

May 15, 2019

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University of Florida
Gainesville, Florida 32611

Re: OCR Complaint No. 04-18-2253

Dear XXXXXX:

The U.S. Department of Education (Department), Office for Civil Rights (OCR) has completed its resolution of the above-reference complaint filed by XXXXXX (Complainant) against the University of Florida (University) on May 16, 2018, alleging discrimination on the basis of disability. Specifically, the Complainant alleged that the University retaliated against him, following his complaints of disability discrimination by: 1) dismissing him from the University's College of Dentistry in January 2018; and 2) denying his appeal from his dismissal from the University's College of Dentistry in April 2018.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 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; and Title II of the Americans with Disabilities Act of 1990, 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 a public entity, the University is subject to these laws. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

OCR began an investigation of the following legal issues in this complaint:

- 1) Whether the University retaliated against the Complainant, following his complaints of disability discrimination, by dismissing him from the University's College of Dentistry in January 2018, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.61 and the Title II implementing regulation at 28 C.F.R. § 35.134; and
- 2) Whether the University retaliated against the Complainant, following his complaints of disability discrimination, by denying his appeal from his dismissal from the University's College of Dentistry in April 2018, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.61 and the Title II implementing regulation at 28 C.F.R. § 35.134.

During this investigation, OCR reviewed documents received from the Complainant and the University. OCR also interviewed the Complainant and some faculty members at the University's College of Dentistry.

Factual Background

The Complainant enrolled in the University's College of Dentistry pursuing a Doctorate of Dental Medicine degree in August 2016. The Complainant was previously diagnosed with dyslexia and ADHD, and was registered with the University's Disability Resource Center during the fall of 2016. The Complainant received academic adjustments for testing, including a low distraction environment and time and one-half on exams for the fall 2016 semester. The evidence shows that the Complainant was provided academic adjustments in his courses during the fall 2016 semester, but was not provided extended time on his psychomotor exams (clinical exams) in his Dental Anatomy Course and received a failing grade in that course. Because the Complainant had failed a course, he was asked to attend a hearing before the Student Performance Evaluation Committee (SPEC Committee) at the College of Dentistry. The SPEC Committee voted to dismiss the Complainant and a dismissal letter was issued on February 1, 2017. The Complainant appealed the dismissal on February 8, 2017, alleging that he was not provided academic adjustments in his Dental Anatomy class. The dismissal was reversed on appeal on April 13, 2017 and the Complainant was reinstated.¹

During the fall 2017 semester, the Complainant repeated the Dental Anatomy course and was provided academic adjustments, including extended time on his psychomotor exams. The Complainant failed the course again and attended another hearing before the SPEC Committee on January 17, 2018. The Complainant was dismissed from the College of Dentistry again on January 26, 2018. The Complainant appealed his dismissal on February 7, 2018, which was affirmed on March 16, 2018. The Complainant then appealed to the Provost, who also affirmed the dismissal on April 11, 2018.

Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved, before the conclusion of an investigation, when the recipient or public entity expresses an interest in resolving the complaint. Prior to the completion of OCR's investigation, the University requested to voluntarily resolve the issues in this complaint.

¹ The Complainant further appealed to the Provost's Office, requesting that he not have to repeat some of his first-year dental courses. In July 24, 2017, the Provost's Office issued a letter to the Complainant upholding the initial decision on appeal that he would have to repeat some but not all of his first-year courses.

OCR received the enclosed Resolution Agreement (Agreement), which when fully implemented, will resolve the issues identified above. OCR will monitor the University's implementation of this Agreement to ensure that this is fully implemented. If the University fails to implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504 and Title II.

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, 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. If OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information that, if released, could constitute an unwarranted invasion of privacy.

If you have any questions about this letter, please contact Laura Mitchell at (404) 974-9456.

Sincerely,

Andrea de Vries
Compliance Team Leader

cc: XXXXX