



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS  
THE WANAMAKER BUILDING, SUITE 515  
100 PENN SQUARE EAST  
PHILADELPHIA, PA 19107-3323

**August 2 2016**

**IN RESPONSE, PLEASE REFER TO: 03162103**

Jay A. Perman, M.D.  
President  
University of Maryland, Baltimore  
620 W. Lexington Street  
Baltimore, MD 21201

Dear Dr. Perman:

This is to notify you of the resolution of the complaint filed with the U.S. Department of Education (the Department), Office for Civil Rights (OCR), against the University of Maryland, Baltimore (the University). The Complainant, XXXXXX, alleged that the University discriminated against her on the basis of disability by failing to properly consider her disability-related requests for the following academic adjustments:

1. XXXXXX; and,
2. Extended hours to complete XXXXXX.

OCR enforces:

- Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by any recipient that receives Federal financial assistance from the Department.
- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

As a recipient of Federal financial assistance and a public entity, the University is subject to Section 504, the ADA and their implementing regulations.

OCR will administratively close an allegation if the complainant withdraws the allegation and there are no systemic issues. On June 17, 2016, the Complainant informed OCR that allegation 2 was resolved and that she no longer wished to pursue it, as the University is providing her with extended hours. Accordingly, OCR is administratively closing allegation 2.

Before OCR completed its investigation, the University expressed a willingness to resolve the remaining allegation in this complaint, allegation 1, by taking the steps set out in the enclosed Resolution Agreement. The following is a discussion of the relevant legal standards and information obtained by OCR during the investigation that informed the development of the Resolution Agreement.

## **Legal Standards**

The Section 504 regulation, at 34 C.F.R. § 104.43(a), provides that a qualified person with a disability may not be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any postsecondary aids, benefits, or services on the basis of disability. The regulation at § 104.44(a) requires a university to modify its academic requirements as necessary to ensure that such requirements do not discriminate or have the effect of discriminating on the basis of disability against a qualified student with a disability. The regulation at 34 C.F.R. § 104.44(d) requires a university to ensure that no qualified individual with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills. OCR interprets the Title II regulation to require public universities to provide academic adjustments and auxiliary aids to the same extent as required under Section 504.

Furthermore, Section 504 and Title II do not require a university to modify academic requirements that are essential to the instruction being pursued by the student or to any directly related licensing requirement. In reviewing an institution's determination that a specific standard or requirement is an essential program requirement that cannot be modified, OCR considers whether that requirement is educationally justifiable. The requirement should be essential to the educational purpose or objective of a program or class. OCR policy requires, among other factors, that decisions regarding essential requirements be made by a group of people who are trained, knowledgeable and experienced in the area; through a careful, thoughtful and rational review of the academic program and its requirements; and that the decision-makers consider a series of alternatives for the essential requirements, as well as whether the essential requirement in question can be modified for a specific student with a disability. OCR affords considerable deference to academic decisions made by post-secondary institutions, including what is or is not an essential program requirement.

If a university denies a request for a modification, it should clearly communicate the reasons for its decision to the student so that the student has a reasonable opportunity to respond and provide additional documentation that would address the university's objections.

## **Factual Background**

The Complainant enrolled in the University's Masters' Degree Program in Community Public Health beginning in Fall 2013. The Complainant has the XXXXXX.

xxx – paragraphs redacted – xxx

## **Conclusion**

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a Resolution Agreement. The provisions of the Resolution Agreement must be aligned with the complaint allegations and information obtained during the investigation and be consistent with applicable regulations. Such a request does not constitute an admission of a violation on the part of the University, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, the University requested to resolve this complaint through a resolution agreement, and on August 1, 2016, the University signed a Voluntary Resolution Agreement (Agreement) with OCR to resolve the allegations contained within the complaint.

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Accordingly, OCR is concluding its investigation of this complaint. As is our standard practice, OCR will monitor the University's implementation of the Agreement, a copy of which is enclosed.

This letter is not intended, nor should it be construed, to cover any other issues regarding the University's compliance with Section 504 or Title II, and their implementing regulations that may exist and are not discussed herein. 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 Complainant 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, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, please contact Cynthia Wesley at (215) 656-8548 or by email at [Cynthia.wesley@ed.gov](mailto:Cynthia.wesley@ed.gov).

Sincerely,

/s/

Nancy E. Potter  
Team Leader

Enclosure

cc: Irma Robins, Counsel