



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD., SUITE 310  
DENVER, CO 80204-3582

REGION VIII

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May 27, 2021

Dr. Jeremy Haefner, Chancellor  
University of Denver  
2199 S. University Blvd  
Denver, CO 80208

*via email only to XXX*

Re: **University of Denver**  
OCR Case No 08-21-2006

Dear Chancellor Haefner:

This letter is to notify you of the disposition of the above-referenced complaint that the U.S. Department of Education (Department), Office for Civil Rights (OCR) received on October 13, 2020, alleging that the University of Denver (University) discriminated against the Complainant on the basis of his disability and age. In particular, the Complainant alleges that the University failed to accommodate his disability and subjected him to disparate treatment and harassment based on his disability and age through:

1. Professor XXX's disregard of his approved accommodation of extended time on assignments;
2. Professor XXX's disparate treatment of him based on his disability and age, particularly with respect to grading and evaluation of his writing;
3. Professor XXX's disparate treatment of him based on his disability and age by grading him harshly, expecting less of him than other students, and communicating with him in a more critical, harassing, disrespectful, and unprofessional manner than other students;
4. Professor XXX's facilitation and encouragement of harassment of him by other students.

By letter dated November 6, 2020, OCR referred the complaint to the Federal Mediation and Conciliation Service (FMCS) for mediation. On January 15, 2021, OCR notified the parties that it was resuming its processing of the allegations because the complaint was not resolved within sixty days by FMCS nor was a resolution pending.

OCR additionally notified the parties that because the Complainant had timely filed an internal grievance raising the same discriminatory conduct, OCR's investigation would be focused on

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

determining whether the University provided a comparable resolution process pursuant to legal standards that are acceptable to OCR.

### **Jurisdiction**

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 34 Code of Federal Regulations Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the United States Department of Education. OCR is also responsible for enforcing the Age Discrimination Act of 1975 and its implementing regulation, which prohibit discrimination on the basis of age, under certain circumstances, in programs or activities receiving Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department, the University is subject to these laws and regulations.

### **Summary of Investigation**

OCR's investigation included two interviews of the Complainant and multiple follow-up telephone conversations; an interview of the University's investigator; a review of documents pertinent to the complaint allegations, including the University's non-discrimination, grievance, and investigation policies, the Complainant's complete student file including his transcript and requests for accommodations, the University's investigative files regarding the Complainant's discrimination complaint and grade appeal, rosters reflecting the ages and grades of the other students in the two classes at issue, communications between Professors XXX and XXX and the Complainant, communications between the Complainant and his academic advisor, and documents reflecting the course requirements.

Prior to the conclusion of OCR's investigation, the University expressed a willingness to resolve the two disparate treatment complaint allegations. As a result, OCR suspended its investigation of those claims.

### **Evidentiary Standard**

OCR applies a preponderance of the evidence standard to determine whether evidence is sufficient to support a particular conclusion. Specifically, OCR examines the evidence in support of and against a particular conclusion to determine whether the greater weight of the evidence supports or is insufficient to support the conclusion of non-compliance.

### **Factual Background**

#### **A. Complainant's Attendance at the University**

The Complainant, who is XXX years old, began an online Graduate Certificate Program in Dispute Resolution in the University of Denver's University College in the Summer of 2019. He attended the University as part of a XXX state-sponsored vocational rehabilitation program that paid for his tuition. His program was exclusively online with no video-conferencing component.

## **B. Complainant's Request for Accommodations**

The Complainant has XXX and is XXX. His XXX sometimes impacts his cognitive functioning. He additionally has a XXX injury due to XXX, but that disability does not impact him academically.

On or around May 23, 2019, the University's Disability Services Program (DSP) approved time and a half (1.5) on tests and per assignment extensions as academic accommodations for the Complainant's XXX. DSP issued a Letter of Approved Accommodation (LOAA) that the Complainant was required to provide to his instructors each quarter via the Clockwork portal on the DSP website.

