



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

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**REGION V**  
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January 8, 2018

Dr. Michael A. McRobbie  
President  
Indiana University  
Bryan Hall 200  
107 S. Indiana Ave.  
Bloomington, IN 47405

Re: OCR # 05-17-2345

Dear Dr. McRobbie:

This is to notify you of the disposition of the above-referenced complaint filed against Indiana University (University) with the U.S. Department of Education (Department), Office for Civil Rights (OCR).

Specifically, the complaint alleges that the University subjected a student with a disability (Student A) to discrimination based on disability when it denied her application for admission to the University's Kelley School of Business (Kelley) for the 2017-2018 academic year.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibits discrimination on the basis of disability by recipients of Federal financial assistance. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 - 12134, and its implementing regulation at 28 C.F.R. Part 35, which 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.

During its investigation, OCR reviewed data provided by the Complainant and the University and interviewed Student A and University personnel. Prior to the conclusion of OCR's investigation, the University expressed interest in resolving the complaint. Discussions between OCR and the University resulted in the University signing the enclosed Resolution Agreement (Agreement), which, when fully implemented, will resolve the issues raised in the complaint.

### **Legal Standards**

The regulation implementing Section 504, at 34 C.F.R. § 104.4(a), provides, in part, that no qualified person 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 under any program or activity which receives or benefits from Federal financial assistance from the Department. The regulations implementing Section 504, at 34 C.F.R. §§ 104.4(b)(1)(ii) and (iv), provide, in

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

relevant part, that a recipient shall not deny a qualified individual with a disability an aid, benefit or service, or provide such aid, benefit or service to an individual that is not equal to or is different from that provided to others because of the individual's disability.

The regulation implementing Section 504, at 34 C.F.R. §104.44(a), requires that postsecondary institutions make such modifications to their 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 applicant or student with a disability. 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. Recipients are not required to make modifications that are essential to the instruction being pursued or would fundamentally alter the nature of the service, program or activity.

### **University Policies and Procedures**

The University's non-discrimination notice provides that it prohibits discrimination based on disability. The University's Americans with Disabilities Act Policy (ADA Policy) provides the procedures for individuals with a disability to request modifications. The ADA Policy also provides that individuals may file grievances with the University's ADA Coordinator and includes a link with contact information for this person.

### **Facts**

In the 2016-2017 academic year, Student A was a freshman at the University. On November 16, 2016, Student A contacted the University's Disability Student Services office (DSS) to request extra time on examinations due to a disability. On November 30, 2016, DSS approved Student A's request. In the first semester, Student A received 3 grades of C, 2 grades of C +, 1 grade of B-, and 1 grade of A-. In the second semester, Student A received 4 grades of A and 2 grades of A-.

In spring 2017, Student A applied for undergraduate admission to Kelley. As part of her application, Student A provided a letter from DSS that stated that once she began to receive academic adjustments, she showed a substantial improvement in her class performance and that her second semester grades were a "truer reflection of her academic work."

On June 23, 2017, the Kelley Admissions Committee emailed Student A denying her application for admission. On June 28, 2017, Student A emailed the Admissions Committee asking if the Admissions Committee received and reviewed the letter from DSS. Student A argued that, once she received the appropriate academic adjustments, her grades improved. She stated, "What I am asking for is [a] deeper consideration of my abilities, which were better represented once my medical disabilities accommodations were put into effect, and to be able to [perform] another semester with the award of being [deferred] Fall 2017 admission."

On June 30, 2017, Associate Director A responded to Student A by email stating that the Admissions Committee did consider all the information submitted, including the letter from DSS. She explained that Kelley's admissions process was holistic and stated:

The committee noted that while you had earned A's in the spring semester, you had five grades below a B in the fall semester, specifically in quantitatively based courses. The committee heavily weights the quantitative courses as the Kelley degree is made up of majority quantitative courses, and excelling in those courses is vital to a student's success. While the committee noted an excellent upward grade trend in the spring semester, they indicated a concern for the fall semester quantitative courses and the rigor of your spring semester. This is ultimately what caused your application to be denied.

Student A spoke to her advisor about her request to consider a third semester, and her advisor contacted Kelley administrators regarding Student A's concerns. On August 2, 2017, Associate Director B emailed Student A in response. She said the Admissions Committee reviewed all the materials submitted, including the letter from DSS, and conducted a second review of Student A's application after the June 28 email. She stated that the status remains the same.

Student A asserted that the University subjected her to discrimination based on disability because it failed to consider her request to review a third semester of grades as a disability-related modification to its admission policy to consider two semesters of grades. Student A argues that her grades improved once she received the necessary academic adjustments.

OCR interviewed the Admissions Director, Associate Director A, and Associate Director B at Kelley. The Director said students are automatically admitted if the student has taken 30 credit hours, including required pre-requisites, achieved a minimum of 3.0 GPA with all Bs or above, and has no course withdrawals. He said the Admissions Committee conducts a comprehensive review of all remaining applications.

Associate Directors A and B told OCR that Student A was not admitted to Kelley because she had multiple grades below B in quantitative courses, which they said were an indicator she would not perform well in the program. Associate Director B said that, although her grades improved second semester, Student A did not take quantitative courses that are predictors of success in the program. Associate Director A said that Kelley does not allow for appeals, but she did review Student A's application again when she emailed the Admissions Committee on June 28, 2017.

Associate Directors A and B told OCR that they did not understand Student A's request to be a request for a disability-related modification to its admissions policy. Associate Director B told OCR that the Admissions Committee has occasionally considered a student's performance in a third semester in making an admissions decision. She said the Admissions Committee did so for two applicants in spring 2017. She said she did not know the disability status of these two applicants.

### **Analysis and Conclusions**

Prior to the conclusion of this investigation, the University requested to resolve the complaint. OCR has determined that it is appropriate to resolve this complaint at this juncture because OCR's investigation has not proceeded to a point where a finding is clear. OCR would need to gather additional information, including conducting additional interviews. The Agreement requires the University to:

- review and revise, as necessary, its Kelley policies and procedures related to modifications for students with disabilities to include a provision requiring the initiation of an interactive process when a student with a disability requests a policy modification and publish the revised policies and procedures on its website;
- train Kelley administrators and undergraduate Admissions Committee members and other University officials who have responsibility to implement and enforce the revised policies and procedures; and
- extend an offer to Student A to begin an interactive process with Student A to consider her request for a policy modification in connection with her request for admission to Kelley and, if Student A accepts the offer, complete the process consistent with the requirements of Section 504 and Title II and consider any other relief necessary.

Based on the commitments the University has made in the Agreement described above, OCR has determined that it is appropriate to close the investigative phase of this complaint. OCR will monitor the implementation of the Agreement.

This letter sets forth OCR's determination in an individual OCR complaint. It 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.

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.

Additionally, 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.

The complainant may file a private suit in federal court whether or not OCR finds a violation.

OCR greatly appreciates the ongoing cooperation received from the University during the investigation and resolution of this case. We particularly appreciate the cooperation of Ms. Kiply

S. Drew, counsel for the University. If you have any questions about this letter, please contact Sunita Kini-Tandon, Senior Attorney, at 312-730-1452 or by email at [Sunita.Kini-Tandon@ed.gov](mailto:Sunita.Kini-Tandon@ed.gov).

Sincerely,

Jeffrey Turnbull  
Team Leader

Enclosure

cc: Ms. Kiply S. Drew