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August 4, 2017

President Kay Norton
University of Northern Colorado
Carter 4000; Campus Box: 59
Greeley, CO 80639

Re: University of Northern Colorado
Case Number: 08-17-2070

Dear President Norton:

We completed our investigation of this case and are notifying you of our determination. We received a complaint alleging the University of Northern Colorado (University) discriminated on the basis of disability. Specifically, the complainant alleged that:

- the University discriminated on the basis of disability by imposing a housing surcharge on single dormitory rooms and other housing (accessible rooms and rooms with kitchens) which are provided as an accommodation for a student's disability; and
- the University refused to convert double rooms to single rooms to afford a student with a disability an equal opportunity to housing.

We conducted our investigation under the authority of Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the 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 by public entities.

Our investigation included a review of documentation provided by the University and complainant, as well as interviews with University staff. We found sufficient evidence to conclude that the University discriminated in violation of Section 504 and Title II regarding the allegation that the University imposes a housing surcharge on single dormitory rooms and rooms with other amenities provided as an accommodation. With respect to the complainant's second allegation, that the University refuses to convert double rooms to single rooms as an accommodation for a disability, we found insufficient evidence to conclude that the University discriminated in violation of Section 504 and Title II. The basis for our conclusions follows.

Housing Surcharge

Background

The University had a total of 17 residence halls, housing over 2,000 students each year, including 12 residence halls on its central campus: Belford Hall, Decker Hall, Gordon Hall, Hansen-Willis

Hall, Sabin Hall, Snyder Hall, Wiebking Hall, Wilson Hall and on President's Row: Bond Hall, Brown Hall, Dickeson Hall and Lujan Hall. On its west campus are 5 residence halls: Harrison Hall, Lawrenson Hall, North Hall, South Hall and Turner Hall. The University's residence halls have two main floor plans, suite-style and traditional-style. Suites typically have between two to six students per suite. The most common layout for the suites is two, two-person bedrooms and bathroom within the suite with a shared living area and kitchen. There are efficiency suites that two people share. Traditional-style rooms typically have two students per bedroom. Most traditional rooms feature a vanity sink and mirror within the room. The restrooms are down the hall. Within buildings with this room type, there is a student lounge, a kitchen, laundry rooms, and TV room on each floor.

The University had approximately 82 traditional rooms and rooms in suites offering a variety of features providing greater accessibility to students with disabilities including adjustable wardrobe bars, interactive talking thermostats, visible doorbells, barrier-free desks and designated accessible bathrooms. The University had 216 single rooms dispersed through all but three residence halls. According to the University, those single rooms are earmarked for students with disabilities who need a single room as a housing accommodation. University staff noted that the University has increased the number of single rooms over the last several years in order to provide more housing options.

The University's residence hall pricing is based on six tiers with the first tier being the least expensive and tier six the most expensive. In addition to the base room rate for each residence hall, there were premium charges for small single rooms, large single rooms and a room buyout for those students living alone in what would ordinarily be a double-occupancy room. For the 2016-17 school year, the residence hall prices were:

Residence Hall	Semester rate
Tier 1: Belford, Decker, Gordon, Sabin, Snyder, Wiebking, Wilson	\$2,448
Tier 2: Harrison, Sabin & Snyder deluxe doubles	\$2,550
Tier 3: Brown, Lujan, Dickeson, Bond, Hansen-Willis, Lawrenson Efficiencies	\$2,788
Tier 4: Turner Efficiencies, Lawrenson Apartments	\$2,966
Tier 5: Turner Suites ¹	\$3,194
Tier 6: North and South	\$3,326

Design Single Room Premium	
Small Single: Belford, Bond, Decker, Gordon, Florio, Lutz, Martin, Warren, and	\$250

¹ All rooms in Turner are single rooms within a suite.

