



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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April 10, 2014

Dr. Renee Coffman  
President  
Roseman University of Health Sciences  
11 Sunset Way  
Henderson, Nevada 89104

Re: Roseman University of Health Sciences  
Case Number 08-13-2226

Dear President Coffman:

On September 27, 2013, we received a complaint alleging that Roseman University of Health Sciences discriminated on the basis of disability and retaliated. Specifically, the complainant alleged the University denies his client and other students with disabilities the opportunity to meet with instructors immediately following a reassessment exam and challenge the questions and “correct” answers. The complainant also alleged that the University engaged in an ongoing pattern of retaliation against his client after he filed an OCR complaint against the University in 2012. Specifically, he alleges that the University retaliated by refusing to allow his client an excused absence from his studies ~~XXXXXXXXXXXXXXXXXXXXX~~. Also, the complainant alleges that his client’s grade appeals were not evaluated anonymously per University policy; rather University staff members were aware of which appeals were his client’s and routinely denied his appeals in retaliation against him.

We are responsible for enforcing Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 Code of Federal Regulations Part 104, which prohibit discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the U.S. Department of Education. Individuals filing a complaint, participating in an investigation, or asserting a right under Section 504 are protected from intimidation or retaliation by 34 C.F.R. § 104.61, which incorporates 34 C.F.R. § 100.7(e). The University receives funds from the Department and is subject to the requirements of Section 504 and its implementing regulation.

During the processing of the complaint, the University indicated its desire to voluntarily enter into an agreement to resolve the allegation that the University denies the Student and other students with disabilities the opportunity to meet with instructors immediately following a reassessment exam and challenge the questions and “correct” answers. Pursuant to Section 302 of our *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. We

reviewed this request and determined that it justified entering into an agreement without completing a full investigation.

On April 4, 2014, we received the University's signed Resolution Agreement (enclosed). When the Agreement is fully implemented, the allegation will have been resolved consistent with the requirements of Section 504 and its implementing regulation. We will closely monitor the University's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively and that the University's policies and practices are administered in a nondiscriminatory manner. We will promptly provide written notice of any deficiencies with respect to the implementation of the terms of the Agreement and will promptly require actions to address such deficiencies. If the University fails to implement the terms of the Agreement, we will take appropriate action, which may include enforcement actions.

With respect to the complainant's retaliation allegations, we found insufficient evidence to establish that the University retaliated as alleged. The reasons for our conclusion are explained in this letter.

In analyzing a retaliation claim, we determine whether: the individual engaged in an activity protected by Section 504 of which the recipient had knowledge; the recipient took adverse action against the individual; a causal connection existed between the protected activity and the adverse action; and, the recipient has a legitimate, non-retaliatory, non-pretextual reason for its action.

We determined the Student engaged in a protected activity of which the University had knowledge by filing a previous OCR complaint against the University in 2012. With respect to the first allegation of retaliation, the University denies that the Student asked for emergency leave. The Student alleged that he requested leave from the University's Dean. The Dean denied receiving any such request. The Student acknowledged that he did not put the request in writing and we did not find any evidence that the Student requested emergency leave or that the Dean denied such leave. Therefore, we were unable to establish that the denial occurred.

The second alleged adverse action is that the University did not process the Student's grade appeals anonymously and, as a result, University staff members were specifically aware of his appeals and denied them. We determined that this constituted an adverse action. We then examined whether a causal connection existed between the Student's protected activity and the adverse action. Under our retaliation analysis, a recipient's deviation from an established procedure may demonstrate a causal connection. In this case, the Student alleged that the University did not process his grade appeal anonymously, as required by University policy. We confirmed that the University's policies and procedures require anonymity be maintained for the grade appellant. The University denied that this procedure was not followed. We received statements from relevant staff that confirms the policy and procedure were followed in the Student's appeals. The Student provided no verifiable information to support his assertion. Thus, we were unable to establish that the anonymity requirement was not followed. Consequently, we were unable to find a causal connection between the Student's protected activity and the adverse action. We end our analysis here and conclude that there is insufficient evidence that the University retaliated as alleged.

This concludes our investigative phase of this complaint. This letter addresses only the issues discussed above and should not be interpreted as a determination of the University's compliance or noncompliance with Section 504 or other Federal civil rights laws in any other regard. 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, we may release this document, related records, and correspondence upon request. If OCR receives a request, we will protect personal information to the extent provided by law.

This letter is a letter of findings issued by OCR to address an individual OCR case. Letters of findings contain fact-specific investigative findings and dispositions of individual cases. Letters of finding are not formal statement of OCR policy and they 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.

We thank you and your staff for the cooperation extended us during this investigation. If you have any questions, please contact Michael Sentel, at (303) 844-3333.

Sincerely,

Thomas M. Rock  
Supervisory General Attorney

Enclosure: Resolution Agreement