

November 26, 2018

Martha E. Pollack, Ph.D.
President
Office of the President
300 Day Hall
Cornell University
Ithaca, New York 14853

Re: Case No. 02-17-2216
Cornell University

Dear President Pollack:

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 Cornell University (the University). The complainant alleged that the University's School of Law (the School) discriminated against her, on the basis of her disability, by failing to consistently provide her with an approved academic adjustment of access to class recordings during the fall 2016 semester (Allegation 1); and, denying her requests for the following academic adjustments for the fall 2016 semester: (a) a 10-minute break per hour during exams, (b) a distraction-reduced environment for exams, (c) a note-taker, and (d) priority registration (Allegation 2). The complainant also alleged that during the spring 2017 semester, the School discriminated against her, on the basis of her disability, by denying her requests for the following academic adjustments: (a) stop-the-clock breaks during exams; (b) unlimited access to class recordings; and, (c) priority registration (Allegation 3).

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 and is postsecondary education system. Therefore, OCR has jurisdictional authority to investigate this complaint under Section 504.

The regulation implementing Section 504, at 34 C.F.R. § 104.44(a), requires recipients to modify academic requirements when necessary to ensure that the requirements are not discriminatory on the basis of disability, and to take steps to ensure that no qualified individual with a disability is subjected to discrimination because of the absence of educational auxiliary aids. At the

postsecondary level, it is the student's responsibility to disclose a disabling condition and to request academic adjustments or auxiliary aids. In reviewing allegations regarding the provision of academic adjustments or auxiliary aids, OCR considers whether: (1) the student provided adequate notice to the recipient that the academic adjustments or auxiliary aids were required; (2) the academic adjustments or auxiliary aids were necessary; (3) the appropriate academic adjustments or auxiliary aids were provided; and, (4) the academic adjustments or auxiliary aids were of adequate quality and effectiveness.

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

According to the School's "Procedures for Accommodations," a student should contact the Dean of Students (the Dean) as soon as possible upon being accepted in the School to arrange for academic adjustments; and, arrange an appointment with the School's Director of Student Disability Services (the Director) and submit disability documentation, including updated medical evaluations and previous testing history and other accommodation history. The Director, once satisfied that she has complete documentation, will make a recommendation regarding the student's accommodation request to the Administrative Committee (the committee); and, the committee will review all documentation and recommendations, and make a final determination for the student. The procedures also state that previous accommodation approval history, while relevant, may not always mean that requested academic adjustments will be granted to the student again.

On April 26, 2016, the complainant submitted her "Disability Self-Disclosure and Request for Access Accommodations Form" to the School's Office of Student Disability Services (SDS). On April 28, 2016, the complainant met with the Director to discuss the process for obtaining academic adjustments, and the Director informed the complainant that the School had received the complainant's documentation, but needed an updated evaluation as the evaluation she submitted did not inform the School of the complainant's disability as an adult.

On May 9, 2016, the complainant sent an electronic mail (email) message to the Director to let her know that she had scheduled an updated evaluation, and asked the Director when the committee would meet to review her request for academic adjustments. The Director informed the complainant that the committee might convene over the summer, but that she could not guarantee a review by the committee until the complainant submitted her updated evaluation and accompanying application to SDS.

On August 3, 2016, the complainant submitted to the Director an updated psycho-educational evaluation; a narrative statement explaining in detail the reasons for requesting the accommodations; and, documents to support her previous use of accommodations in her undergraduate studies, on the SAT, and on the LSAT. The complainant requested that the committee review her request for academic adjustments.

On August 4, 2016, the complainant emailed the Director to inquire as to the status of her request. On the same date, the Director informed the complainant by email that she would review the request in the order that it was submitted; and, that she had to receive feedback from the School's consulting neuropsychologist (psychologist 1).¹

The Director submitted the complainant's medical documentation to psychologist 1 and psychologist 1 issued a report to the Director sometime in August 2016.² The Director thereafter made a recommendation to the Dean and the committee on August 24, 2016. On August 30, 2016, the committee met to review and discuss the complainant's accommodation request; and, on September 9, 2016, the committee sent the complainant their decision on her in-class accommodations.³

With respect to Allegation 1, the complainant alleged that during the fall 2016 semester, the School discriminated against her, on the basis of her disability, by failing to consistently provide her with an approved academic adjustment of access to class recordings.⁴ In support of her allegation, the complainant stated that classes began on August 24, 2016, but these recordings were not available to her until September 19, 2016, which put her behind her peers; the School only allowed her to have these recordings for a five-day period; and, she did not receive class recordings for the period from August 24 to September 19, 2016, until November 22, 2016. OCR confirmed that the committee approved "access to class recordings for a 1-week period" as an auxiliary aid for the complainant.