Residence Hall	Semester rate
North & South (ADA Rooms)	
Large Single: Bond, Brown, Dickeson, Lujan, Hansen-Willis, Warren, North & South	\$500
Room Buyout	\$500

Incoming freshmen requiring housing accommodations could request those accommodations when completing the University's online housing contract. In the housing contract are three drop-down boxes where students can indicate up to three housing accommodation requests including for example: a single room, an ADA room, an automatic door opener or a shower chair. University housing staff explained that after they receive this information, they contact the student and direct them to the University's Disability and Support Services office (DSS) to initiate the University's accommodation process. Additionally, all students may contact the DSS directly to request housing accommodations. After establishing each student's need for a housing accommodation, DSS staff works with Housing staff to ensure each student is housed based upon his or her needs.

Analysis and Conclusion

The complainant alleged that the University discriminated on the basis of disability, by imposing a housing surcharge on single dormitory rooms provided as an accommodation for a student's disability. Specifically, the complainant alleged that the University charged the standard room rate for single rooms and other housing such as accessible rooms and rooms with kitchens provided as an accommodation for a student's disability.

The Section 504 regulation, at 34 C.F.R. §104.43(a), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any postsecondary education program of a recipient. The Title II regulation, at 28 C.F.R. §35.130(a), contain a similar prohibition applicable to public postsecondary educational institutions.

The Section 504 regulation, at 34 C.F.R. §104.44(a), requires recipient universities to make modifications to their academic requirements that are necessary to ensure that such requirements do not discriminate, or have the effect of discriminating, against qualified individuals with disabilities. However, academic requirements that recipient universities can demonstrate are essential to the program of instruction being pursued or to any directly related licensing requirement will not be regarded as discriminatory.

Under the Title II regulation, at 28 C.F.R. §35.130(b)(1)(ii) and (iii), public universities may not afford a qualified individual with a disability opportunities that are not equal to those afforded others, and may not provide aids, benefits or services that are not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others. Under 28 C.F.R. §35.130(b)(7), public universities must make reasonable modifications in policies, practices or procedures when necessary to avoid discrimination on the basis of disability, unless doing so would fundamentally alter the nature of

the service, program or activity. Section 35.103(a) provides that the Title II regulations shall not be construed to permit a lesser standard than is established by the Section 504 regulation. Therefore, OCR interprets the Title II regulation to require public universities to provide necessary academic adjustments to the same extent as is required under the Section 504 regulation. Additionally, the Title II regulation, at 28 C.F.R. § 35.130(f), prohibits a public university from imposing a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the ADA.

We found for the 2015-16 and 2016-17 school years, 84 students requested and received housing accommodations at the University. Of those, 57 requested a single room. Other requests included lowered door peep holes, handheld shower heads, and a barrier-free wardrobe with adjustable height clothes rod. There were no requests for a room with a kitchen. We found nearly all students who requested a single room were placed in a single room. One student was placed in a designated wheelchair accessible single room. Of those students who requested a single room as an accommodation but were placed in a standard double-occupancy room, we found that one did not complete the University's process for requesting accommodations. Others were determined by DSS not to require a single room to accommodate their disability and were placed in a room that accommodated their needs (*e.g.* – rooms away from any animals in the building for those with allergies and a room with fire alarm strobe lights).

All students receiving a housing accommodation were charged the corresponding tier price for the residence hall in which they resided. Most students placed in a single room were charged the additional single room premium based on the size of the single room. The exception was for students who requested a single room in Turner Hall who did not pay an additional fee for the single room because, as noted earlier, all suites in Turner Hall have single rooms.

The Residential Education Director confirmed that students living in a single room as an accommodation for a disability are charged the tier rate for the room plus the additional premium charge for a single room. He also suggested that students with disabilities with an accommodation to live alone in a room that would ordinarily be occupied by two students would be charged the extra buy-out fee.

OCR has consistently determined that universities must make exceptions to their room-rate policies when necessary to enable a student with a disability to participate in the housing program. Universities are, therefore, not permitted to charge students for the cost of accommodations that are deemed necessary for the students to gain access to a housing program.

Based on the above, we found by a preponderance of the evidence that the University imposes an additional, premium charge to students residing in a single room as an accommodation for their disabilities. Accordingly, we concluded that the University violated Section 504 and Title II as alleged.