To use the Per Assignment Extension accommodation, students must submit to DSP a Per Assignment Extension Plan for each course for which the student seeks an accommodation of the assignment due dates. Upon approval of the request, DSP would send a letter of approved accommodations to the instructor of the course.

## **C. Fall Quarter 2019**

In the Fall quarter of 2019, which ran from September 2, 2019 through November 21, 2019, the Complainant took a XXX course with Professor XXX.

On or around September 6, 2019, the Complainant submitted his LOAA to Professor XXX and DSP. The Complainant did not promptly receive a confirmation of approved accommodations from DSP, as he did in other courses.

On or around October 11, 2019, the Complainant started to feel like Professor XXX was dissatisfied with the quality of his work in the course and reached out to his academic advisor to discuss his concerns. The Complainant additionally scheduled several conferences with Professor XXX to discuss his progress in the course, which he subsequently cancelled. The Complainant was frustrated that Professor XXX would not talk to him on the telephone as opposed to by videoconference, which was more difficult for the Complainant due to his age and XXX, but admits that he never told Professor XXX why he preferred voice calls.

On or around October 17, 2019, the Complainant reached out to DSP to request an accommodation on a specific assignment and to express his frustration with Professor XXX's unresponsiveness to his LOAA. The Complainant was informed by DSP that a signature was missing on his accommodation paperwork and was told to resubmit his request. The Complainant received a letter of approved accommodations from DSP later that day. He later rescinded his request for an extension on the assignment as it was no longer needed.

On or around October 24, 2019, Professor XXX expressed concern to the Complainant and the Complainant's advisor about the Complainant's cancellation of their scheduled meetings. The Complainant's advisor responded with the following plan to address the "communication

breakdown”: the Complainant would work with the IT Help Desk to figure out why his discussion posts were not appearing online, and Professor XXX would provide feedback for every grade, especially missed points.

On November 14, 2019, the Complainant applied for a two-day assignment extension for the final paper due November 17, 2019. Later that day, Professor XXX gave the whole class an extension on the paper until November 20<sup>th</sup>. On November 15, 2020, the Complainant requested an additional extension until November 22<sup>nd</sup> because of the extension granted to the whole class, which was denied.

On November 17, 2019, the Complainant notified Professor XXX, his advisor, and DSP that he no longer needed an accommodation for the paper; he would submit it by November 20<sup>th</sup>. On November 18, 2019, the Complainant informed his advisor that he was “good with Professor XXX on assignment” and no longer needed the accommodation. The Complainant made no other per assignment extension requests that quarter and did not need to utilize his approved testing accommodations because there were no tests in the course.

On November 20, 2019, the Complainant received a grade of XXX in the Conflict Resolution course, which was comprised of an XXX for Discussions, XXX for Learning Activities, and XXX for Major Assignments. His grade on part one of the paper was XXX out of 150 and his grade on part two of the paper was XXX out of 200. Professor XXX’s comments on part two of the paper included that “[t]he paper has very generalized statements that do not meet requirements,” “Turabian guidelines were not followed,” and “[t]he reference page was not updated as indicated in paper one feedback.”

The Complainant informed his XXX workforce services advisor on November 25, 2019, that he was thinking of appealing the grades and that the professor “had it out for him from the get go.” The Complainant takes issue only with his grades on papers, which he believes are unfair because they focus on his writing skills rather than his content knowledge – not with his grades on the discussion assignments.

There were ten other students in Professor XXX’s course, all of whom were significantly younger than the Complainant (and under XXX years old). One student, who was XXX years old, did worse than the Complainant in the course and received a XXX. Most of the other students received XXX with the exception of one XXX and one XXX.

#### **D. Winter Quarter 2020**

In the Winter quarter of 2020, which ran from January 3, 2020, to March 20, 2020, the Complainant took a XXX course with Professor XXX. Professor XXX was XXX years old at the time.

