



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

500 WEST MADISON ST., SUITE 1475
CHICAGO, IL 60661-4544

REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

June 29, 2016

Mr. Ross Bravo
Chief Executive Officer
Tricoci University of Beauty Culture
2000 Spring Road, Suite 202
Oak Brook, IL 60523

Re: OCR #05-16-4015

Dear Mr. Bravo:

This is to notify you of the disposition of the complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR) on January 7, 2016, against Tricoci University of Beauty Culture (University) alleging discrimination on the basis of disability (ADHD).

Specifically, the Complainant alleged that in 2015 the University discriminated against her on the basis of disability when it failed to provide her with extended time on tests and testing in a quiet place.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504), and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in educational programs or activities that receive Federal financial assistance. As a recipient of Federal financial assistance, the University is subject to these laws.

During its investigation, OCR reviewed documentation provided by the Complainant and the University, and interviewed the Complainant and several University staff members.

University Policies and Procedures

The University publishes a Student Catalog each year. This document, which is not available online, contains the University's non-discrimination policy. This policy sets forth the University's commitment to providing equal education opportunities in all of its programs and activities without regard to an individual's age, sex, race, disability in addition to several other factors.

The Student Catalog also advises students with disabilities who are seeking reasonable accommodations to "notify the [General Manager] and/or Section 504 Administrator" of the need for accommodations. The Student Catalog advises students, in different sections, to either submit

a “Section 504 Accommodation Request Form” or an “IEP Acknowledgement Form.” The University also provides students with a “Section 504 Accommodations Acknowledgement Form” but its purpose is not clear. Finally, the University’s website advises that its programs are “fully compliant with Section 504 of the Rehabilitation Act of 1973, which is a national law that protects qualified individuals from discrimination based on their disability.”¹

Factual Summary

The Complainant told OCR that she enrolled in the University’s cosmetology program and began taking classes at the XXXXXX campus in March 2015. On March 13, 2015, she delivered a copy of her Individual Education Program (IEP) from high school to the former General Manager at the Elgin campus. A short time later the Complainant and several University employees met and signed the University’s “IEP Acknowledgement Form” (“the form”). The form lists the academic adjustments the Complainant received in high school, namely, extended time on tests and testing in a quiet place. The Complainant told OCR that no one explained the purpose of the form nor was she told that she needed to do anything more than complete the form in order to receive academic adjustments. The bottom of the form reads, “I acknowledge that while [the University] is committed to supporting my educational needs, I am also responsible for owning my education and communicating my needs.” The Complainant said she did not understand what this meant and no one explained it to her.

The Complainant alleged she attended the University from March to September 2015 and never received academic adjustments. A few weeks after completing the IEP Acknowledgement form the Complainant failed and exam. She then spoke with the former General Manager who told her she would set up a meeting to discuss the issue; however, the former General Manager left the University shortly thereafter and no other steps were taken by the Complainant.

In June 2015 the University assessed all students and determined that the Complainant was making satisfactory academic progress. In XXXXXX the University dismissed the Complainant for violating its policy against XXXXX. The Complainant did not assert that her dismissal was related to not having received academic adjustments. The Complainant transferred the credits she earned while a student at the University to another cosmetology school. The Complainant’s final transcript indicates that at the time of her dismissal her overall grade average was 91.07.

Initially the University asserted that completing the IEP Acknowledgement form was nothing more than acknowledgement that the student provided an IEP and did not constitute a request for academic adjustments; however, at least one University staff member told OCR she was unaware of what, beyond completing the form, was required in order for a student to receive academic adjustments.

¹ <http://www.tricociuniversity.edu/admissions-financial-aid/admissions-process/>

OCR interviewed the Campus Director² of the University's XXXXX and XXXXX campuses. She told OCR that she was assigned the responsibility of overseeing the XXXXX campus in June 2015. Her main responsibilities are to oversee the day-to-day operations of the programs at those two campuses and to work with students and staff on a variety of issues, including the process for obtaining academic adjustments. She told OCR that the process begins when a student or an education specialist completes an IEP Acknowledgement form. Once the form is accepted, the student is responsible for communicating his or her needs to the instructor. The Campus Director told OCR that the Complainant did not receive academic adjustments because she never communicated the contents of her IEP, and therefore the IEP Acknowledgement form, to her instructors. She also told OCR that the educational specialist at the XXXXX campus did not know that the Complainant had an IEP because any documents related to a student's disability and request for academic adjustments are kept at the University's headquarters, and not at the campus where the student attends classes.

OCR also interviewed the Executive Director of Student Operations (the ED). The ED has worked for the University for nine years and currently oversees student operations, including University policies, the student catalog and working directly with each of the 14 campuses. She said the process to obtain academic adjustments begins with the student obtaining a '504 Accommodation Request' form from the office of the Campus Director. The student must then submit a completed 504 Accommodation Request form to the 504 Administrator who would then review the request with the student. Upon approval of a request for academic adjustments, the campus's Student Affairs Coordinator (SAC) becomes the main contact for the student.