OCR determined that it is the School's standard procedure to not allow a student to have access to class recordings until it receives a signed "Use of Lecture Recording Agreement" (agreement) from the student.⁵ Once an agreement is signed, class recordings are uploaded to a student's online catalogue, which is available electronically to the student.

The complainant signed the agreement on September 14, 2016, and submitted it to the Director on September 15, 2016. On September 17, 2016, the complainant was informed by the Information Technology (IT) department that she was granted access to the class recordings from September 15, 2016, forward, with the standard five days to access them. On September 18,

¹ The Director informed OCR that a third party psychologist's opinion is not used for every request, but is used when the Director feels that she needs an expert's opinion. The Director also stated that the third party opinion was not determinative of the accommodations the complainant was granted, but was used by her to gain additional information to support the complainant's accommodation request.

² The exact date was not provided to OCR.

³ According to the Dean, who was at the committee meeting on August 30, 2016, the committee was unable to talk in detail about the complainant's exam-related requests, but wanted to issue her class-related accommodations as soon as possible. The committee met on October 7, 2016, to discuss the complainant's exam-related accommodations.

⁴ The complainant was enrolled in five classes during the fall 2016 semester: Property, Contracts, Criminal Law, Civil Procedure, and Legal Writing and Research (Lawyering).

⁵ As a condition of recording the lectures, students sign an agreement stating that they understand that the recordings contain the intellectual property of the instructor(s), and agreeing to the following: the recordings will never be shared with another student or distributed in any manner; any copies of the recordings will be destroyed or deleted as stated in the approved accommodations letter; and, the student will inform the instructor(s) that the recordings have been destroyed at the end of the term.

2016, the complainant responded to the IT Director via email, copying the Dean, and requested to receive retroactive class recordings from August 24, 2016 (the first day of school) through September 15, 2016; as well as access to class recordings for longer than one week. On that same date, the IT Director advised the complainant that she would need to contact the Dean regarding retroactive access to class recordings and access to the recordings for longer than five days, as he had only been directed to grant access to the class recordings from the date she signed the agreement for a period of five days.

The complainant followed up with the Dean via email on October 6, 2016, in which she complained regarding the delay in the provision of the class recordings from August 24, 2016, through September 15, 2016; requested to receive retroactive class recordings from August 24, 2016 (the first day of school) through September 15, 2016; and, requested that the class recordings be provided to her for longer than a five-day period. The Dean responded to the complainant on October 7, 2016, and informed the complainant that she only had access to the recordings from the date that the complainant signed the agreement as per the School's standard procedure; that per the University's practice, the recordings were only available for a five-day period; and, that she was available to discuss any questions that the complainant might have.

On October 14, 2016, the complainant and her parents met with the Director to discuss her accommodations. The Director scheduled a follow-up meeting with the Dean and the complainant on October 17, 2016, to discuss, amongst other things, the class recordings from August 24 - September 15, 2016.

On October 17, 2016, the complainant met with the Director and the Dean, who requested that the complainant identify which class recordings would be helpful to her. According to the Dean, the complainant agreed to review her notes and determine the specific dates and classes for which she had gaps in her notes, and the School would provide these class recordings to the complainant.

The Dean stated that the complainant did not provide these dates and classes to the School, and instead emailed the Dean on October 24, 2016, to request *all* of the class recordings from the beginning of the school year; she also requested that these recordings be provided for longer than five days. On this same day, the Dean responded to the complainant and informed the complainant that she had not provided the School with dates and classes for which she had gaps in her class notes; and, that the committee limited the complainant's access to class recordings to five days, so unlimited access was not an option.