On January 2, 2020, the Complainant submitted his LOAA to Professor XXX. Between January 4 and January 17, 2020, the Complainant and Professor XXX exchanged approximately twenty-five emails and had at least two phone conversations. In many of those communications, the

Complainant told Professor XXX that he was confused by the discussion procedures and requested clarification.

Professor XXX individually explained the course requirements to the Complainant on at least three occasions and told the Complainant where to look for further information. On January 17, 2020, the Complainant stated, “After XXX years of XXX, I sometimes have trouble with organization and tech systems” and that he found the “latest discussions a bit over rigorous.” Professor XXX responded that the course was going to get even more rigorous as time went on and that he needed to give that “serious consideration.” The Complainant interpreted Professor XXX’s comment as a suggestion that he consider dropping the course, which he could not do because it was a requirement for his graduate program.

Also, on January 17, 2020, the Complainant attempted to X – phrase redacted - X. Professor XXX told him “that is something for me to correct, not students, and not in the discussion threads.”

On or around January 20, 2020, the students in Professor XXX’s class responded to one of the Complainant’s confusing posts X – phrase redacted – X. Professor XXX sent the whole class a message that they X – sentence redacted – A. She was trying to model how to respond appropriately to classmates’ posts, particularly given it was a communication class. The Complainant forwarded the professor’s email to his academic advisor and stated that he didn’t like being used as an example by the professor.

On January 21, 2020, Professor XXX wrote to the Complainant’s academic advisor, “I wonder if something is going on in [the Complainant’s] life, other than his XXX, that is affecting his performance. I am willing to continue to work with him, but I am at a loss myself as to what else I can do. He has a XXX going in the class, which I believe is generous and more than accommodating. It is questionable whether he can maintain that going forward. I appreciate any assistance you can provide.”

On January 29, 2020, Professor XXX informed the Complainant that he had not met the requirements for discussions one through three because there were insufficient posts. The Complainant sought the help of his academic advisor and workforce services advisor regarding “an extremely serious situation with Professor XXX.” He complained that he was feeling “singled out and made an example of” by Professor XXX.

On or around January 31, 2020, the Complainant had an hour-long phone conversation with Professor XXX in which he stated he felt disrespected because of his age. She stated she was not much younger than him and clarified her expectations with respect to the sequencing of discussion posts. She asked the Complainant to commit to participating in the next six sessions satisfactorily. The Complainant again interpreted Professor XXX’s comments as expressing a desire that he drop her class, which he could not do. He also got the impression that Professor XXX thought “there was something wrong with him” and that he “should see a doctor.”

On February 4, 2020, the Complainant complained to his academic advisor that Professor XXX's comments on assignment three were harassing and requested that the XXX get involved. His advisor responded that the XXX "is investigating the claims of academic bullying but has not yet identified any instances in the course or Canvas communications" and "will continue monitoring the course and instructor for the rest of the quarter."

On February 6, 2020, the Complainant's workforce advisor contacted DSP to inquire about the availability of additional accommodations for the Complainant. DSP replied that the Complainant would need to provide them with information regarding the additional support needed, which the Complainant never did.

On March 10, 2020, Professor XXX emailed the Complainant regarding his post in discussion ten, in which he wrote:

X – paragraph redacted – X.

Professor XXX told the Complainant that his post was disrespectful and out of line and that he should have sent her a private email if he thought there were mistakes that she needed to address. She asked him to rethink his post, which he declined to do stating he thought it was "helpful" feedback.

On or around March 11, 2020, Professor XXX commented on the Complainant's communication style in a negotiation exercise. She wrote, "Although [your partner] said it was a great experience and that she learned a lot, she should not have been subjected to the threats [to take this case to higher-ups]. In my opinion they were abusive. Thankfully, she did not have to experience them in person." Professor XXX later described this incident as when she "finally had it with [the Complainant]" because this student, X – phrase redacted - X.