Converting Double-Occupancy Rooms to Single Rooms

Background

The complainant alleged the University refused to convert double rooms to single rooms to afford a student with a disability an equal opportunity to housing. During our investigation, the complainant clarified that his allegation related to student housing in Residential Learning Communities (RLC) on campus.

According to the University, there are two types of RLCs: those based on academics and those based on student interests. RLCs are communities that promote collaboration and interaction with faculty, staff, and students in a way that compliments the academic experience and fosters diverse interactions. Each community is built around a specific program of study, shared interest, or affinity group which directs the vision in that specific community. At the University, there are 13 RLCs: Global Village; Pre-Nursing; Gender, Romantic and Sexual Identities; Monfort College of Business; Elementary Education; First Generation; Performing and Visual Arts; Cumbres; Criminology and Criminal Justice; Outdoor Pursuits; Leadership; Honors, Scholars and Leaders and Biology.

Analysis and Conclusion

The complainant asserted that he spoke with a University staff member in the housing department who told him that rarely are there single rooms in RLCs and that if a student required a single room as an accommodation for a disability, the University would not convert a double-occupancy room to a single. Instead, the student with a disability would have to live outside the RLC. Specifically, the complainant said the staff member told him that Lawrenson Hall, which often houses the Transfer RLC, has no single rooms. The complainant asserted the staff person told him that the University would not convert a double-occupancy room to a single and that a student requiring a single room as an accommodation would miss out on living in the Transfer RLC. Similarly, the complainant also alleged that University staff told him that there are no single rooms in the Honors RLC and that a student with a disability in need of a single room as an accommodation would have to live in a different dorm because the University did not convert double-occupancy rooms to singles. The complainant provided no example of a student with a disability who was denied an opportunity to participate in a RLC because the University refused to convert double-occupancy room to a single room as an accommodation for a disability.

The University stated, and OCR confirmed, that its housing agreements contain provisions that allow the Residential Education Director to change room assignments for administrative reasons, which could include moving a student with a disability into a double room with no roommate.

The Residential Education Director stated that most RLCs are located in dormitories where there are single rooms available to make any necessary accommodations. For those RLCs in which there are no single rooms, the Residential Education Director stated that they would consider providing a double-occupancy room as a single room with a buy-out. He also stated that some students choose to live on a different floor than that on which the RLC is located so that might be

an option as well. The Residential Education Director said, as he recalled, there was no instance in which they would have had to convert a double room to a single to accommodate a student with a disability. The DSS Director recalled an occasion when the University converted a double-occupancy room to a single room for a student with a disability who had a personal attendant.

Based on the above, we found insufficient evidence that the University discriminated against students with disabilities in violation of Section 504 and Title II as alleged.

Conclusion

Regarding the complainant's allegation that the University refuses to convert double rooms to single rooms to accommodate students with disabilities, we determined the University did not violate Section 504 and Title II as alleged.

With respect to the allegation that the University imposes a housing surcharge on single-occupancy dormitory rooms that are provided as an accommodation for a student's disability, we determined that the University violated Section 504 and Title II in this instance.

We thank the University for voluntarily entering into an Agreement to resolve the compliance concern. OCR is closing the investigative phase of this case effective the date of this letter. The case is now in the monitoring phase. The monitoring phase of this case will be completed when OCR determines that the University has fulfilled all of the terms of the Agreement. When the monitoring phase of this case is complete, OCR will close Case Number 08-17-2070 and will send a letter to the University, copied to the complainant, stating that this case is closed.

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.

Individuals filing a complaint or participating in the investigation process are protected from retaliation by Federal law.

Under the Freedom of Information Act, we may release this document and related correspondence and records upon request. If we receive a request, we will protect personal information to the extent provided by law.

We thank the University, and especially Mr. Dan Satriana, for your continued cooperation throughout this process. If you have questions, please contact XXXXXXXX, at XXXXXXXX or me at 303-844-5927.

Sincerely,

/S/

Thomas M. Rock
Supervisory General Attorney

Enclosure

cc: Daniel R. Satriana, Jr., Vice President and General Counsel