



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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DALLAS, TX 75201-6810

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Dr. Vistasp M. Karbhari, President
The University of Texas at Arlington
321 Davis Hall
Box 19125
Arlington, TX 76019-0125
vkarbhari@uta.edu

Via U.S. mail and email

RE: OCR Complaint #06192018-The University of Texas at Arlington

Dear President Karbhari:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has resolved the above-referenced complaint, filed against the University of Texas at Arlington (UTA), in Arlington, Texas. The Complainant (or Student) alleged that UTA discriminated against her based on disability.

OCR is responsible for determining whether entities that receive or benefit from Federal financial assistance from the Department (recipients), are in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (amended 1992), and its implementing regulations, at 34 C.F.R. Part 104, which prohibit discrimination based on disability. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulations, at 28 C.F.R. Part 35, which prohibit public entities from discriminating on the basis of disability. UTA is a recipient and a covered public entity. Therefore, OCR has jurisdiction to process this complaint under Section 504 and Title II.

OCR opened for investigation the following legal issue:

- Whether UTA 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 Student with necessary academic adjustments (e.g., tardiness and absence leniency; permission to record lectures; slides/PowerPoint materials provided to the Student; reduced distraction environment for testing; double time on timed work (exams, quizzes, written assignments); occasional extension of due dates; and the requested additional time for all tests and assignments) during the Fall 2018 semester, in violation of Section 504, at 34 C.F.R. § 104.44, and Title II, at 28 C.F.R. § 35.130.

OCR reviewed information provided by Complainant and UTA. OCR also conducted preliminary interviews with the Complainant, UTA's representative, the Associate Director (AD) of UTA's

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

Office for Students with Disabilities (OSD), and the Complainant’s Professor (Professor). OCR’s review indicates that the Complainant met with the OSD AD in March of 2018, identified herself as an individual with a disability, and requested accommodations for the Fall 2018 semester. The evidence indicates UTA reviewed the Complainant’s request and approved several academic adjustments on August 19, 2018, including “Extended time (2X) for in-class and online timed work (tests, quizzes, pop quizzes, writing assignments)” (Time accommodations). At the time of the approved Time accommodation, the evidence indicates the Complainant was enrolled in three of the Professor’s classes (Classes 1, 2, and 3).

Evidence shows that on August 19, 2018, the Complainant attempted to send her accommodation letter (Letter 1) to the Professor, but did not send it to the Professor’s professional email address. On September 19, 2018, UTA approved an additional academic adjustment, “Occasional extension of due dates” (Date accommodations) and provided an updated accommodation letter (Letter 2) to the Complainant on the same day. Letter 2 included both Time and Date accommodations. The Complainant sent Letter 2 to the Professor on September 28, 2018, and referenced Letter 1 that the Complainant sent to the Professor on August 19. In the September 28 correspondence, the Complainant also requested that the Professor allow her to use the Date accommodation on two previous assignments (Assignments 1 and 2) in Class 1. On the morning of September 29, 2018, the Professor acknowledged receipt of both Letters 1 and 2. On October 12, 2018, the Professor sent the Complainant an email indicating the Date accommodations were not retroactive and, furthermore, did not apply to the entire category of assignments to which Assignments 1 and 2 belonged. The Professor also indicated the Time accommodation was inapplicable to this category of assignments. Further, the Professor indicated that none of the assignments in Classes 2 or 3 were eligible for the Time accommodation. The Professor also notified the Complainant of additional qualifications for the Time accommodation (as it related to quizzes that have a deadline).

OCR interviewed OSD AD. The OSD AD indicated that she did not realize the Professor indicated none of the assignments in Classes 2 or 3 were eligible for the approved Time accommodation. OCR’s preliminary review of the evidence reflects a concern as to whether the Student’s accommodations approved by the OSD were provided by the Professor.

Prior to the conclusion of OCR’s investigation, UTA informed OCR that it was interested in resolving the complaint. Section 302 of OCR’s *Case Processing Manual* provides that a complaint may be resolved at any time when, prior to the conclusion of an investigation, the recipient expresses an interest in resolving the allegation. The provisions of the resulting resolution agreement will be aligned with the complaint allegations or the information obtained during the investigation and will be consistent with applicable regulations. OCR approved UTA’s request to resolve this complaint prior to conclusion of the investigation.

UTA voluntarily signed the enclosed resolution agreement (Agreement) on July 17, 2019. OCR determined the Agreement addresses and resolves the issue under investigation, upon implementation. Thus, OCR is closing the investigation of this complaint as of the date of this letter. OCR will monitor implementation of the Agreement.

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 a recipient may not harass, coerce, intimidate, discriminate or otherwise retaliate against any individual because he or she asserted a right or privilege under a law enforced by OCR or filed a complaint, testified, or participated in the complaint resolution process. If this happens, the individual may file a retaliation complaint with OCR.

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 regarding this matter, please contact Craig Nydick, the attorney assigned to investigate this complaint, at (214)-661-9622 or craig.nydick@ed.gov. You may also contact me at (214)-661-9648.

Sincerely,

Timothy D. Caum
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office

cc: Mr. Shelby L Boseman (sboseman@uta.edu), University Attorney, UTA