On March 15, 2020, Professor XXX filed a discrimination complaint against the Complainant alleging that he was abusive, combative, and aggressive to her and students in her class, which was negatively affecting her health. As examples of his aggressive behavior, she cited X - phrase redacted - X. Professor XXX also complained that he failed to comprehend and comply with posting requirements, sent her "strange" and disconcerting emails, failed to follow Turabian and writing assignment guidelines, and did not complete a XXX assignment. She stated the more she points out these inadequacies to the Complainant, the more he lashes out. She concluded her complaint by stating, "[The Complainant] has serious cognitive issues," "is becoming increasingly aggressive as a result," and "needs to get appropriate help which no one at the university, in my opinion, can give him."

Professor XXX additionally told XXX, "I'm so conflicted by this. SO sad, really tried to work with him but came to conclusion (he had XXX and came to believe that he is experiencing some issues, maybe medical. Didn't know how to deal with it. . . [W]hen he talked to me about XXX, just encouraged him to talk with his doctor about his struggles. He has some accommodations too. . . Part of total picture of him struggling and why I was struggling to help him in the class. . .

I feel very strongly he has something going on – maybe X – phrase redacted - X? I just didn't know what was going on.”

On March 26, 2020, the Complainant was notified that he received a grade of XXX in Professor XXX's class. There were nine other students in Professor XXX's course, all of whom were younger than the Complainant and under XXX years old. One student, who was XXX years old, got X - phrase redacted - X. The other students' grades varied significantly; four students received an XXX, two students received an XXX, one student received a XXX, and one student received a XXX.

#### **E. Complainant's Complaint of Discrimination, Academic Probation, and Grade Appeal**

On or around March 16, 2020, the Complainant reached out to the XXX, to report discrimination. On March 20, 2020, the Complainant spoke with an investigator in the Office of Equal Opportunity, who conducted an intake interview. The Complainant complained about age and disability discrimination in Professor XXX's and Professor XXX's classes. He reported problems around his requests for extensions in Professor XXX's class, academic bullying by both professors, and bullying by students in Professor XXX's class in online discussions.

The investigator informed the Complainant that a finding of discrimination by her office would not impact his final grades and that if his grades were his primary concern, he could appeal his grades in the two courses. The Complainant stated that he wanted to consider that option and instructed the investigator not to start an investigation until she hears from him.

On April 20, 2020, the Complainant submitted a grade appeal for Professor XXX's and Professor XXX's courses. He asked that all his coursework be reevaluated because he was too heavily graded on language and writing skills rather than content learning and participation in contravention of the grading rubrics.

On April 21, 2020, the Complainant was placed on academic probation because his cumulative grade point average had dropped by the end of the Winter Quarter below the XXX minimum required in graduate programs at University College. He signed an Academic Action Plan on April 23, 2020, that specified activities he would engage in to raise his grades to be able to graduate.

On May 1, 2020, the XXX denied the Complainant's grade appeal finding that both professors graded his work fairly and in accordance with the point values assigned in the rubrics for writing and formatting. She stated, “I do not see any grading discrepancies or any sign of unfair grading practices.” She also noted that both instructors provided thorough and detailed feedback to support the grades earned and to give the Complainant an opportunity to improve from one assignment to the next.

In subsequent conversations with the Office of Equal Opportunity, the XXX stated that she did not see anything concerning with Professor XXX's communications with the Complainant, but

that Professor XXX's communications with him were "testy" and "were not as warm and fuzzy as [she] would have liked them to be – but no reference of age or incapable, or something related to him being older." She described the Complainant's and Professor XXX's relationship as "very contentious" and noted that Professor XXX's tone was shorter with the Complainant than it was with the other student who got the same grade as him on the final paper.

In early May 2020, the Complainant informed the investigator that he wished to proceed with the investigation of his complaints of discrimination against both professors and by mid-May 2020, he provided her with over 350 email communications.

The Complainant met the terms of his academic probation and graduated with his certificate in June 2020.

#### **F. University's Complaint Procedures**

The University's procedures for investigating complaints of discrimination include three types of resolutions: inquiry, alternative resolution, and formal investigation. The Supervising Director has the discretion and authority to determine whether reports of discrimination in areas other than gender-based violence are resolved through an inquiry process rather than a formal investigation.