On November 8, 2016, the Director requested to set up a meeting with the complainant regarding the recordings, but the complainant cancelled the meeting. On November 10, 2016, the complainant's attorney (the attorney) reached out to the Dean to inform her that the complainant needed access to recordings for longer than five days, amongst other requests.⁶ The Dean sent an email to the complainant on November 11, 2016, again letting her know that, as per their

⁶ The attorney also requested that the complainant be given an additional practice exam with 100 minutes time; tutoring to get up to speed; recordings for all make-up lectures; double time for take home exams; priority registration; and, an exam schedule that provides the complainant with the ability to "recharge."

previous meeting, the complainant agreed to let her know which recordings she needed but had not followed up with her. In addition, the Dean informed the complainant that with regard to access to recordings for longer than five days, she could appeal the committee's determination as stated in the committee's letters on September 9 and October 10, 2016. The complainant did not respond to the Dean's email of November 11, 2016.

On November 15, 2016, the Dean approved the complainant to have access to the class recordings from August 24, 2016, through September 15, 2016, and the recordings were made available to the complainant on November 18, 2016. The complainant was provided access to these class recordings until December 2, 2016 (the last day of classes), and was informed that the standard five-day period for accessing class recordings applied for classes during the week of November 28, 2016.⁷

Based on the above, OCR determined that there was a delay of approximately four weeks from the time the complainant submitted updated information about her disabilities until the time that the School approved her in-class academic adjustments and auxiliary aids (August 3, 2016, to August 30, 2016). In the meantime, classes began on August 24, 2016; approximately one week before the School approved the access to class recordings as an auxiliary aid for the complainant. Thereafter, the complainant did not provide her signed agreement regarding access to class recordings until approximately two weeks after the auxiliary aid was approved (August 30, 2016, to September 15, 2016); at which time the complainant requested retroactive access to class recordings from August 24, 2016, through September 15, 2016. While the School provided the complainant with the outstanding class recordings on November 18, 2016, OCR determined that the auxiliary aid was not provided in a timely manner (this was an approximately two month delay from the date the complainant signed her agreement on September 15, 2016). The School asserted that some of the reason for the delay was because the Dean was waiting on the complainant to review her class notes and advise her as to whether she needed the recordings for all classes between August 24, 2016, and September 15, 2016; however, as early as October 24, 2016, the complainant advised the Dean that she needed access to class recordings for *all* classes between August 24, 2016, and September 15, 2016, which was approximately three and a half weeks before she was ultimately provided access. On November 14, 2018, the University signed the enclosed resolution agreement to resolve Allegation 1.⁸

With respect to Allegation 2, the complainant alleged that during the fall 2016 semester, the School discriminated against her, on the basis of her disability, by denying her requests for the following academic adjustments: (a) a 10-minute break per hour during exams; (b) a distraction-reduced environment for exams; (c) a note-taker; and, (d) priority registration.

⁷ The School stated that this arrangement would provide the complainant with an opportunity to listen to the recordings from the beginning of the semester while also maintaining her current class and exam preparation activities.

⁸ OCR determined that the School changed its procedure for providing class recordings to students during the fall 2017 semester by providing unlimited access to class recordings for all students that were approved for this auxiliary aid, including the complainant, rather than limiting access to a certain number of days.

With respect to Allegation 2(a), OCR determined that as part of the complainant's request for academic adjustments in the fall 2016 semester, she requested a 10-minute break per hour during exams. This request was reviewed by the Director, and the committee came to the ultimate conclusion that this accommodation was not supported by the complainant's medical evaluations or by any documentation that she provided to the committee. Specifically, the School stated that the complainant's medical evaluations did not indicate problems with fatigue or endurance during exams; and, that the complainant did not provide a reason for needing extra breaks during exams in addition to the 100% extra time she also requested and was granted. OCR reviewed the complainant's documentation and determined that the School could have reasonably concluded that the documentation did not support the need for a 10-minute break per hour during exams in addition to the 100% extra time. The complainant did not appeal the committee's decision, nor did she complain during the fall 2016 semester about the denial of this request. Accordingly, OCR determined that there was insufficient evidence to substantiate the complainant's allegation that the School discriminated against her, on the basis of her disability, by denying her request for 10-minute breaks per hour during exams.

With respect to Allegation 2(b), OCR determined that the complainant made a request for a distraction-reduced environment during exams; and, the complainant acknowledged that the Director granted this academic adjustment. Accordingly, OCR determined that there was insufficient evidence to substantiate the complainant's allegation that the School discriminated against her, on the basis of her disability, by denying her request for a distraction-reduced environment for exams.

