



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1999 BRYAN STREET, SUITE 1620
DALLAS, TEXAS 75201-6831

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

January 17, 2019

Dr. William J Bynum, Jr, President
Jackson State University
1400 John R. Lynch Street
Jackson, Mississippi 39217

OCR Complaint Nos: 06-16-2027
06-16-2292
06-17-2104

Dear Dr. Bynum:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaints, filed against Jackson State University (University), in Jackson, Mississippi. Complaints 06-16-2027 and 06-17-2104 both allege the University discriminated against the complainants based on disability and retaliated against them. Complaint 06-16-2292 alleges the University retaliated against the complainant.

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 prohibit discrimination and retaliation on the basis of disability; and Title II of the Americans with Disabilities Act of 1990 ("Title II"), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35, which prohibit disability discrimination and retaliation by public entities. The University receives federal financial assistance from the Department and is a public entity, therefore OCR has jurisdiction to resolve this complaint.

Below are the issues OCR opened for investigation based on the information provided by the complainants in their respective complaints.

With respect to complaint 06-16-2027, OCR opened for investigation the following legal issues:

- Whether the University failed to make such modifications to its academic requirements (i.e., a note-taker and tests and assignments provided via email) in a XX---to end of phrase redacted---XX course 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 student, by failing to provide the complainant with necessary academic adjustments during the spring and fall 2015 semesters, in violation of Section 504, at 34 C.F.R. § 104.44, and Title II, at 28 C.F.R. § 35.130; and
- Whether the University retaliated against the complainant by taking the following actions against XXX during the fall 2015 semester: XX---to end of phrase redacted ---XX, because XXX advocated for XXX rights as a student with a disability when XXX XX---to end of phrase redacted---XX, in violation of Section 504 and Title II, at 34 C.F.R. § 104.61, and 28 C.F.R. § 35.134, respectively.

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

With respect to complaint 06-17-2104, OCR opened for investigation the following legal issues:

- Whether the University failed to 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 student, by failing to provide the complainant with necessary academic adjustments and/or auxiliary aids in the Spring 2015 semester and thereafter XX---to end of phrase redacted---XX, in violation of Section 504, at 34 C.F.R. § 104.44, and Title II, at 28 C.F.R. § 35.130; and
- Whether the University retaliated against the complainant when XX---to end of phrase redacted---XX, because the complainant requested that XX be provided with accommodations, indicated XXX rights were protected under Title II, and otherwise advocated for XXX rights, in violation of Section 504 and Title II, at 34 C.F.R. § 104.61, and 28 C.F.R. § 35.134, respectively.

With respect to complaint 06-16-2292, OCR opened for investigation the following legal issue:

- Whether the University retaliated against the complainant after XXX advocated for XXX rights by XX---paragraph redacted---XX, in violation of Section 504 and Title II, at 34 C.F.R. § 104.61, and 28 C.F.R. § 35.134, respectively.

In its investigation to date, with respect to complaints 06-16-2027 and 06-17-2104, OCR has reviewed information provided by the complainants and the University, and conducted preliminary interviews with the complainants. Based on the evidence gathered to date, OCR has identified issues regarding the University's process for requesting and receiving accommodations.

As to complaint 06-16-2292, OCR has reviewed information provided by the complainant and the University, and conducted interviews with the complainant, several relevant witnesses, and University staff. Based on the evidence gathered to date, OCR has identified issues regarding alleged retaliatory adverse actions.

Prior to the completion of OCR's investigations, the University asked to resolve these complaints pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). OCR determined that it is appropriate to resolve the allegations at issue in these complaints because OCR's investigation has identified issues that can be addressed through a resolution agreement (Agreement). On January 17, 2019, the University submitted the enclosed signed Agreements to OCR. When fully implemented, the Agreements will resolve the allegations in the complaints.

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

This concludes OCR's investigations of these complaints. However, if the University fails to implement the Agreements, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreements. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreements, OCR shall give 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. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised 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. The complainant may have a right to 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 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 or concerns regarding this letter, please contact Linda Floyd, the attorney assigned to this complaint, at (214) 661-9657, or at linda.floyd@ed.gov, or me, at (214) 661-9608, or at paul.coxe@ed.gov.

Sincerely,

/s/

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

Enclosures

Cc: XX---to end of phrase redacted---XX