



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

January 24, 2019

Reference: OCR # 06192008

Dr. Taylor Eighmy, President
University of Texas at San Antonio
Main Building, Suite 4.122
The University of Texas at San Antonio
One UTSA Circle
San Antonio, TX 78249

Via first class mail and email to: president@utsa.edu

Dear President Eighmy:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its consideration of the above-referenced complaint, which was received by OCR on October 10, 2018 and filed against the University of Texas at San Antonio (UTSA) in San Antonio, Texas. The complainant (Student) alleged that the UTSA discriminated against him on the basis of his disability.

OCR is responsible for determining whether entities that receive or benefit from Federal financial assistance from the Department, or an agency that has delegated investigative authority to the Department, are in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulations at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulations at 28 C.F.R. Part 35. Under Title II, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities. UTSA is a recipient of Federal financial assistance from the Department and is a covered public entity. Therefore, OCR has jurisdictional authority to process this complaint for resolution under Section 504 and Title II.

OCR initiated the Rapid Resolution Process (RRP) in an attempt to resolve this complaint pursuant to Section 110 of OCR's Case Processing Manual (CPM). Specifically, OCR informed UTSA that the complainant alleged that:

1. On October 4, 2018, when the Student used an Americans With Disability Act (ADA) automatic door opener, while entering the Applied Engineering and Technology (AET) building, a professor used his position of authority to harass, intimidate and prevent the Student from using ADA devices on campus in the future by questioning his status as a disabled individual while shouting and laughing at him in front of other students and onlookers to publicly humiliate him.

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

2. On October 4, 2018, UTSA failed to respond to his report of disability harassment when the UTSA's EEO office declined to investigate the matter because the Student had not been denied services and he subsequently got the run around from other administrators.

During the processing of this complaint for resolution, OCR reviewed information and documentation provided by the UTSA and the Student.

The documentation reviewed by OCR, indicated that on October 4, 2018, the Student file a complaint with the UTSA campus police to report that he had been harassed by an UTSA professor, who laughed and yelled at the Student for using the ADA doors at the AET building on campus. In addition, on the same day, the Student also filed a formal complaint regarding the incident to the UTSA Equal Opportunity Services (EOS) Office. However, based on the information provided thus far, OCR had concerns that that the EOS Office fulfilled its obligation to take prompt and effective responsive action(s), as delineated in UTSA's policy and procedures, to appropriately address the reported disability-based harassment, and as required by the regulations implementing Section 504 and Title II.

During the investigation, the District informed OCR that it was interested in resolving the complaint, through a voluntary resolution agreement. Section 302 of OCR's *Case Processing Manual* provides that a complaint may be resolved at any time when, prior to OCR's issuance of a final determination, the recipient expresses an interest in resolving the allegations, and OCR determines it is appropriate to resolve them with an agreement. OCR approved the District's request to resolve this complaint.

The District voluntarily submitted the enclosed Resolution Agreement (Agreement) to resolve this complaint; the District signed the Agreement on January 10, 2019. OCR has determined that when fully implemented the Agreement will address all of the allegations. Further, OCR accepts the Agreement as an assurance the District will fulfill its obligations under Section 504 and Title II with respect to this complaint. The dates for implementation and specific actions are detailed in the enclosed Agreement. Accordingly, as of the date of this letter, OCR will cease all investigative actions regarding this complaint. However, OCR will actively monitor the District's implementation of the Agreement. Please be advised that if the District fails to adhere to the actions outlined in the Agreement, OCR will immediately resume its compliance efforts.

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. The complainant may have the 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, 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.

If you have any questions regarding this letter, please contact Treslyn Patterson, Equal Opportunity Specialist at (214) 661-9645, by email to treslyn.patterson@ed.gov or Melissa Malonson at (214) 661-9637, by email to melissa.malonson@ed.gov.

Sincerely,

A handwritten signature in cursive script that reads "Melissa Malonson".

Melissa Huling Malonson
Supervisory Team Leader Attorney
Office for Civil Rights
Dallas Office