The complainant stated that although she was granted the request for a distraction-reduced environment, in reality the exam environment was not a distraction-reduced environment as she was placed in a separate room with about 8-10 students, all of whom had different exam accommodations, which caused a distraction for the complainant. In addition, the complainant stated that since the students in the room were taking different exams, the proctor would read the exam instructions separately, causing an additional distraction; and, the door to the room was open at one point causing a separate distraction. The Director stated that when she recommended to the committee that the complainant be granted a distraction-reduced environment, she meant that the complainant would take exams in a smaller room with other students, and that the room would contain fewer students than a normal-sized lecture hall, where all students took exams.⁹ OCR determined that the complainant did not complain to the School about the effectiveness of this accommodation until after the semester was over. The Dean informed OCR that after hearing from the complainant regarding her first semester exam environment, the Dean separated students that were not on the same exam schedule in order to limit distractions.

With respect to Allegation 2(c), OCR determined that the complainant requested a note-taker as part of her academic adjustment request made to the School on August 3, 2016. According to the complainant, the Dean informed her that the School does not provide note-takers as an

⁹ The Director clarified that law students take exams in big lecture halls with around 70 other students, and are separated by one seat between them during the exam.

accommodation and only provides access to class recordings. The Dean denied telling the complainant this, and nothing in the evidence substantiates the complainant's assertion. The Director reviewed the request, and recommended to the Dean that the School provide the complainant with access to class recordings for a limited timeframe to supplement her notes, as an alternative to providing a note-taker. The committee reviewed the Director's recommendation and granted the complainant access to class recordings for a limited time period of one week, with the possibility of a one-day extension upon request to the Dean. The committee further stated that this accommodation was granted so that the complainant could supplement her class notes. The complainant did not thereafter complain about the effectiveness of this alternative, other than the delay in receiving some of the recordings as set forth in Allegation 1 above. Accordingly, OCR determined that there was insufficient evidence to substantiate the complainant's allegation that the School discriminated against her, on the basis of her disability, by denying her request for a note taker; specifically, the School arranged for an effective alternative, even though it did not effectively implement the alternative as addressed in Allegation 1 above.

With respect to Allegation 2(d), OCR determined that the complainant requested priority registration as an accommodation for the fall 2016 semester. The Director reviewed this request, along with the documentation provided by the complainant, and recommended to the Dean that the complainant's request be denied. Specifically, the Director informed the Dean that there was no medical documentation to support the complainant's request for priority registration, and that the complainant could achieve schedule balance and adequately prepare for her classes using the proscribed registration period. In addition, the School informed OCR that all first year law students are given a pre-determined class schedule, and do not choose their classes during the first year of law school.¹⁰ In addition, the Dean stated that the complainant could request courses during her second and third year of law school, and could set her schedule according to her course preferences in advance of the beginning of each semester. The committee also reviewed the complainant's request, along with the Director's recommendation and denied the complainant's request for priority registration based on the Director's recommendation. The complainant did not appeal the committee's decision. OCR reviewed the complainant's documentation and determined that the School could have reasonably concluded that the documentation did not support that the complainant needed priority registration in order to accommodate her disability.

Based on the foregoing, OCR determined that the School had a legitimate, non-discriminatory reason for denying the complainant's request for priority registration; specifically, the request was not supported by the documentation she submitted. OCR further determined that the School appropriately applied its accommodation procedures in its consideration of the complainant's initial application for academic adjustments, including an opportunity for the complainant to appeal the committee's determination. Therefore, OCR determined that there was insufficient evidence to substantiate the complainant's allegation that the School discriminated against her

¹⁰ OCR determined that the only exception to the pre-determined schedule is that all first year students choose one elective during the spring semester.

during the fall 2016 semester, on the basis of her disability, by denying her requests for priority registration. Accordingly, OCR will take no further action with respect to Allegation 2.

