



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

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April 11, 2017

Christine M. Riordan, Ph.D.
President
Adelphi University
1 South Ave
P.O. Box 701
Garden City, New York 11530-0701

Re: Case No. 02-17-2009
Adelphi University

Dear Dr. Riordan:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), with respect to the above-referenced complaint filed against Adelphi University (the University). OCR investigated the complainant's 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 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. Shortly after opening the complaint for investigation, the complainant requested to add air conditioning as part of the allegation.

The complainant alleged that the University discriminates, on the basis of disability, by effectively imposing a surcharge on single dormitory rooms and dormitory rooms with air conditioning 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, even if a student needs air conditioning to accommodate a disability. In support of his allegations, the complainant noted that the University's website that publicized housing costs for academic year 2016-2017, suggested that single rooms were reserved for students with disabilities, and that single rooms and rooms with air conditioning were more expensive than double rooms.²

OCR determined that the for academic years 2015-2016 and 2016-2017, the University offered housing on its Garden City campus, in seven residence halls, that included a total of 606 dormitory rooms: Chapman Hall; Earle Hall; Eddy Hall; Linen Hall; New Hall A; New Hall B; and, Waldo Hall. All of the rooms in New Hall A and New Hall B offered air conditioning; and, rooms on some of the floors in Chapman Hall, Earle Hall, Linen Hall, and Waldo Hall offered air conditioning.³ For academic years 2015-2016 and 2016-2017, the University offered a variety of room types and features for its students at differing rates. These included: standard single rooms;⁴ standard single rooms with air conditioning; premium single rooms;⁵ standard double rooms; standard double rooms with air conditioning; premium double rooms; converted double triple rooms;⁶ designated triple rooms; designated triples with air conditioning; premium triple rooms; and premium quad rooms. OCR determined that the majority of the housing offered consisted of double rooms.

The University's Student Access Office Policy and Procedure states that students who request a certain room due to a disability must complete an accommodations packet and submit documentation supporting the disability. The Director of the Student Access Office (director 1) reviews the packet and documentation in consultation with the University's Health Services Office and the Office of Residential Life and Housing. If a student is approved for a housing accommodation(s), the Office of Residential Life and Housing works with the student to find a suitable housing placement that provides the approved accommodation(s). The Director for Residential Life and Housing (director 2) informed OCR that the University offers students with disabilities rooms that meet their needs (e.g., if approved for a single room, they would be placed in a single room).

For academic year 2015-2016, 21 students were approved to receive housing accommodations based on their disability; and, for academic year 2016-2017, 39 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: double standard rooms instead of triple rooms, single rooms with air conditioning, double rooms with air conditioning, and single premium rooms for students who required a private or semi-private bathroom.

² See <http://housing.adelphi.edu/housing-costs/>.

³ During academic year 2016-2017, approximately 1,100 students lived in University residence halls.

⁴ The University informed OCR that there are very few single rooms, so single rooms are reserved for disabled students who are approved to receive single rooms as an accommodation.

⁵ All premium rooms have air conditioning and a semi-private bathroom. All premium rooms are located in either New Hall A or New Hall B.

⁶ Converted double triple rooms are the same size as a standard double room, but include an extra set of furniture to house a third student. The University offers 107 beds (approximately 10% of all housing) in this room type to provide a more affordable housing option for students. Converted double triple rooms were the least expensive room type available to students during academic years 2015-2016 and 2016-2017.

There is no formal written University policy regarding room rates for students who receive housing accommodations based on their approved disability; however, director 2 acknowledged that during academic years 2015-2016 and 2016-2017, 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, in violation of the regulation implementing Section 504, at 34 C.F.R. §§ 104.4(a), 104.4(b)(4) and 104.43(a). OCR found that in all instances, disabled students requesting a certain type of room as an accommodation were charged the rate for the room they received. OCR determined that the University charged students with disabilities who required a single dormitory room or a dormitory room with air conditioning to accommodate a disability, the same rate as it charged non-disabled students who had elected that room type as a matter of choice. Additionally, disabled students who required other types of housing accommodations, such as a single room with a bathroom, were charged the rate for a premium single room, rather than a lower rate based on the available housing options the University offered nondisabled students.

On April 11, 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.

If you have any questions, please contact David Krieger, Compliance Team Attorney, at (646) 428-3893 or David.Krieger@ed.gov; Alexander Artz, Compliance Team Attorney, at (646) 428-3901 or Alexander.Artz@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.