



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

REGION III  
DELAWARE  
KENTUCKY  
MARYLAND  
PENNSYLVANIA  
WEST VIRGINIA

**October 3, 2017**

**IN RESPONSE, PLEASE REFER TO 03172080**

Dr. Alison Byerly  
President  
Lafayette College  
730 High Street  
Easton, PA 18042

Dear Dr. Byerly:

This is to notify you of the resolution of the complaint that was filed with the U.S. Department of Education (the Department), Office for Civil Rights (OCR), against Lafayette College (the College). The complaint alleges that the College discriminates on the basis of disability by:

1. Imposing a housing surcharge on single dormitory rooms and other housing amenities (air conditioning, ADA accessible rooms, rooms located closer to campus and private kitchens) which are provided as an accommodation for a student's disability; and
2. Charging a fee for early move-in when it is required as an accommodation.

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 Department. As a recipient of financial assistance from the Department, the College is subject to Section 504 and its 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 prohibits 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. 34 C.F.R. § 104.4. Section 504 prohibits 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). 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).

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.

### Investigation to Date

OCR reviewed information about the College's on-campus housing, as well as its housing policies and procedures which is published on College's website. The College has a tiered fee structure for its residence halls and the fees vary based on the building. There are five tiers.

Students who would like to request a housing accommodation are encouraged to submit their requests to the College's Disability Services by May 15 for the following school year. The College's website provides forms which students may use to make a housing request. A Disability Services Coordinator reviews student requests and sends the Director of Residential Life an email containing the student's approved accommodations. Residence Life then contacts the student to schedule a meeting to ensure the student's needs are met. Students are charged according to the Tier to which they are assigned.

All students live in College housing unless they apply and are approved to reside in off-campus housing or commute from their parents' home. All first year students live in Tier 1 or Tier 2 housing based on preference and room availability. Room assignments for the other class years are decided through a Room Selection Process (which includes Greek housing, special interest housing, living learning communities and block housing) and a Lottery System based on seniority. Students who receive housing accommodations are assigned to their rooms before the Lottery System.

The College has a limited number of single rooms and works with students to accommodate them based on their needs. Sometimes, a student who is eligible for a Tier 1 or Tier 2 room may receive a Tier 3 or higher room to accommodate the request of a single room. OCR would need to continue its investigation of the College to determine what tier a student would be charged for a single room if, because of his or her disability, the student needed a single room and the College only had higher-tiered single rooms available to accommodate the student's request.

Generally, the College does not provide air conditioning to its students. If air conditioning is needed for a medical or disability-related reason, the College accommodates the student by providing the student with an air conditioned room for \$100 a year. OCR would need to continue its investigation of the College to determine how many students were charged this fee over the three-year period (2014-15, 2015-16 and 2016-17) investigated by OCR.

The College charges an early move-in fee; however, it would waive the fee if a student needed to move in early because of a disability. No students requested to move in early because of a disability during the three years investigated by OCR. Students who receive other housing

accommodations such as ADA accessible rooms, certain room locations and private kitchens are charged according to the tier within which their room falls. In order to complete its investigation, OCR would need to determine what tier a student would be charged if he or she would have lived in a lower-tiered room but for his or her disability and there were no lower-tiered rooms with a private kitchen available, for example.

In order to complete its investigation, it would be necessary for OCR to conduct interviews of relevant College personnel regarding the application of its housing policies, procedures, and practices as they pertain to students with disabilities and to review additional data regarding housing fees charged in cases where students received disability-related housing accommodations.

#### 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, on May 15, 2017, the College requested to resolve the issues in this complaint through a voluntary resolution agreement, which was executed on September 27, 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 College's implementation of the Agreement.

This letter is not intended, nor should it be construed, to cover any other issues regarding the College's compliance with Section 504 and its 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.

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.

Please be advised that the College 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.

Page 4 – Dr. Alison Byerly

If you have any questions, you may contact me at (215) 656-8522 or by email at [vicki.piel@ed.gov](mailto:vicki.piel@ed.gov).

Sincerely,

/s/

Vicki Piel  
Team Leader

Enclosure

Cc: Emily Edmunds, via email only (eedmunds@saul.com)