During an inquiry, the Supervising Director or designee may interview parties or witnesses and gather evidence to determine the appropriate resolution necessary to prevent and correct any discriminatory or harassing conduct. The main differences between an inquiry and a formal investigation is that there are fewer procedural requirements, such as the respondent is not given formal notice of the charges or an opportunity to respond; there are typically fewer witness interviews; and a short memo is written rather than a formal investigation report summarizing all the evidence and findings.

The Supervising Director has the discretion to initiate a formal investigation where an inquiry cannot resolve the complaint or the information gathered indicates a formal investigation is necessary.

#### **G. University's Investigation of the Complainant's Complaint of Discrimination**

When the Complainant first contacted the University's Office of Equal Opportunity & Title IX (EOIX) in March 2020, the XXX determined that an inquiry rather than a full investigation pursuant to the Section 13 of the University's Discrimination/Harassment Procedures was warranted. When the Complainant decided to move forward with his discrimination complaint in early May 2020, the XXX's successor, the XXX, likewise decided the matter should proceed as an inquiry.

As part of the inquiry, the investigator reviewed the 350 emails provided by the Complainant, discussion posts for the courses at issue on the Canvas course shell, the course syllabi, and the professors' grade books. She did not review email communications between the professors and



other students in the classes at issue or the professors' feedback on the Complainant's or other students' writing.

The investigator interviewed the Complainant's academic advisor, his XXX workforce services advisor, and Professor XXX. Professor XXX told the investigator that she felt "abused" by the Complainant and was advised by the XXX to file a complaint against him before he filed his discrimination complaint, but did not wish to proceed with investigation of her complaint. She further stated that unless she used certain words with the Complainant, he "couldn't comprehend" and that she asked him "if he had talked to his doctor to see if [his XXX] was affecting what he's doing [in school]."

The investigator relied on her initial intake interview of the Complainant from March 20, 2020 and his complaint form. She did not interview the Complainant again nor give him an opportunity to respond to the information obtained through the inquiry.

She did not notify Professor XXX of the complaint against him, ask him to respond to the allegations, nor interview him. She also did not interview the XXX but had notes from a conversation the XXX had with XXX regarding the Complainant. She did not speak to any students in either of the two classes, which she stated she would have done if there were a formal investigation. Lastly, she did not speak to anyone in the DSP office nor have any information about the disability/accommodation status and/or ages of the other students in the courses at issue.

On October 8, 2020, the investigator issued a one-page decision summarizing the scope of her inquiry and concluding that there was "insufficient evidence to continue with a formal investigation" because the "evidence could not substantiate the allegations that either [professor's] conduct would constitute prohibited conduct under EOIX procedures." She concluded using a preponderance of the evidence standard that, while some of Professor XXX's communications with the Complainant lacked professionalism, her behavior and that of Professor XXX were not discriminatory under the University's policies.

### **Legal Standards**

#### *Non-discriminatory Treatment of Students under Section 504*

Section 504 and the regulation at 34 § CFR 104.4(a) provides that no qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.

The Section 504 regulation at 34 C.F.R. § 104.43(a) provides that a qualified person 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.

#### *Academic Adjustments under Section 504*

The Section 504 regulations, at 34 C.F.R. § 104.44(a), require post-secondary institutions 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. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific required courses, and adaptation of the manner in which courses are conducted. However, academic requirements that recipient colleges and 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 requirements of Section 504, a student with a disability is obligated to notify the college or university of the nature of the disability and the need for a modification, adjustment, aid or service. Once a college or university receives such notice it has an obligation to engage the student in an interactive process concerning the student's disability and related needs. As part of this process, the college or university may request that the student provide documentation, such as medical, psychological or educational assessments, of the impairment and functional limitation.

