

August 9, 2017

Stuart Rabinowitz
President
Hofstra University
Office of the President
144 Hofstra University
Hempstead, New York 11549-1440

Re: Case No. 02-17-2103
Hofstra University

Dear President Rabinowitz:

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 Hofstra University (the University). The complainant alleged that the University discriminates on the basis of disability, by imposing an additional fee on single dormitory rooms provided as accommodations for students' disabilities (Allegation 1) and failing to provide disabled students with single dormitory rooms when they require such rooms as an accommodation for a disability (Allegation 2).

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. Further, the regulation implementing Section 504, at 34 C.F.R. § 104.45(a) states that a recipient that provides housing to students without disabilities shall provide comparable, convenient, and accessible housing to students with disabilities at the same cost as to others. The housing must be available in sufficient quantity and variety so that the scope of choice of living accommodations for disabled students is, on the whole, comparable to that of nondisabled students.

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

With respect to Allegation 1, the complainant alleged that the University discriminates on the basis of disability, by imposing an additional fee on single dormitory rooms provided as accommodations for students' disabilities. The complainant asserted that the University charges students more to reside in single rooms than other types of rooms, and in certain buildings. The complainant further asserted that he spoke with someone at the University's Office of Residence Life, who told him that students are always billed the standard rate for the particular type of room and/or building where they reside, even if they reside in that type of room or location in order to accommodate a disability.

The University offers undergraduate students residential housing in six high rises (the High Rises); and, in suite style complexes, the Netherlands, Stuyvesant Hall, Nassau, Suffolk, and Colonial Square.¹ The High Rises have single, double, triple, and quad rooms with common area bathrooms at each end of the hallway. The Netherlands have suites with two double bedrooms, a bathroom, and a lounge. Stuyvesant Hall has suites with two double rooms, a bathroom, and a lounge. Nassau and Suffolk have suite-style living with four or five students in either single or double room, a semi-private bathroom, and some with a common lounge. Colonial Square has suite-style living in a variety of configurations accommodating two to five people.² For graduate students, in addition to Plymouth House in Colonial Square, the University offers the Graduate Residence Hall, which has apartment/suite style living with both single and double bedrooms within two-, three- or four- bedroom suites, shared common spaces, kitchenettes, and bathrooms.

For academic years 2015-2016 and 2016-2017, within its residential complexes, the University offered a variety of room types for its students at differing rates: singles in a suite or tower; suite doubles with a lounge or without a lounge; suite triples; tower doubles; tower triples; or tower quads. The University also offered the following graduate housing: grad single; grad double; and Colonial Square grad single.

¹ The Netherlands and Stuyvesant Hall are reserved for first year students; while Nassau and Suffolk are reserved for upper classman.

² Colonial Square consists of 14 individual houses; one of the houses, Plymouth House, accommodates graduate and law students, and two other houses, Providence House and New York House, accommodate first-year students. Each house has the following configurations: a four-person suite (two double rooms with a shared lounge and bathroom); five-person suite (two doubles, one single with a shared bathroom and no lounge); three-person suite (one double and one single with a shared lounge and bathroom); two-person suite (two super singles with a shared lounge and bathroom); or a triple room with a shared bathroom and no lounge.

The *Living Factor*, the University's Guide to Residence Life, states that the Office of Residence Life works closely with Student Access Services (SAS) to meet the housing needs of students with disabilities; and, that students with documented disabilities will be assigned to rooms that meet their disability-related needs. University staff stated that a student seeking to request a disability housing accommodation must register with the SAS office and submit a formal request, including medical documentation supporting the request. University staff stated that the process for requesting a housing accommodation is the same as the process by which a student with a disability requests academic adjustments and auxiliary aids. Once a housing accommodation has been approved by SAS, SAS forwards documentation confirming the housing accommodation to the Office of Residence Life. University staff stated that the Office of Residence Life assigns incoming students to housing to meet their needs, while continuing students would participate in the housing selection process along with all other students and select housing that meets their needs. The University stated that it had a complex rate structure for rooms; and, that all students, including students seeking housing accommodations, were billed the rate for the room the student selected.

On August 4, 2017, the University voluntarily entered into the attached resolution agreement to resolve Allegation 1, in accordance with Section 302 of OCR's *Case Processing Manual*.

With respect to Allegation 2, the complainant alleged that the University discriminates on the basis of disability, by failing to provide disabled students with single dormitory rooms when they require such rooms as an accommodation for a disability. Specifically, the complainant asserted that the University's SAS Director advised him that there is a long waitlist for students with disabilities who require singles, and that the University may initially place such students in non-singles until single rooms become available mid-semester or mid-academic year.

The *Living Factor* states that "For those residents wishing to be assigned a single room when one becomes available, residence must be on the single room waiting list." The *Living Factor* outlines the priority for signing up for the waiting list, starting with graduate/law students, then undergraduate seniors, juniors, sophomores and first year students. University staff denied that there was a waiting list for students with disabilities to receive single rooms as approved housing accommodations; and, noted that if a room designed as a single is unavailable, the University could place the student in a double room converted to a single, and charge the student the standard double rate.

On August 4, 2017, the University voluntarily entered into the attached resolution agreement to resolve Allegation 2, in accordance with Section 302 of OCR's *Case Processing Manual*. OCR will monitor implementation of the resolution agreement. If the University fails to implement the terms of the resolution agreement, OCR will resume its investigation of Allegations 1 and 2.

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 a 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 regarding OCR's determination, please contact Jocelyn Panicali, Senior Compliance Team Attorney, at (646) 428-3796 or jocelyn.panicali@ed.gov; or Nadja Allen Gill, Compliance Team Leader, at (646) 428-3801 or nadja.r.allen.gill@ed.gov.

Sincerely,

/s/

Timothy C.J. Blanchard

cc: XXXXXXXXXXXXXXXXXX
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