With respect to Allegation 3, the complainant alleged that during the spring 2017 semester, the School discriminated against her, on the basis of her disability, by denying her requests for the following academic adjustments: (a) stop-the-clock breaks during exams; (b) unlimited access to class recordings; and, (c) priority registration. OCR determined that on January 10, 2017, the complainant's attorney sent a letter to the Dean reiterating the complainant's need for accommodations, stating that the School was violating Section 504 and the Americans with Disabilities Act. The attorney requested that the complainant be provided with breaks during exams; class recordings and professor notes; and, priority registration.¹¹ The letter stated that the complainant needed stop-the-clock breaks during exams because the complainant was receiving double time on exams, and it was unreasonable for the complainant to go through a 6-8 hour exam without the ability to go to the bathroom or take a break. The attorney noted that the complainant had provided documentation, including her previous accommodations provided by her undergraduate institution, in support of her request. The attorney's letter also stated that the complainant needed access to all recordings to supplement the materials that she missed in class; and, that the complainant should have access to the professor's notes as the complainant is a visual and auditory learner. In addition, the attorney's letter stated that priority registration was important for the complainant's disability because it helped her balance the workload and exam schedules, and the School was already accommodating second and third year law students by providing them with priority registration.

Following this letter, on January 11, 2017, the Dean wrote a letter to the complainant to inquire as to whether the complainant wanted to speak with her about her first semester grades and strategies for improving her grades. On January 12, 2017, the Dean sent an email to the complainant stating that she had offered to meet with the complainant, but that the complainant had not responded to her request. In this letter, the Dean again offered to meet with the complainant and stated that the Director was available to meet as well. The email also stated that the complainant's attorney could reach out to the School's attorney should she have any further questions.

On January 13, 2017, the complainant responded to the Dean, stating that she wanted to schedule a meeting and that her attorney would be available via Skype to attend the meeting. The Dean wrote the complainant back via email on January 18, 2017, advising her that third parties were not allowed in meetings between administrators and students absent disciplinary matters.

The complainant met with the Dean and the Director on January 18, 2017, to discuss the attorney's letter and her upcoming semester accommodations. On January 19, 2017, the Dean informed the complainant that she was available for a follow-up meeting to discuss items that the parties did not get to in regards to her upcoming semester accommodations, but the complainant

¹¹ The letter also requested that the complainant receive double time on all exams, an exam schedule that provides time to recharge between exams, and a distraction-reduced environment; however, the complainant did not raise these with OCR as allegations.

stated that she was unavailable and that the committee’s decisions on her accommodations should be made as soon as possible.

On January 25, 2017, the complainant met with the Dean, and in a follow-up email the Dean stated that the parties had resolved that (1) the complainant would continue to have access to all class recordings, and would like to request a note-taker for the spring 2017 semester; (2) the amount of extended time for take home exams would be determined by the School on a case-by-case basis depending on the nature of the exam and how it impacted the complainant’s disability; and, (3) that she would work with the Registrar’s office to ensure that students would be grouped according to the length of their exams in the distraction-reduced exam environment. The Dean noted that the complainant also stated that she would draft an additional statement that would be added to her fall 2016 academic adjustment request for the committee to review, as she had updated accommodation requests.

On February 9, 2017, the complainant sent an “Addenda to my Accommodations Request” (addendum) to the Dean for the committee to review. The addendum re-requested stop-the-clock breaks during exams, a 20-minute break for 6-hour accommodation-approved exams, and a 30-minute break for 8-hour accommodation-approved exams. After receiving the addendum, the Director reviewed the complainant’s modified accommodation requests, and also submitted the complainant’s medical documentation to a third party licensed psychologist (psychologist 2) for his review. In his report, dated February 10, 2017, psychologist 2 stated that the complainant’s request for unlimited recording was not supported by “the submitted materials or her educational and clinical histories,” and that “[a]llowing that XXX XXXXXXXX XXX XXXXXXXX XXXXXXXXXXXX XX XXXXXXXX XX XXXX XXXXXXXX... she should be well able to readily access such materials within the span of a week’s time.” Psychologist 2 also stated that the complainant’s request for day-long breaks was not supported by the submitted materials or her educational and clinical histories as “[t]here is insufficient evidence for the presence of XXXXXXXX XXXXXXXXXXXX XXXXXXXXXXXX.” Further, psychologist 2 stated that the complainant’s request for priority registration was also not supported by the submitted materials as “[n]either she nor her Evaluator has demonstrated a plausible, convincing nexus between her alleged conditions and the process of course selection.”

