



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

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February 26, 2019

John Thrasher, J.D.
President
Florida State University
211 Westcott Building
Tallahassee, FL 32306-1470

Re: OCR Complaint No. 04-18-2401

Dear President Thrasher:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education (the Department), Office for Civil Rights (OCR), received on September 11, 2018 against Florida State University (the University). The Complainant alleged that the University discriminated against the Student on the basis of disability. Specifically, the complaint alleges that the Student's Clinical Practice professor failed to provide her with the approved academic adjustment of extra time to complete assignments, which resulted in her failing the course in the Spring 2018 semester.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. Because the University receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

OCR investigated the following legal issue:

Whether the University failed to provide the Student with approved academic adjustments, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. § 104.44(a).

During the course of the investigation, OCR reviewed documents provided by both the University and the Complainant, including correspondence between the Student and the Professor, correspondence between University staff concerning the Student's request for academic adjustments as well as correspondence between University staff and the Student. OCR also interviewed the Student and the University's Director of Student Disability Services.

Prior to the completion of OCR's investigation, the University requested to voluntarily resolve this complaint. Pursuant to Section 302 of OCR's Case Processing Manual (CPM), a complaint may be resolved, before the conclusion of an investigation, when the recipient or public entity expresses an interest in resolving the complaint and OCR determines that it is appropriate to resolve the complaint with an agreement. OCR proposes to accept the University's request to resolve the complaint under CPM Section 302.

Legal Standard

Under the Section 504 implementing regulation at 34 C.F.R. § 104.44(a), a recipient to which this subpart applies shall 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 disabled applicant or student. Academic requirements that the recipient can demonstrate are essential to the instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

Facts

The Student has a disability called Nystagmus, which causes her eyes to make involuntary movements at unpredictable times. In the fall semester 2017, the Student contacted the University's Student Disability Resource Center (SDRC) requesting accommodations. The Student was provided with a Statement of Student Understanding, which detailed what she was agreeing to by using accommodations at the University, and an accommodation letter dated October 3, 2017, outlining her approved accommodations, which she was to provide to her instructors. The Student was approved for extensions for assignments and/or tests if disability-related, extended time on tests, exams, and quizzes (100% additional time), extensions for assignments and/or tests if disability-related, breaks during testing sessions, and no scantrons.

For the spring semester 2018, the Student enrolled in Clinical Social Work Practice (Clinical Practice). On January 30, 2018, the Student sent an email to the Professor attaching her accommodations letter, explaining her disability, and expressed concern about her performance on the previous course assignment. The Student asked the Professor for an opportunity to extend her deadline for assignments, as outlined in her accommodations letter. In response, the Professor asked the Student to get in contact with her assistant so that an alternative assignment or other arrangements could be made. The Student told OCR that during her Spring 2018 course, her professor refused to allow her to use her extended time on assignments accommodation.

The data revealed that while the Professor did attempt to accommodate the Student by offering alternative assignments and other options to complete her work, the Professor did not offer the student extended time on her assignments as outlined in her accommodations letter. When the Student attempted to turn in assignments after the deadline, citing her disability as the reason for the need, the Professor said that the Student needed to provide the Professor with advance notice

that she would require the extension. However, the Student informed OCR that her disability is sporadic and cannot be predicted.

Around March 26 and April 16, 2018, prior to the conclusion of the course, the Student contacted the SDRC and asked for guidance regarding the Professor's failure to provide her accommodations. The representative in the office explained that the Student would need to let her professor know in advance of a need for an extension. After failing the course, the Student appealed her grade and the University's grade appeal committee determined that because the Professor offered the Student suitable disability accommodations, the Student's grade appeal was denied. In June 2018, the Student requested an Accommodation Review by the SDRC, asking that the requirement that she must provide prior notification to an instructor when she needed extensions on assignments be removed. The previous SDRC Director denied the Student's request.

During the interview with the current SDRC Director, she explained to OCR that professors are not authorized to alter the accommodations that a student has been granted by the SDRC. When asked to explain the process by which a student with episodic disabilities should request extended time on assignments, the SDRC Director explained that the University's policy requires students to work out the logistics of extended time with individual professors. However, she explained that this policy is only listed on the faculty website regarding assisting students with disabilities. She explained that the University's SDRC was in the process of revising its students' rights and responsibilities letter to include this information for students. She added that while the University would like students with episodic disabilities to provide at least 24-hour notice of a needed deadline extension, the SDRC understands that a student may not know of the need until the deadline is only an hour away.

Analysis

Prior to OCR's completion of the investigation, the University expressed an interest in resolving this allegation under Section 302 of the CPM and OCR determined that such a resolution was appropriate because OCR's investigation had identified compliance concerns that should be addressed through a resolution agreement. The University signed the enclosed Resolution Agreement that, when fully implemented, will resolve the complaint. The Agreement requires the University to send the Complainant a written notice informing her that the University will revise her official University transcript by changing the grade notation for her spring semester 2018 "Clinical Practice" course to "W" (withdrawal), and recalculating her cumulative grade point average, including her fall semester 2018 grade (A-) in the "Clinical Practice" course. The University will refund the Complainant or credit her student account 100 percent of the tuition and fees directly related to her spring semester 2018 "Clinical Practice" course. The University will revise its Student Disability Resource Center policies to include additional language referencing the University's policies concerning accommodations with regard to due dates/extensions on assignments. Lastly, the University will provide training to all staff/personnel in the Student Disability Resource Center on how to develop and provide Section 504 and Title II compliant academic adjustments for disabled students with episodic disabilities. In its training to faculty starting fall semester 2019, the Student Disability Resource Center will

include how to develop and provide Section 504 and Title II compliant academic adjustments for disabled students with episodic disabilities.

Conclusion

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.

OCR is committed to prompt and effective service. If you have any questions, please contact Lachauna Edwards, Attorney, at (404) 974-9390 or by email at Lachauna.Edwards@ed.gov.

Sincerely,

Lachauna Edwards
Acting Compliance Leader