



**UNITED STATES DEPARTMENT OF EDUCATION**  
OFFICE FOR CIVIL RIGHTS  
32 OLD SLIP, 26<sup>TH</sup> FLOOR  
NEW YORK, NEW YORK 10005

**TIMOTHY C. J. BLANCHARD**  
DIRECTOR  
NEW YORK OFFICE

November 21, 2019

Sent by e-mail only to: [presidentsoffice@touro.edu](mailto:presidentsoffice@touro.edu)

Dr. Alan Kadish  
President  
Touro College  
500 Seventh Avenue  
New York, New York 10018

Re: Case No. 02-19-2203  
Touro College

Dear President Kadish:

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 Touro College (the College). The complainant alleged that the College retaliated against him because he signed a Facilitated Resolution Between the Parties (FRBP) agreement to resolve OCR Case No. 02-19-2118, by refusing to provide him with a copy of the letter of good standing the College sent on his behalf to XXXXXX Law School and to any other institutions.

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 or activities receiving financial assistance from the U.S. Department of Education (the Department). The College 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. § 104.61, incorporates by reference 34 C.F.R. § 100.7(e) of the regulation implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., which provides that no recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by regulations enforced by OCR or because one has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing held in connection with a complaint.

In its investigation, OCR reviewed information and documentation that the complainant and College submitted. OCR determined that the complainant engaged in protected activity by, among

other things, engaging in disability-related advocacy as a student in fall XXXX, and filing a complaint with OCR in February 2019 (OCR Case No. 02-19-2118), in which the complainant alleged that the College discriminated against him on the basis of his disabilities and retaliated against him for his disability-related advocacy. The complainant and the College subsequently participated in FRBP mediation and entered into an FRBP agreement on XXX XX, 2019, which resolved the allegations in the aforementioned complaint. OCR determined that the College was aware of the complainant’s protected activities.

The complainant alleged that the College retaliated against him because he signed an FRBP agreement to resolve OCR Case No. 02-19-2118, by refusing to provide him with a copy of the letter of good standing the College sent on his behalf to XXXXXX Law School and to any other institutions. In support of his allegation, the complainant asserted that prior to executing the FRBP agreement in XXX 2019, the College’s XXXXXXXXXXXX and XXXXXXXXXXXX XXXXXXXXXXXX had provided him with copies of letters forwarding his transcript and letters of good standing on several occasions; however, after executing the FRBP agreement, the College ceased copying him on such correspondence. Specifically, the complainant asserted that by email dated June 3, 2019, the College’s counsel informed him that the College would not copy him on such requests pursuant to the College’s “standard operating procedure.” The complainant further asserted that he did not waive his right to access the official version of the letter of good standing by signing the FRBP agreement; and, claimed that he was harmed by the College’s change in practice because he could not verify that the letter of good standing that the College sent on his behalf included the agreed-upon language specified in the FRBP agreement.

The College confirmed that on June 3, 2019, counsel sent an email to the complainant in which he denied the complainant’s requests, made by emails on May 30 and June 2, 2019, that the College copy him on an email providing a letter of good standing on his behalf to XXXXXX Law School. The College stated that counsel did so in good faith reliance on information that the College’s XXXXXXXXXXXX provided to counsel; namely, that the XXXXXXXXXXXX “standard procedure” is not to copy students on emails sent by the College to other educational institutions with letters of good standing; and, that the complainant could contact the other educational institution to verify receipt of the letter, or contact the College’s registrar’s office to verify that the letter was sent.<sup>1</sup> The College acknowledged that the registrar’s office had previously copied the complainant on emails to other schools sending an official copy of the letter of good standing; letter verifying his enrollment status; or, letter forwarding a copy of the complainant’s transcript.<sup>2</sup>

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<sup>1</sup> The College submitted to OCR a copy of an email counsel sent to the XXXXXXXXXXXX, dated May 31, 2019, in which counsel asked the XXXXXXXXXXXX what her “standard procedure” is for responding to student requests that the College copy them on emails providing the student’s letter of good standing to an educational institution. The XXXXXXXXXXXX responded by email on that same date, stating that there is no written procedure that governs the process; but typically, when students request that letters of good standing be sent to another school, the College mails the letter directly to the school with no copy to the student. The XXXXXXXXXXXX stated that the College keeps a log of processed letter requests. The XXXXXXXXXXXX further stated that students can contact the other institution to verify receipt of the letter or call the College to verify that the letter was sent.

<sup>2</sup> OCR reviewed documentation confirming that the complainant was previously copied on the following emails to three institutions: an email to XXXXXXXXXXXX Law from the registrar, sent on February 27, 2019, providing a letter verifying the complainant’s enrollment and status; an email to XXXXXXXXXXXX Law from the XXXXXXXXXXXX XXXXXXXXXXXX, sent on April 24, 2019, providing a letter of good standing on the complainant’s behalf; and, an email to XXXXXXXXXXXX XXXXXX University from the XXXXXXXXXXXX, dated January 11, 2019, providing a copy of the complainant’s transcript.

On November 1, 2019, the College signed the enclosed Agreement to voluntarily resolve the allegation under Section 302 of OCR's Case Processing Manual without further investigation. OCR will monitor the implementation of the Agreement. Upon the College's satisfaction of the commitments made under the Agreement, OCR will close the case.

This letter should not be interpreted to address the College'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 College may not harass, coerce, intimidate, or discriminate against any individual because the individual 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 this matter, please contact Amy Randhawa, Compliance Team Attorney, at (646) 428-3781 or [sandeep.randhawa@ed.gov](mailto:sandeep.randhawa@ed.gov); Joy Purcell, Senior Compliance Team Attorney, at (646) 428-3766 or [joy.purcell@ed.gov](mailto:joy.purcell@ed.gov); or Félice A. Bowen, Compliance Team Leader, at (646) 428-3806 or [felice.bowen@ed.gov](mailto:felice.bowen@ed.gov).

Sincerely,

/s/

Timothy C.J. Blanchard

Encl.

cc: Nicole Barnett, Esq.