



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS  
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November 21, 2022

**SENT VIA EMAIL**

Kelly M. Nash  
Senior Associate General Counsel  
Office of the General Counsel  
University of Kansas  
2001 Murphy Building  
3901 Rainbow Boulevard  
Kansas City, Kansas 66160  
[knash2@kumc.edu](mailto:knash2@kumc.edu)

Re: University of Kansas Medical Center  
OCR Case Number: 07222107

Dear Ms. Nash:

On May 26, 2022, the U.S. Department of Education, Office for Civil Rights (OCR), received the above-referenced complaint against the University of Kansas Medical Center (KUMC), located in Kansas City, Kansas, alleging discrimination based on disability. Specifically, the Complainant alleged KUMC denied [X---Remaining Sentence Redacted---X]. This letter is to confirm that KUMC has voluntarily entered into an agreement to resolve this complaint.

OCR enforces 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 based on disability in programs and activities that receive federal financial assistance. 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 regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive federal financial assistance.

Because KUMC receives federal financial assistance from the U.S. Department of Education and is a public entity, KUMC is subject to Section 504, Title II, and OCR's jurisdiction. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

During OCR's investigation to date, OCR interviewed the Complainant and reviewed documentation provided by the Complainant and KUMC, including internal and external communications, and documentation of the Complainant's disability on file with KUMC. To protect individuals' privacy, the names of the Complainant, school employees, witnesses, and other parties are not used in this letter.

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

## **Legal Standards**

The Section 504 regulation, at 34 C.F.R. § 104.43(a), provides that a qualified individual with a disability may not be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any postsecondary aids, benefits, or services on the basis of disability, including participation in a university's financial aid programs and employment of students.

Universities may establish reasonable requirements and procedures for students to provide documentation of their disability and request reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability. Students are responsible for obtaining disability documentation and for knowing and following the procedures established by the university. Once the student has provided adequate notice and documentation of his/her disability and the need for modifications due to the disability, the university must provide the student with appropriate reasonable modifications that are necessary to afford the student an equal opportunity to participate in the university's program or activity. However, the university is not required to make modifications that would result in a fundamental alteration of the university's program or activity or impose an undue burden.

In determining what modifications are appropriate for a student with a disability, the university should familiarize itself with the student's disability and documentation, explore potential modifications, and exercise professional judgment. The question of whether a university has to make modifications to its requirements is determined on a case-by-case basis. Section 504 envisions a meaningful and informed process with respect to the provision of modifications, e.g., through an interactive and collaborative process between the university and the student. If a university denies a request for a modification, it should clearly communicate the reasons for its decision to the student so that the student has a reasonable opportunity to respond and provide additional documentation that would address the university's objections.

## **Preliminary Investigative Findings**

The Complainant alleged that KUMC discriminated against the Complainant based on his disabilities by denying him [X---Remaining Paragraph Redacted---X].

The Complainant provided OCR with an email from the Senior Coordinator of XXXXX XXXXX at KUMC (Senior Coordinator), dated May 5, 2022, in which KUMC approved the following XXXXX:

[X---List Redacted---X]

[X---Paragraph Redacted---X]

Based on documentation provided to OCR by KUMC, the Senior Coordinator [X---Remaining

Sentence Redacted---X].

The Complainant stated to OCR that he did not discuss with the Senior Coordinator the [X---Remaining Sentence Redacted---X]. The Complainant also informed OCR that he was uncertain what activities are involved in the [X---Remaining Paragraph Redacted---X].

## **Resolution**

In accordance with Section 302 of the OCR's *Case Processing Manual*,<sup>1</sup> a complaint may be resolved at any time when, prior to the conclusion of the investigation, the recipient expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified concerns that can be addressed through a resolution agreement. Based on the information KUMC and the Complainant provided to OCR, OCR has concerns that [X---Remaining Sentence Redacted---X].

Prior to the completion of OCR's investigation, KUMC entered into the attached Agreement to address the concerns raised by OCR's investigation. The Agreement provides that KUMC will invite the Complainant to [X---Language Redacted---X] and will provide the Complainant with a written determination explaining the outcome [X---Remaining Sentence Redacted---X].

OCR considers this complaint resolved effective the date of this letter. OCR will monitor KUMC's implementation of the Agreement. When OCR concludes KUMC has fully complied with the terms of the Agreement, OCR shall close this case. If KUMC fails to carry out the Agreement, OCR may resume investigating the complaint. OCR will not close the monitoring of the Agreement until OCR determines that KUMC has demonstrated compliance with all the terms of the Agreement and is in compliance with Section 504, Title II, and their implementing regulations, which were at issue in this complaint.

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. A complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that KUMC may not harass, coerce, intimidate, or discriminate against any individual because that individual filed a complaint or participated in the complaint resolution process. If this happens, that individual may file a complaint with OCR alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, OCR will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

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<sup>1</sup> The *Case Processing Manual* is available at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

If you have any questions, please contact XXXXX XXXXX, Attorney, at (816) XXX-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXX.XXXXX@ed.gov.

Sincerely,

/s/ Jennifer Brooks

Jennifer Brooks  
Supervisory Attorney