The complainant alleged that the University discriminates, on the basis of disability, by effectively imposing a housing surcharge on single dormitory rooms and dormitory rooms with air conditioning and/or kitchens provided as an accommodation for a student's disability. Specifically, the complainant alleged that the University charges a higher room rate to students who need a single room to accommodate a disability, but who otherwise would pay the lower rate for a double room. The complainant further alleged that the University charges a higher room rate for dormitory rooms with air conditioning and kitchens, even if a student needs air conditioning or a kitchen to accommodate a disability. In support of his allegation, the complainant noted that the University's website that publicized housing costs for academic year 2016-2017 stated that when single rooms are used to accommodate medical conditions, a fee of \$423 per semester will be charged.

OCR determined that the University offers housing in eight residence halls, which allows for a maximum occupancy of 776 students: Anderson Hall, Bennett-Smith Hall, Founders Hall, Lotte Hall, Reeves Hall, Smith Hall, Van Winkle Hall, and Washabaugh Hall.² All of the rooms in Bennett-Smith Hall and Founders Hall are apartment-style facilities and offer a kitchen and living room, four single bedrooms, and two full bathrooms.³ Lotte Hall also offers a community kitchen in the basement of the building.

For academic years 2015-2016 and 2016-2017, the University offered a variety of room types for its students at differing rates. The room types offered were as follows: single as single rooms; double as single rooms;⁴ double as double rooms;⁵ and rooms in apartments. The majority of the housing offered consisted of double as double rooms.

For academic years 2015-2016, 11 students were approved to receive housing accommodations based on their disability; for academic year 2016-2017, 10 students were approved to receive housing accommodations based on their disability. Some of the housing accommodations that were approved during academic years 2015-2016 and 2016-2017, included: single rooms in apartments; single as single rooms; the permission to install air conditioning units; and first-floor rooms.

The University's Disability Services Office (DSO) Handbook for Policies and Procedures (the handbook) states that students who request a certain room due to a disability must submit documentation of a condition warranting an accommodation to the DSO, along with an application for housing accommodations. Representatives from the DSO, the Residence Life office and the Wellness Center review the documentation to determine the need for the accommodation(s). Once documentation is reviewed, the DSO makes an eligibility decision, and the student is notified of the decision by the DSO. Returning students who previously received housing accommodations are not required to resubmit documentation (unless requesting different or additional housing accommodations), they must simply inform the DSO of their intention to retain the housing accommodations they received the previous academic year. Once approved for a housing accommodation(s), the Residence Life office finds a suitable housing placement that provides the approved accommodation(s) for the student.

² During academic year 2015-2016, approximately 620 students lived in University residence halls, and during academic year 2016-2017, that number rose to 666 students.

³ The apartment-style residence halls are also the only two dorms with elevators, or otherwise are accessible to students with mobility impairments. There are 248 beds offered in the apartment-style residence halls, which account for approximately one-third of all housing offered at the University. The apartments are reserved for upper-class students or students who require the apartments due to their disability.

⁴ For academic year 2015-2016, the University referred to this type of room as "Traditional Double/Single (medical reasons)" in its Housing Selection brochure.

⁵ There are also four triple rooms on campus. Students placed in these rooms are each charged the double as double rate.

The Interim Residence Life and Housing (director 1) informed OCR that the University offers students rooms that meet their needs (e.g., if approved for a single room, they would receive a placement in a single room). Director 1 stated that it is the University's practice to place a student who requires air conditioning as an accommodation in a non-apartment residence hall, unless because of other medical needs, the student requires placement in an apartment (e.g., the student also medically requires a kitchen or an accessible bathroom and/or entrance). In that event, the student would be required to furnish the air conditioning unit at his/her own expense, and the University would install the unit.

Director 1 stated that during academic year 2015-2016, the University's practice was to charge all students the published room rates regardless of whether the housing was provided as an approved accommodation for a disability or disabilities and a lower cost room could have otherwise been provided, and to require disabled students to provide their own air conditioning units even if needed as an accommodation, in violation of the regulation implementing Section 504, at 34 C.F.R. §§ 104.4(a), (b)(4)(i) and 104.43(a).⁶

The University's website for academic year 2016-2017, stated that when single rooms are used to accommodate medical conditions, a fee of \$423 per semester would be charged. During the course of OCR's investigation, the University revised the language stating, that "[t]his fee does not apply to a student, in a Single Room, due to a disability need approved by the Disabilities Services Office".⁷

On April 12, 2017, the University signed the enclosed resolution agreement to resolve the above-referenced compliance issues. OCR will monitor the implementation of the agreement.

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 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 individual may file another complaint alleging such treatment.

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 that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

⁶ OCR determined that in all but one instance, the University charged students with disabilities who required a single dormitory room the same rate as it charged non-disabled students who had elected that room type as a matter of choice, and required students with disabilities who required air conditioning as an accommodation to provide their own air conditioning unit at their own expense. OCR determined that no students required a kitchen as an accommodation during academic year 2015-2016.

⁷ See <http://www.centenaryuniversity.edu/admission-aid/tuition-and-billing/tuition-fees/traditional-full-time-undergraduate>.
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If you have any questions, please contact Alexander Artz, Compliance Team Attorney, at (646) 428-3901 or alexander.artz@ed.gov; David Krieger, Compliance Team Attorney, at (646) 428-3893 or david.krieger@ed.gov; or Anna Moretto Cramer, Compliance Team Leader, at (646) 428-3826 or anna.moretto.cramer@ed.gov.

Sincerely,

/s/

Timothy C.J. Blanchard

Encl.

cc: XXX XXX, Esq.