



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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August 22, 2017

President Laurie Nichols
University of Wyoming
1000 E. University Avenue, Dept. 3434
Laramie, Wyoming 82071

Re: University of Wyoming
OCR Case Number: 08-16-2249

Dear President Nichols:

On June 6, 2016, we received a complaint alleging the University of Wyoming (University) discriminated on the basis of disability. Specifically, the Complainant alleged the University discriminated against her client, a student at the University (the Student), when it failed to provide a prompt and equitable response to her internal complaints of disability discrimination and retaliation filed in February 2016 regarding her removal from an economics class in Fall 2015; the failure of the Offices of the Dean of Students and Disability Support Services to appropriately assist her after the removal from the economics class; the denial of her request to withdraw from some classes; and the denial of her request for an extension of her textbook rental period.

We initiated this investigation under the authority of Section 504 of the Rehabilitation Act of 1973, and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) 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; and Title II of the Americans with Disabilities Act of 1990, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability in programs or activities of a public entity. The University receives Federal financial assistance from the Department and is a public entity, and is therefore subject to these laws and regulations.

During the investigation, but before we completed the investigation, the University expressed a willingness to resolve the Complainant's allegations without further investigation, and to enter into a voluntary Resolution Agreement pursuant to Section 302 of OCR's *Case Processing Manual (CPM)*. We determined that this was appropriate. On August 17, 2017, OCR received the University's signed Resolution Agreement (enclosed). When the Agreement is fully implemented, the issues of this complaint will have been resolved consistent with the requirements of Section 504, Title II and their implementing regulations. The letter describes our investigation to date.

Legal Standards

The Section 504 regulation, at 34 C.F.R. § 104.7(b), requires recipients to adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action that would be prohibited by Section 504, including disability discrimination.

Similarly, the Title II regulation, at 28 C.F.R. 35.107(b) requires public entities to adopt and publish grievance procedures providing for the prompt and equitable resolution of complaints alleging any action that would be prohibited by Title II, including disability discrimination.

Pursuant to OCR's *Case Processing Manual* at Section 110(a)(1), when a complainant has filed the same allegations through a recipient's internal grievance process, OCR will not conduct its own investigation; instead, OCR will review the results of the recipient's determination and decide whether the recipient provided a comparable resolution process under comparable legal standards.

Background and Facts

Our preliminary investigation showed that the University's Equal Opportunity Report and Response Unit (EORR) initiated an investigation into an internal disability discrimination complaint the Student's father initially made in February 2016. The EORR investigated, including interviewing witnesses and reviewing documentation, and issued two reports of investigation on June 17, 2017, including to the professor and the Student. In the first report, the EORR concluded that a professor discriminated against the Student on the basis of her disability when he removed her from his economics class after she had seizures in Fall 2015, and referred the matter to administrative authorities for corrective action. The University provided email documentation showing the professor had received disciplinary action.

In the second report, the EORR concluded that no discrimination on the basis of disability occurred when the Registrar denied the Student's request to withdraw from some classes and the University bookstore denied her request for an extension of her textbook rental period. Neither report directly addressed the alleged failure of the Offices of the Dean of Students and Disability Support Services to appropriately assist the Student after the removal from the economics class.

Conclusion

As previously stated, during the investigation, but before we completed the investigation, the University expressed a willingness to resolve the Complainant's allegations by entering into a voluntary resolution agreement pursuant to Section 302 of OCR's *CPM*. On August 17, 2017, the University voluntarily entered into a Resolution Agreement, a signed copy of which is enclosed. OCR will monitor the implementation of the Agreement. When the Agreement is fully implemented, all allegations will be resolved consistent with the requirements of Section 504 and Title II, and their implementing regulations.

The provisions of the Agreement are aligned with the issues raised in the complaint and are consistent with the applicable regulations. The Agreement requires the University to do the following: 1. Review and revise its Section 504 and Title II grievance procedures, to ensure they are in accordance with Section 504 and Title II, including that the procedures will provide for a prompt and equitable response; ensure the University promptly investigates once it knows discrimination may have occurred; include notice to both parties of the outcome of the investigation (including notice to the complainant that appropriate sanctions have been imposed); ensure all disability-related allegations are appropriately addressed; and include an assurance that the University will take steps to address and prevent recurrence of any disability discrimination found to have occurred and to remedy its effects. 2. Provide training to staff both responsible for reporting and responding to disability discrimination complaints, upon OCR review and approval of training materials. 3. Review and revise, as appropriate, its response to the Student's internal verbal and written complaints of disability discrimination to ensure it was prompt and equitable, including that the University took steps to address and prevent recurrence of any disability discrimination found to have occurred, and to remedy its discriminatory effects on the complainant and others.

This concludes our investigation of this complaint. We will continue to monitor the University's compliance with the Agreement until all the terms are satisfied. This letter addresses only the issues listed above and should not be interpreted as a determination of the University's compliance or noncompliance with Section 504 and Title II or any other federal law in any other respect. Accordingly, we are closing the investigation of this complaint effective the date of this letter.

This letter sets forth OCR's determination in an individual 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.

OCR routinely advises recipients of Federal funds and public educational entities that Federal regulations prohibit intimidation, harassment, or retaliation against those filing complaints with OCR and those participating in a complaint investigation. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR. Additionally, complainants 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. If OCR receives such a request, we will protect personal information to the extent provided by law.

We thank you for the University's cooperation in this matter. If you have any questions regarding this letter, please feel free to contact me at (303) 844-5927, or Ginger Yee, the attorney assigned to this case at (303) 844-4556 or by email at ginger.yee@ed.gov

Sincerely,

/s/

Thomas M. Rock
Supervisory Attorney

Enclosure – Copy of Resolution Agreement

Cc: Counsel for the University