



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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February 9, 2023

IN RESPONSE, PLEASE REFER TO: 03-22-2018

Dr. Anthony L. Jenkins
President
Coppin State University
Parlett L. Moore Library, 2nd Floor
2500 West North Avenue
Baltimore, MD 21216

Sent via email only to: president@coppin.edu

Dear Dr. Jenkins:

This is to advise of you the outcome of the complaint filed on November 8, 2021, with the U.S. Department of Education, Office for Civil Rights (OCR), against Coppin State University (the University). The Complainant alleged that the University discriminated against her on the basis of disability when it failed to provide the Complainant her approved disability-related academic adjustments for the XXXXXXXXXXXX course by:

1. Not allowing her to utilize the testing accommodations provided in her Section 504 Accommodation Plan; and;
2. Not allowing her to virtually access the XXXXXX of the course.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance. OCR also enforces 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. Title II prohibits discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and public entity, the University is subject to these laws.

During its investigation, OCR reviewed information provided by the Complainant and the University and interviewed both the Complainant and University staff, including the XXXXX Chairperson, Disability Support Services Program Counselor.

Prior to OCR completing its investigation, the University expressed an interest in resolving the complaint pursuant to Section 302 of OCR's *Case Processing Manual (CPM)*. Section 302 states that allegations under investigation may be resolved at any time when, prior to the completion of the investigation, the recipient expresses an interest in resolving the allegation and OCR determines that it is appropriate to resolve it because OCR's investigation has identified

Extended time on assignments/projects; and (ii) Extended time on tests and quizzes (1 ½ time). The accommodations letter also states: “Comments (DSSP Use Only): Due to medical complications affecting the health of the student, the student will need to attend XXXXXXXX this course virtually for the remainder of the semester.”

That same day, on XXXXXXXXXXXX, the Student signed her accommodations letter and returned it to DSSP. It was then sent to Instructor 3 automatically, but the University records show that he did not open it until XXXXXXXXXXXX, after he was no longer teaching the Course. The University stated that it did not discover that the accommodations letter had not been signed until it conducted an audit of its forms in XXXXXXXXXXXX. When interviewed by OCR, Instructor 3 stated that, during the XXXXXXXX, he was not entirely clear about how to access the documents in Adobe Acrobat Sign or whether emails he received from Adobe were always important and needed to be opened.

The Complainant stated she emailed her approved accommodations to both Instructor 1 and Instructor 3 on multiple occasions but did not receive a response. The Complainant alleges that Instructor 3 would not let her participate XXXX virtually and denied her extra time on assessments. According to the Complainant, in early XXXXXXXX, she met with Instructor 3 in-person after taking a test in which Instructor 3 did not provide her with 1.5 extended time. The Complainant told OCR that, during the meeting, Instructor 3 questioned her as to why she needed accommodations, and told her that it was not a good enough reason after she provided an explanation. The Complainant also told OCR that Instructor 3 refused to sign her accommodation letter.

The Complainant communicated her concerns about her Course accommodations to a DSSP Counselor in mid-October. In a subsequent exchange of emails, the Complainant shared that Instructor 3 told her that he would not provide any virtual XX for the Course and that he did not care about the justification for her accommodations. The DSSP Counselor replied, stating that they had the same issue with another student with Instructor 3, and that his behavior was unacceptable and that he did not have the authority to deny her accommodations. The DSSP Counselor apologized to the Complainant, and said that she would email Instructor 1 to discuss the issue since he had returned from his leave.

According to the Complainant, after Instructor 1 returned from his leave, he still required that she come in for class occasionally. According to the University, the Complainant attended X in person at least five times after Instructor 1 returned. The University asserts that the Complainant requested a virtual XX for XXXXXXXXXXXX, which she was granted.

The Complainant earned a B in the Course and graduated from the University in XXXXXXXX.

LEGAL STANDARD

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. 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. Pursuant to 34 C.F.R. § 104.3(1)(3), 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. 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.

The Section 504 regulation, at 34 C.F.R. §104.44(a), requires a postsecondary institution to make such modifications to its academic requirements as are 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. A student with a disability is obligated to notify the college or university of the nature of the disability and the need for a modification, adjustment, aid, or service. Once a college or university receives such notice it has an obligation to engage the student in a reasonable process concerning the student's disability and related needs. As part of this process, the college or university may request that the student provide documentation, such as medical, psychological, or educational assessments, of the impairment and functional limitation.

In determining what modifications are appropriate for a student with a disability, the university should familiarize itself with the student's disability and documentation, explore potential modifications, and exercise professional judgment. The question of whether a university must make modifications to its academic requirements or provide auxiliary aids is determined on a case-by-case basis. OCR generally does not substitute its judgment for that of qualified educators and professionals regarding modifications. Instead, OCR reviews relevant factual evidence to determine whether a university acted in a reasonable manner and whether it took appropriate steps consistent with Section 504 in making decisions regarding a student's eligibility for academic adjustments. Section 504 envisions a meaningful and informed process with respect to the provision of modifications, e.g., through an interactive and collaborative process between the university and the student. 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.

LEGAL ANALYSIS

OCR has concerns that the Complainant was not provided the accommodations for which she was approved in the XXXXX Course. The Complainant was approved to receive testing accommodations and to attend XX virtually in the Course. These accommodations were documented in a letter from DSSP, which the Complainant signed. However, the Complainant asserts and the correspondence provided by the University suggest that the Complainant did not receive her approved accommodations. Some of this was due to the actions of Instructor 3, who did not open the accommodations letter he received for the Complainant and, although the Complainant explained the accommodations she was to receive, he did not provide them according to the Complainant. In addition, evidence obtained by OCR suggests that the problems with the Complainant's accommodations continued even after Instructor 1 returned.

CONCLUSION

Before OCR completed its investigation of the complaint, pursuant to Section 302 of OCR's CPM, the University requested to resolve the case through a voluntary agreement and OCR determined such a resolution was appropriate. The University signed the enclosed Agreement on February 2, 2023, which, when fully implemented, will resolve the allegation raised in this

complaint. In accordance with the Agreement, the University will: (1) send a memorandum to all faculty reminding of them of their obligations with regards to academic adjustments; (2) convene a meeting between Instructor 1 and DSSP; (3) convene a meeting between Instructor 3 and DSSP; (4) train faculty on how to use utilize the University's Adobe Document Management System; and (5) offer the Complainant a chance to be reimbursed for her tuition and related costs for the Course or retake the Course at no cost. The provisions of the Agreement are aligned with the information discussed above that was obtained during OCR's investigation and are consistent with applicable law and regulation. 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 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.

Thank you for your cooperation in this matter. If you have any questions, please contact OCR investigator, Dale Leska at (215) 656-8562 or dale.leska@ed.gov. or, OCR attorney, Zachary Marshall at (215) 656-5829 or zachary.j.marshall@ed.gov;

Sincerely,

/s/

Catherine C. Deneke
Supervisory Attorney
Philadelphia Office

Enclosure

cc: Elizabeth B. Rivera Assistant Attorney General, via email only with Enclosure at erivera@oag.state.md.us