

March 8, 2016

Dr. G.P. "Bud" Peterson
Office of the President
Georgia Institute of Technology
North Avenue
Atlanta, Georgia 30332

Re: Complaint # 04-15-2466

Dear Dr. Peterson:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has concluded its investigation of the above-referenced complaint filed against Georgia Institute of Technology (Institute) on September 28, 2015, alleging discrimination on the basis of disability (XXXX). Specifically, the Complainant alleged that the Institute failed to timely provide XXX approved auxiliary aid of accessible course materials, lab materials and textbook, as well as a properly functioning test computer to use for the exams in XXX fall 2015 XXXXXX course. XXX also alleged the Institute provided only XXXXXX information that XXXXXXXXX, and underpaid XXX by approximately XXXX per month, of which, XXX received reimbursement for XXXXXXXXXX but not for the XXXXXXXXXX.

As a recipient of Federal financial assistance from the Department, the Institute is subject to the provisions of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 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 (FFA). As a public entity, the Institute is also subject to the provisions of Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

Legal Standards

The Section 504 implementing regulation at 34 C.F.R. § 104.3(l)(3) defines a qualified person with a disability with respect to postsecondary education services, as a person with a disability who meets the academic and technical standards requisite to admission or participation in the postsecondary institution's education program or activity.

Qualified students with disabilities may not, on the basis of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education aid, benefits or services, in accordance with the Section 504

implementing regulation at 34 C.F.R. § 104.43(a). The Appendix A to Part 104 of the Section 504 regulations explains that in order to provide equally effective participation comparable to that provided to persons without disabilities, adjustments to regular programs or the provision of different programs may sometimes be necessary.

The Section 504 implementing regulation further provides at 34 C.F.R. § 104.44(d) that postsecondary recipients take such steps as are necessary to ensure that qualified individuals with disabilities are not denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the program or activity because of the absence of educational auxiliary aids and services for students with impaired sensory, manual or speaking skills. Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions.

In the postsecondary setting, a student is not required to provide information to a recipient concerning a disabling condition (unless the student desires assistance from the recipient), and a recipient is not required to seek out students with disabilities. Consequently, the responsibility is with the student to identify a disabling condition and to request academic adjustments in a reasonable manner, as well as, to assist in identifying an appropriate and effective academic adjustment or auxiliary aid. Institutions of postsecondary education must provide aids or adjustments based on students' disabilities and individual needs when necessary to avoid discrimination. Students and the recipient should work collaboratively to enable them to have an equal opportunity to participate in the recipient's programs and activities.

Summary of Investigation

The Complainant began XXXXX study in the XXXXXXXXXXXX program in XXXXXXXX. The Complainant enrolled in a required course, XXXXXXXXXXXX in fall 2015 and the class started on XXXXXXX, 2015. XXX alleged the Institute failed to timely provide XXX the course materials in an alternate format accessible XXXX, as requested in XXXXXXX.

Currently, the Institute utilizes the Alternative Media Access Center (AMAC) to assist in providing alternate format materials to students with disabilities who require alternate materials. AMAC is a Georgia University System initiative committed to removing barriers and providing access to knowledge for individuals with learning, physical, sensory and print-related disabilities. According to the AMAC Student Participation Agreement, the student is responsible for registering for classes as soon as possible, obtaining the reading list, purchasing texts and providing that information to the Disability Service Provider (DSP). The DSP then contacts AMAC and orders the required texts. AMAC provides the text in the student's preferred format if available or if not, the next available format, and such is posted online to the students account within the AMAC Student Center.

Soon after receiving notification of this OCR investigation, the Institute offered to resolve this complaint through a voluntary resolution agreement. Pursuant to OCR's *Case Processing Manual* at §302, 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 Institute's request to resolve this complaint and the Institute entered into the enclosed Resolution Agreement, which when fully implemented, will resolve all of the allegations in this complaint.

Resolution Agreement

On March 4, 2016, the Institute signed the enclosed Resolution Agreement (Agreement), which once implemented, will fully address the complaint allegations in accordance with the requirements of Section 504 and Title II. The Agreement requires, among other items¹, that the Institute provide the Complainant with all of the course materials required for the course at issue in an accessible format, and assess, with OCR's review and approval, their current system to correct any problems with delays in processing alternate format requests or providing accessible computers for testing needed by students with disabilities, as well as to provide accessible job materials to employees with disabilities. The Agreement also requires the Institute to investigate and determine the proper pay rate, subject to OCR review and approval, and provide any reimbursement to the Complainant, as appropriate.

OCR will monitor the Institute's implementation of this Agreement to ensure that it is fully implemented. If the Institute fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504 and Title II. Further, the Complainant may file a private lawsuit in federal court regardless of whether 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, we will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Intimidation or retaliation against complainants by recipients of Federal financial assistance is prohibited. No recipient may 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.

¹ The specific details are in the attached signed Agreement.

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Thank you for your cooperation during the resolution of this complaint. If you have any questions regarding this complaint, please contact Angela Collins, Senior Attorney, at (404) 974-9346 or me at (404) 974-9356.

Sincerely,

/s/

Wendy Gatlin
Compliance Team Leader

Enclosure