



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
THE WANAMAKER BUILDING, SUITE 515
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April 14, 2017

IN RESPONSE, PLEASE REFER TO 03172079

Dr. Frank G. Pogue
President
Cheyney University of Pennsylvania
1837 University Circle
P.O. Box 200
Cheyney, PA 19319

Dear Dr. Pogue:

This is to notify you of the resolution of the complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against the Cheyney University of Pennsylvania (the University). The Complainant alleges that the University discriminates against students with disabilities by:

1. Imposing a housing surcharge on single dormitory rooms which are provided as an accommodation for a student's disability;
2. Imposing default housing rates for particular rooms when such rooms are required as an accommodation for a student's disability;
3. Refusing to convert double rooms to single rooms to afford a student with a disability an equal opportunity to housing; and
4. Charging a fee to have air conditioning installed when the air conditioning is necessary as an accommodation for a student's disability.

OCR enforces 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 Education (the Department). OCR also enforces Title II of the Americans with Disabilities Act of 1990, as amended (Title II), 42 U.S.C. § 12131, *et seq.*, and its implementing regulations at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of financial assistance from the Department and a public entity, the University is subject to Section 504, Title II, and their implementing regulations.

This letter summarizes the applicable legal standards, the information gathered during the investigation, and how the investigation was resolved.

Legal Authority:

Section 504 and Title II prohibit people, on the basis of disability, from being excluded from participation in, being denied the benefits of, or otherwise being subjected to discrimination by recipients of federal financial assistance or by public entities. 34 C.F.R. § 104.4 and 28 C.F.R. § 35.130. People with disabilities must have equal access to recipients' programs, services, or activities unless doing so would fundamentally alter the nature of the programs, services, or activities, or would impose an undue burden. 28 C.F.R. § 35.164. Both Section 504 and Title II prohibit affording individuals with disabilities an opportunity to participate in or benefit from aids, benefits, and services that is unequal to the opportunity afforded others. 34 C.F.R. § 104.4(b)(1)(ii); 28 C.F.R. § 35.130(b)(1)(ii). An individual with a disability, or a class of individuals with disabilities, may be provided with a different or separate aid, benefit, or service only if doing so is necessary to ensure that the aid, benefit, or service is as effective as that provided to others. 34 C.F.R. § 104.4(b)(1)(iv); 28 C.F.R. § 35.130(b)(1)(iv). Section 504 also contains specific provisions that prohibit discrimination on the basis of disability in postsecondary education programs and activities, including housing. 34 C.F.R. §§104.41, 104.43, and 104.45. Specifically, a postsecondary recipient that provides housing to its students without disabilities shall provide comparable, convenient, and accessible housing to students with disabilities at the same cost as to others, and such housing shall be available in sufficient quantity and variety so that the scope of the choice of living accommodations for students with disabilities is, as a whole, comparable to that of students without disabilities. 34 C.F.R. §§104.45. Moreover, Title II prohibits public entities from placing a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures that are required to provide that individual or group with the nondiscriminatory treatment required by Title II. 28 C.F.R. § 35.130(f).

Investigation to Date:

OCR reviewed information about the University's on-campus housing, as well as its housing policies and procedures, published on University's Office of Housing, Auxiliary, and Conference Services' website. Although the website contains pricing information for suites and traditional residence hall rooms, including single rooms, it does not contain any information regarding prices for disability-related housing accommodations. With respect to single rooms, the website states that single room assignments are made on a first-come, first-served basis according to the date the completed housing application is received, but it does not contain any information regarding the conversion of double rooms to single rooms to accommodate a student with a disability. With respect to air conditioning, the website states generally that due to the time period in which the University's historic residence halls were built, air conditioning units are not permitted. Students with a documented health condition that requires air conditioning but are not assigned to an air conditioned residence hall may have air conditioning installed if they meet a number of conditions including but not limited to documentation of the medical need for air conditioning and a \$200 installation fee. In order to complete its investigation, it would be necessary for OCR to conduct interviews of relevant University personnel regarding its housing policies, procedures, and practices as they pertain to students with disabilities.

Resolution Agreement:

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 voluntary resolution agreement. The provisions of the agreement must be aligned with the complaint allegations and the issues investigated and be consistent with applicable regulations. Such a request does not constitute an admission of liability on the part of a recipient, nor does it constitute a determination by OCR of any violation of our regulations. Consistent with OCR's procedures, the University requested to resolve the issues in this complaint through a voluntary resolution agreement, which was executed on April 7, 2017.

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

This letter is not intended, nor should it be construed, to cover any other issues regarding the University's compliance with Section 504, Title II, and their implementing regulations that may exist and are not discussed herein.

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, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, you may contact Amy Niedzalkoski, Team Attorney, at (215) 656-8571 or by email at amy.niedzalkoski@ed.gov.

Sincerely,

/s/

Beth Gellman-Beer
Team Leader

Enclosure