



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620
DALLAS, TX 75201-6810

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

August 22, 2018

Ref: 06-16-2154

Dr. Guy Bailey, President
The University of Texas Rio Grande Valley
One West University Blvd.
Brownsville, Texas 78520

Via first class mail and email (President@utrgv.edu)

Dear Dr. Bailey:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed processing of the above-referenced complaint, which was received in our office on March 22, 2016, and filed against the University of Texas Rio Grande Valley (UTRGV or University), in Brownsville, Texas. The Complainant alleged that the UTRGV discriminated against XXXX (Complainant) on the basis of disability by not providing XXXX with academic adjustments that both she and the UTRGV had agreed were necessary, and that the UTRGV does not have a fully-accessible website for persons with disabilities.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit 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, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance and as a public entity, the UTRGV is subject to these laws. Therefore, OCR has personal jurisdictional authority to process this complaint for resolution.

Based on the complaint allegations, OCR opened an investigation of the following issues:

1. Whether the UTRGV discriminated against the Complainant based on disability by failing to provide her with the University-approved auxiliary aid (i.e., extended time, and the ability to use screen-reader software during online tests), during the XXXX XXXX semester, in violation of Section 504 and its implementing regulation, at 34 C.F.R. Part 104, as well as Title II, and its implementing regulation at 28 C.F.R. Part 35; and
2. Whether, on a systemic basis, certain of the UTRGV web pages are not accessible to students and adults with disabilities including, but not limited to, vision impairments. These include:

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

- <http://www.utrgv.edu/equity/services/complaints/process/index.htm>
- <http://www.utrgv.edu/directory/people/index.htm>.

During investigation, the Complainant notified OCR that XXXX only took XXXX XXXX during the XXXX XXXX semester, that XXXX dropped the course, that disability services staff at the UTRGV erased the course from XXXX record, that the course does not show up on XXXX record at all, that XXXX did not have to pay any tuition for the course, and that XXX has not had any other involvement with the UTRGV beyond attendance in XXXX XXXX XXXX during the XXXX XXXX semester. Pursuant to OCR's Case Processing Manual (CPM), Section 108(i), OCR will dismiss an allegation when OCR obtains credible information indicating that the allegation is currently resolved or no longer appropriate for investigation. Based on the aforementioned, OCR has determined that Issue 1 is currently resolved and/or no longer appropriate for investigation. Accordingly, OCR is dismissing Issue 1 as of the date of this letter and will take no further action regarding Issue 1.

Prior to the completion of OCR's investigation, the UTRGV asked to resolve this complaint pursuant to Section 302 of OCR's CPM. On August 22, 2018, the UTRGV submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve Issue 2 in the complaint.

In light of the commitments the UTRGV has made in the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will monitor the UTRGV's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may request additional information as necessary to determine whether the UTRGV has fulfilled the terms of the Agreement and is in compliance with Section 504 and Title II with regard to the issues raised.

If the UTRGV fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR shall give the UTRGV written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This concludes OCR's investigation of the complaint and should not be interpreted to address the UTRGV'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.

Please be advised that the UTRGV 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 harmed individual may file a complaint alleging such treatment.

The Complainant may file a private suit in Federal court, whether or not OCR finds a violation.

Under the Freedom of Information Act, it may be necessary to release this letter 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.

OCR looks forward to receiving the UTRGV’s monitoring report by July 31, 2020. For questions about implementation of the Agreement, please contact Michael J. Pillera, Civil Rights Attorney, at (214) 661-9614 or by email at Michael.Pillera@ed.gov. For questions about this letter, you may contact Michael J. Pillera or Paul Coxe, Supervisory Attorney/Team Leader, at (214) 661-9608 or Paul.Coxe@ed.gov.

Sincerely,

Paul Edward Coxe
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office

Enclosure

cc: XXXX XXXX, Esquire, XXXX XXXX XXXX XXXX for the UTRGV (via email at XXXX);
XXXX XXXX, XXXX XXXX, XXXX XXXX XXXX XXXX XXXX, (via email at XXXX);
XXXX XXXX, Esquire, XXXX XXXX XXXX XXXX XXXX XXXX XXXX XXXX (via email at XXXX)