



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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October 14, 2021

Sent Via Email: pdg@pitt.edu

Dr. Patrick Gallagher
Chancellor
University of Pittsburgh
4200 Fifth Avenue
Pittsburgh, PA 15260

Re: OCR Complaint #03212184

Dear Dr. Gallagher,

This letter is to inform you of the resolution of this complaint filed with the U.S. Department of Education's Office for Civil Rights (OCR) against the University of Pittsburgh, which we will refer to as the University throughout this letter. The Complainant alleged that the University discriminated against her based on disability when it refused to provide her academic adjustments for a statistics course in the summer of 2021.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public postsecondary education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department and a public entity, the University is subject to Section 504, Title II, and their implementing regulations.

Before OCR completed its investigation, the University expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement (Agreement). The University signed the enclosed Resolution Agreement on October 11, 2021, which when fully implemented will resolve the complaint.

Legal Standards

Under the Section 504 regulation, at 34 C.F.R. § 104.3(j)(1), an individual with a disability is any person who has a physical or mental impairment, which substantially limits one or more major life activities. Title II similarly defines an individual with a disability at 28 C.F.R. § 35.108. With regard to post-secondary students, a “qualified” individual with a disability is one who meets the institution’s academic and technical standards for admission or participation in the academic program. 34 C.F.R. § 104.3(l)(3). The Section 504 regulation, at 34 C.F.R. § 104.43(a), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any postsecondary education program of a recipient. The Title II regulation, at 28 C.F.R. § 35.130(a), contains a similar prohibition applicable to public postsecondary educational institutions.

The Section 504 regulation, at 34 C.F.R. § 104.44(d)(1), also requires recipients to take steps to ensure that no disabled student 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. Under the Title II regulation, at 28 C.F.R. § 35.130(b)(1)(ii) and (iii), public colleges and universities may not afford a qualified individual with a disability opportunities that are not equal to those afforded others, and may not provide aids, benefits or services that are not effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others. Under 28 C.F.R. § 35.130(b)(7), public colleges and universities must make reasonable modifications in policies, practices or procedures when necessary to avoid discrimination on the basis of disability, unless doing so would fundamentally alter the nature of the service, program or activity. The regulation at 28 C.F.R. § 35.160(b)(1) further requires a public college or university to furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity. In determining what type of auxiliary aid and service is necessary, the Title II regulation at 28 C.F.R. § 35.160(b)(2) requires that the college or university give primary consideration to the requests of individuals with disabilities.

Facts

The Complainant has multiple disabilities including XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
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XXXXXXXXXXXXXXXXXXXX. Due to the COVID-19 pandemic, the University deferred the Complainant's
deadline for completing this course to the start of the 2021-2022 academic year.

XX – Paragraphs Redacted – XX

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XXXXXXXXXXXX. On September 10, 2021, prior to signing the enclosed Agreement, the University
extended the Complainant's deferment to the 2022-2023 academic year in order to give her
additional time to complete the prerequisite statistics course required for matriculation into
the MSW Program.

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 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 this complaint through a Voluntary Resolution Agreement on August 19, 2021, prior to the conclusion of OCR's investigation. On October 11, 2021, the University signed the enclosed Resolution Agreement which, when fully implemented, will resolve the allegation in this complaint. The provisions of the Agreement are aligned with the allegation and issues raised in this complaint and the information discussed above, and are consistent with applicable laws and regulations. OCR will monitor the University's implementation of the Agreement.

This concludes OCR's investigation of the complaint. 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 must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We thank the University for its cooperation in resolving this complaint. If you have any questions, please contact Koert Wehberg, the attorney assigned to this complaint, at 215-656-5792, or koert.wehberg@ed.gov.

Sincerely,

/s/

Melissa M. Corbin
Team Leader

Cc: Steven Glison, General Counsel