On February 15, 2017, the Director wrote to the Dean stating that she recommended breaks during exams as a best practice in exam administration; that the complainant was receiving class notes and received class recordings for a five-day period during the previous semester; and, that the SDS could provide priority registration on an as-needed basis and with a clearer explanation from the complainant in regards to which courses suited her disability needs.¹²

On February 16, 2017, the committee met to review the complainant’s request for academic adjustments, including her addendum, all medical recommendations, and the Director’s recommendation to the Dean. On February 17, 2017, the committee issued a decision to the complainant regarding her accommodations request. The committee decided that the

¹² The Director also noted that the School had provided the complainant with assistive technology software programs (Dragon Naturally Speaking- Speech Recognition software and Premier Literacy Suite), textbooks in e-format, and note-taking services in three courses.

complainant's request for stop-the-clock breaks during exams was not supported by her submitted materials as there was no equal access need stated to support the breaks, and all students could take breaks, eat, and drink beverages during an exam. The committee informed the complainant that she could provide them with additional support for her request and they would consider the additional information. The committee granted the complainant's request for access to class recordings, and granted the complainant 10-day access to the recordings as opposed to the five days that she was previously provided, and noted that the complainant also had been granted a note-taker to supplement her class notes. The committee denied the complainant's request for priority registration as they determined that "no access need has been stated."

The complainant appealed the committee's decision to the Dean of the School (Dean 2) on March 13, 2017. In a response to the complainant dated March 31, 2017, Dean 2 denied her appeal and found insufficient evidence to support a conclusion that the committee "clearly erred" in denying the complainant's accommodation request. Dean 2 also stated that he found the committee's process to be a thoughtful review of her accommodations; that the committee relied on the Director's recommendation to come to its conclusion; that the committee had met with the Director to more fully understand the complainant's particular disability and how it affected her in an academic setting; that the committee reviewed each of the complainant's accommodation requests and granted each accommodation recommended by the SDS office; and, that the complainant could file a discrimination complaint under Cornell Policy 6.4, and provided its website. OCR reviewed the documentation that the complainant submitted and determined that the School could have reasonably concluded that the documentation did not support that the complainant needed the specific academic adjustments that were denied.

Based on the foregoing, OCR determined that the School had a legitimate, non-discriminatory reason for denying the complainant's request for (a) stop-the-clock breaks during exams; (b) unlimited access to class recordings; and, (c) priority registration. Specifically, after reviewing the complainant's request, including all of her independent documentation, the Director's recommendation, and psychologist 2's report, the committee decided that there was not enough support to conclude that stop-the-clock breaks during exams, unlimited access to class recordings, and priority registration were accommodations that were necessary to provide the complainant with equal access to the School's program. OCR further determined that the School appropriately applied its accommodation procedures in its consideration of the complainant's application for academic adjustments, including an opportunity for the complainant to appeal the committee's determination. Therefore, OCR determined that there was insufficient evidence to substantiate the complainant's allegation that the School discriminated against her, on the basis of her disability, during the spring 2017 semester, by denying her requests for: (a) stop-the-clock breaks during exams; (b) unlimited access to class recordings; and, (c) priority registration. Accordingly, OCR will take no further action with respect to Allegation 3.

OCR will monitor implementation of the resolution agreement regarding Allegation 1. If the University fails to implement the resolution agreement, OCR may initiate proceedings to enforce the specific terms and obligations of the agreement. Before initiating such proceedings, OCR

will give the University written notice of the alleged breach and 60 calendar days to cure the alleged breach.

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 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.

The complainant may appeal OCR's determination for Allegations 2 and 3. An appeal must be submitted within sixty (60) calendar days of the date of this letter. In the appeal, the complainant must explain why the complainant believes that the factual information was incomplete or incorrect, the legal analysis was incorrect, or the appropriate legal standard was not applied; and, how the correction of any error(s) would change the outcome of the case. Failure to do so may result in the dismissal of the appeal. The complainant must either submit a completed online appeal form or mail a written statement of no more than ten (10) pages (double-spaced, if typed). If submitted by mail, send to the Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue SW, Washington, D.C. 20202. If submitted by electronic mail, send to OCR@ed.gov. If submitted by fax, send to 202-453-6012.

If you have any questions, please contact Ernest King, Compliance Team Attorney, at (646) 428-3777 or Ernest.King@ed.gov; or Crystal Johnson, Senior Investigator, at (646) 428-3821 or Crystal.Johnson@ed.gov.

Sincerely,

/s/

Timothy C.J. Blanchard

Encl.

cc: Wendy Tarlow, Esq.