When asked what role the IEP Acknowledgement form played in the process for obtaining academic adjustments or accommodations the ED said "we will accept an IEP but typically students here are seeking extra time on tests." The ED explained to OCR that if a student submitted an IEP from high school the student would not also need to submit a 504 Accommodation Request form. However, if a student with an IEP felt she needed an academic adjustment not listed on the IEP she would then have to submit a 504 Accommodation Request form.

Finally, OCR interviewed the Student Affairs Coordinator (SAC) for the XXXXX campus. The SAC told OCR that she was the Student Affairs Manager (SAM) at the time of the Complainant's enrollment but requested fewer responsibilities for personal reasons.³ She told OCR that her understanding of the process was that a signed IEP Acknowledgement Form was all a student needed to submit to receive academic adjustments. However, she also explained that there were two ways for a student to receive academic adjustments. The SAC explained that one

² This position was previously referred to as the General Manager.

³ The position of Student Affairs Manager is currently vacant at the XXXXX campus. A primary responsibility of the Student Affairs Manager is to serve as the campus's 504 Coordinator.

way was for students who enrolled at the University and provided an IEP that called for “education-related accommodations.” In this case the student would bring in her IEP, the listed accommodations would be transferred to an IEP Acknowledgement form, all relevant parties would sign that form and then the student would be eligible to receive the listed accommodations. The other way was used when a student needed accommodations other than education-related academic adjustments. The SAC provided the example of a student with diabetes who needed to test her blood sugar levels during a lecture. The SAC said that was not considered an “education-related accommodation”. In this case, the student would need to complete and submit to the SAM a “504 Accommodation Request”. The SAM would review the form and determine what “accommodations other than education-related academic adjustments” the student would receive. Finally, the SAC said that all students are advised of the 504 process during orientation and it is also listed in the Student Catalog.

Applicable Legal Standards

Discrimination generally

The regulation implementing Section 504 at 34 C.F.R. § 104.4(a) provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a recipient, or be subjected to discrimination by a recipient of Federal financial assistance.

Academic Adjustments

The regulation implementing Section 504 at 34 C.F.R. § 104.44(a) provides that recipients must make modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating against qualified disabled students. Under the applicable regulations, postsecondary recipients may require a student to follow reasonable procedures to request and document the need for academic adjustments and/or other modifications, including modifications to policies, practices and procedures. In postsecondary settings generally, if a student with a disability believes that he needs an academic adjustment and/or other modification, the student has the obligation to identify himself as having a disability and to request the provision of academic adjustments and/or other modifications. A student’s request for an academic adjustment and/or modification must be sufficiently direct and specific, identifying the type of academic adjustment and/or modification needed.

Although students may request academic adjustments at any time, students needing services should notify the institution as early as possible to ensure that the institution has enough time to review their request and provide an appropriate academic adjustment. If the academic adjustments provided are not meeting a student’s needs, it is the student’s responsibility to notify the institution as soon as possible.

Analysis

The Complainant asserts that she requested extended time on tests and a quiet testing place while she was a student at the University, but did not receive these academic adjustments. Both the Complainant and the University acknowledge that the Complainant submitted an IEP Acknowledgement Form, as she was instructed to do. Three University employees also signed this form but none of them advised the Complainant that additional documentation and/or forms were required. The University's witnesses provided contradictory testimony as to what additional documents/forms were required.

OCR's review of the evidence shows that the University does not have a clear process for obtaining academic adjustments. Witness testimony was contradictory as to which forms were needed in what circumstance. However, OCR's review of the evidence also shows that the Complainant was able to transfer the credits she earned while a student at the University to another cosmetology program. In addition, at the time of her dismissal for a non-disability related reason, the Complainant's overall grade average was 91.07. The Complainant did not assert any adverse actions because the University did not provide her with academic adjustments. Thus, taking all of these facts into consideration, OCR has concluded that the Complainant did not suffer an individual harm that requires remediation.

Prior to the conclusion of OCR's investigation, the University expressed an interest in resolving this complaint. In accordance with Section 302 of OCR's *Case Processing Manual*, OCR discussed resolution options with the University. The University subsequently signed the enclosed agreement, which, when fully implemented, will resolve the complaint. The provisions of the Agreement are aligned with the allegation and the information obtained during OCR's investigation and are consistent with Section 504 at 34 C.F.R. §104.43 and 34 C.F.R. §104.45(a), the implementing regulations which were at issue in this complaint.

OCR looks forward to receiving the University's first monitoring report, which is due on September 1, 2016.

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.

If you have any questions, please contact me or Susan Johlle at 312-730-1586 or by email at Susan.Johlle@ed.gov.

Page 6 – Mr. Bravo, #0516-4015

Sincerely,

Dawn Matthias
Team Leader

cc: XXXXX

Enclosure