



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

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REGION IV
ALABAMA
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February 20, 2018

Ms. Janet Villegas
Director, South Beach Campus
Beauty Schools of America
1011 Fifth Street
Miami Beach, FL 33139

Re: Complaint # 04-17-2392

Dear Ms. Villegas:

On August 22, 2017, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received the above-referenced complaint filed by the Complainant against Beauty Schools of America (School), alleging discrimination on the basis of disability.

Specifically, the Complainant alleged that the School failed to provide him academic adjustments and revoked his admission because of his disability.

OCR enforces 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 by recipients of Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department, the School is subject to Section 504.

Based on the allegation, OCR investigated whether the School discriminated against the Complainant on the basis of disability, by failing to provide him academic adjustments and by revoking his admission because of his disability, in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. §§ 104.4 and 104.44.

Before OCR completed its investigation, the School offered, and OCR agreed, to resolve the allegations by entering into a resolution agreement. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint "may be resolved at any time when, before the conclusion of an OCR investigation, the recipient expresses an interest in resolving the allegations and issues *and* OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation." Set forth below is a summary of the evidence that OCR obtained thus far in its investigation, which serves as the basis of the resolution agreement entered into by the School.

Legal Standards

The regulation implementing Section 504 at 34 C.F.R. § 104.4(a) states that no qualified person with a disability shall, on the basis of disability, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination under any program or activity that

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receives Federal financial assistance. The Section 504 implementing regulation at 34 C.F.R. § 104.4(b)(1)(i)-(iv) states that in providing any aid, benefit, or service, a recipient may not on the basis of disability: (i) deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service; (ii) afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others; (iii) provide a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others; or, (iv) provide different or separate aid, benefits, or services to persons with disabilities or to any class of persons with disabilities unless such action is necessary to provide qualified persons with disabilities with aid, benefits, or services that are as effective as those provided to others.

The Section 504 implementing regulation at 34 C.F.R. § 104.44(a) requires a postsecondary recipient 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. In addition, the Section 504 implementing regulation at 34 C.F.R. §§ 104.44(d) (1) and (2) require a postsecondary recipient to take such steps as are necessary to ensure that no qualified individual with a disability 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. 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. The postsecondary recipient need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

Summary of Investigation

The Complainant alleged he enrolled at the School in the fall of 2017. The School's Catalog provides that the School complies with all requirements under Section 504. The Complainant, however, alleged the President of the South Beach Campus revoked his admission because of his disability, without providing him academic adjustments. The Complainant acknowledged that the School's Academic Counselor has since contacted him, inviting him to attend the School; however, the Complainant has expressed not being interested in enrolling at the School.

OCR did not complete the investigation to determine whether the School subjected the Complainant to discrimination on the basis of disability by revoking his admission because of his disability, without providing him academic adjustments, in noncompliance with Section 504.

Resolution Agreement

To remedy the allegations raised by OCR's complaint, the School agreed to implement the provisions of the attached Resolution Agreement (Agreement), which when fully implemented, will resolve the issue in this complaint. Pursuant to the terms of the Agreement, the School will, subject to OCR's review and approval, revise its notice of nondiscrimination to (a) notify students and applicants for admission that it does not discriminate on the basis of disability in admission or

access to its program or activities and, to (b) include the name or title, address and telephone number of the appointed employee or employees designated to coordinate its efforts to comply with and carry out its responsibilities under Section 504; and, the School will also provide the Complainant a written statement inviting him to apply to the School and stating that the School does not discriminate on the basis of disability in admission or access to its program or activities and provides 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.

The Agreement is aligned with the complaint allegations and the information obtained thus far and is consistent with applicable regulations under Section 504. OCR will monitor the School's implementation of the Agreement to ensure that it is fully implemented. If the School fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504.

This concludes OCR's investigation of the complaint and should not be interpreted to address the School's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. The Complainant may file a private lawsuit in federal court regardless of whether OCR finds a violation.

This letter sets forth OCR's determination in an individual 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 duly authorized OCR officials and made available to the public.

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 possible, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Finally, OCR reminds the School that 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.

OCR will proceed with monitoring the Agreement, effective the date of this letter. OCR is committed to a high quality resolution of every case. If you have any questions regarding this complaint, please contact Ms. Claudia Campo, the assigned attorney, at (404) 974-9378, or, me, at (404) 974-9376.

Sincerely,

/s/
Arthur Manigault
Compliance Team Leader

Enclosure