



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION IV

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ATLANTA, GA 30303-8927

REGION IV  
ALABAMA  
FLORIDA  
GEORGIA  
TENNESSEE

December 12, 2014

XXXXXXXXXXXXXXXXXX  
The Office of the President  
1000 Chastain Road, #0101  
Kennesaw, Georgia 30144

Re: OCR Complaint # 04-14-2415

Dear XXXXXXXX:

On June 17, 2014, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against Kennesaw State University (University), alleging discrimination on the basis of disability. Specifically, the Complainant filed a complaint on behalf of the Student, alleging that the University discriminated against him as follows:

1. For the Fall 2013 Semester, the University failed to provide the Student with a note taker, extended time to complete his coursework or exams beyond the end of the semester or past the deadline for submission of grades, and modification of the format of the final exams in HIST XXXX and HIST YYYY. As a result of these alleged failures, the Student received a failing grade in HIST XXXX and HIST YYYY.
2. For the Spring 2014 Semester, the University refused to provide the Student with a note taker and extended time to complete his coursework or exams beyond the end of the semester for HIST ZZZZ.

OCR is responsible for enforcing 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, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance; and, 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 from the Department and a public entity, the University is subject to Section 504 and Title II.

Based on the allegations, OCR investigated the following legal issues:

1. Whether the decision reached by the University through its internal grievance process addressed the Complainant's allegations regarding the Student's failing grades in HIST

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by fostering educational excellence and ensuring equal access.*

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3307 and HIST 4490, applied appropriate legal standards, and any remedies secured met OCR's standards, in accordance with CPM § 110(a)(2).

2. Whether the University discriminated against the Student on the basis of disability by failing to provide him with academic adjustments and/or auxiliary aids for HIST ZZZZ during the Spring 2014 Semester, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.44 (a)-(d), and the Title II implementing regulation at 28 C.F.R. § 35.130 (a) and (b)(7).

After OCR commenced its investigation, the University offered to voluntarily resolve the complaint allegations. Pursuant to OCR's procedures, a complaint may be resolved when, before the conclusion of an investigation, the recipient requests to resolve the complaint. Based on the foregoing, OCR accepted the University's request to resolve this complaint and the University entered into the enclosed Resolution Agreement (Agreement), which when fully implemented, will resolve the issues in this complaint.

OCR will monitor the University's implementation of this Agreement to ensure that it is fully implemented. If the University fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504 and Title II.

In accordance with agency procedures, the University is reminded that intimidation or retaliation against complainants by recipients of Federal financial assistance is prohibited. No recipient shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces, or because one has made a complaint or participated in any manner in an investigation in connection with a complaint.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records, upon request. If we receive 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.

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.

The University understands that OCR will not close the monitoring of this Agreement until OCR determines that the University has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504, at 34 C.F.R. part 104 and Title II, at 34 C.F.R. Part 35, which is at issue in this case.

This concludes OCR's consideration of this complaint, which we are closing effective the date of this letter. If you have any questions regarding this letter, please contact XXXXXX, Compliance Team Leader, at (404) 974-XXXX.

Sincerely,

Cynthia G. Pierre, Ph.D.  
Regional Director

Enclosure