



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

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

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June 6, 2017

Dr. Patrick E. White
President
Millikin University
1184 W. Main St.
Shilling Hall, Room 202
Decatur, IL 62522-2084

Re: Case No. 05-17-2087
Millikin University

Dear President White:

This is to advise you of the resolution of the above-referenced complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), which alleged that the Millikin University (University) subjects students to discrimination on the basis of disability by maintaining policies that impose an additional financial burden on students with disabilities who require modifications to University housing arrangements.

OCR is responsible for enforcing 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 in programs and activities receiving financial assistance from the U.S. Department of Education (the Department). The University is a recipient of financial assistance from the Department; therefore, OCR had jurisdiction to investigate this complaint under Section 504.

During its investigation, OCR reviewed information and documentation submitted by the Complainant and the University, and spoke with University staff. Prior to OCR's reaching a formal compliance determination with respect to the complaint allegation, on June 5, 2017, OCR entered into a resolution agreement (agreement) with the University to resolve this complaint.

Applicable Legal Standards

The regulation implementing Section 504, at 34 C.F.R. § 104.4(a), states that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity that receives or benefits from Federal financial assistance. Further, the regulation implementing Section 504, at 34 C.F.R. § 104.4(b)(4), states that a recipient may not, directly

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or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability. In addition, the regulation implementing Section 504, at 34 C.F.R. § 104.43(a), provides that no qualified individual with a disability shall, on the basis of disability, be subjected to discrimination regarding housing in a postsecondary education program or activity.

Facts

According to the Complainant, the University charges students who require single rooms as an accommodation for their disabilities at the higher single room rate, and charges for amenities such as air conditioning or kitchens, when the students need those as accommodations.

According to the University, it does not discriminate on the basis of disability. Students may request and document their needs for housing accommodations through the Office of Residence Life.¹ According to the University, incoming first year students live in University residence halls, some with single rooms and some with double rooms. Some residence halls are air conditioned and some are not. Upper class students (sophomores, juniors, seniors, and transfer students) are housed in a residential community called The Woods. The Woods is composed of 13 apartment buildings with 156 units, all with single bedrooms, bathrooms, a kitchen with a dishwasher, a living area, a washer/dryer combo, and amenities such as a pool, fitness area, computer lab, and theater room. Some students choose fraternity or sorority housing, and seniors may live off campus.

The University provided OCR with its housing assignments for 14 students with disabilities who requested accommodations in 2016-17. OCR spoke about these assignments with the University's Director of Residence Life and Director of Student Success, who make housing assignments for students with disabilities. OCR noted that in 4 instances, it needed to conduct further investigation to determine whether these students were charged for their accommodations. However, prior to OCR's reaching a formal compliance determination with respect to the provision of nondiscriminatory housing opportunities to these students with disabilities, the University requested to resolve the allegation by means of a voluntary resolution agreement.

Conclusion

On June 5, 2017, the University signed and submitted to OCR a voluntary resolution agreement that when fully implemented, will ensure the University's compliance with the requirements of Section 504 as they pertain to the University's provision of nondiscriminatory housing opportunities to student with disabilities. The agreement provides that the University will review and, with OCR's approval, revise its policies and procedures

¹ <https://www.millikin.edu/campus-life/residence-life/campus-living/special-housing-requests>

for the provision of housing accommodations for students with disabilities to ensure that such students with documented Section 504 qualifying disabilities are not charged higher residence hall room rates solely because of the need for housing accommodations due to disabilities. The agreement further requires the University to train University officials and administrators who are involved in admissions inquiries, as well as in the process of evaluating requests for, making decisions about, and billing for, housing accommodations for students with disabilities. The agreement further requires the University to assess the rates charged to students with documented Section 504 disabilities who received single rooms and other amenities as necessary housing accommodations during 2016-2017, and who are to receive such accommodations in 2017-18, to ensure that such students are reimbursed, where appropriate, and are not charged in the future for accommodations that will be provided due to their disabilities.

OCR will monitor the agreement. Please be advised that should the University fail to fully implement the Agreement and to provide data to OCR in order for OCR to determine compliance with the Agreement, then OCR will take appropriate action to ensure the University's compliance with Section 504. Accordingly, if the University fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. However, before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR will provide the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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. 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. 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 individual 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, it 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.

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OCR appreciates the University's cooperation throughout this investigation, particularly the kind assistance of Dean Raphaella Prange. If you have any questions, please contact Judith Levitt at 312.730.1589 or Judith.Levitt@ed.gov.

Sincerely,

Dawn Matthias

Enclosure