#### *Non-discriminatory Treatment of Students under the Age Discrimination Act*

The regulation implementing the Age Discrimination Act at 34 C.F.R. § 110.10(b) prohibits recipients from subjecting individuals to different treatment based on age, absent the exceptions enumerated under the regulation. Harassment on the basis of age may be a form of different treatment prohibited by the regulation.

#### *Different Treatment*

In determining whether a recipient subjected a student to disparate treatment, OCR considers whether the recipient treats similarly-situated students differently. If evidence of different treatment is found, OCR then determines whether the reasons offered by the recipient for the different treatment are legitimate or a pretext for unlawful discrimination. Additionally, OCR examines whether the information shows that the recipient treated the individual student in a manner that is inconsistent with its established policies, practices and procedures or whether any other evidence of discrimination based on a protected category, including disability or age, exists.

#### *Procedural Requirements*

Pursuant to 34 C.F.R. § 104.7(b), a recipient employing 15 or more persons must adopt grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging disability discrimination. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to postsecondary educational institutions.

## **Legal Analysis**

### **A. Timeliness**

The University contends that the Complainant's allegations are not timely raised because the Complainant completed the courses and received the grades at issue more than 180 days prior to his OCR complaint and that his complaint should be dismissed on this basis alone. The University's analysis of the timelines of the Complainant's OCR complaint does not take into account the internal grievance filed by the Complainant.

On or around March 20, 2020, the Complainant filed an internal grievance with the University's Office of Equal Opportunity asserting that Professors XXX and XXX discriminated against him on the basis of his age and disability. In particular, he asserted "both professors harshly graded [his] course work resulting in a final grade of XXX in both courses, Professor XXX failed to respond to [his] accommodation letter and did not grant [his] accommodations, and Professor XXX sent [him] emails and public assignment discussions that were harassing and bullying." On October 8, 2020, the University informed the Complainant that it had found insufficient evidence to continue with a formal investigation of his grievance and was "closing the matter with no further action."

Because the Complainant's internal grievance was filed within 180 days of *all* the alleged discriminatory conduct, raised the same discriminatory conduct as his OCR complaint, and was filed within one week of the conclusion of the University's investigation of his grievance, OCR granted a waiver of the 180-day filing requirement pursuant to Section 107(d) of OCR's Case Processing Manual.

### **B. Sufficiency of University's Investigation**

As discussed above, OCR's investigation in this matter was limited to whether the University provided a comparable resolution process pursuant to legal standards that are acceptable to OCR. It is undisputed that the University did not do a full investigation of the Complainant's claims of age and disability discrimination pursuant to its procedures for "formal investigations" -- but instead conducted an "inquiry", which is admittedly less extensive. As a result, the University did not obtain position statements from the respondents, interview all relevant witnesses, review all relevant documents, or give the Complainant an opportunity to rebut the information obtained, all of which are standard practices that OCR utilizes in its investigations of claims of discrimination.

Nevertheless, OCR finds with respect to the Complainant's first and fourth allegations that the University's inquiry was sufficient. Regarding the Complainant's first allegation that Professor XXX disregarded his approved accommodation of extended time on assignments, the University's investigator had information that the Complainant rescinded the only two requests for an extension that he made in Professor XXX's class because he no longer needed the accommodation, which the Complainant confirmed for OCR. Thus, additional investigation was not needed to sufficiently evaluate this claim.

Similarly, the investigator had sufficient information to evaluate the Complainant's fourth allegation that Professor XXX facilitated and encouraged the harassment of him by other students. According to the Complainant, the harassment of him by other students came through discussion posts and not personal emails. The investigator told OCR that she reviewed all the discussion posts for Professor XXX's class on Canvas and did not find evidence of harassment of the Complainant by other students or facilitation of inappropriate communication by Professor XXX. Indeed, OCR notes that when the tone of the other students towards the Complainant became a bit harsh, Professor XXX addressed the issue with the class and modeled how to respond to discussion posts appropriately. Thus, additional investigation was not needed to adequately evaluate this claim.

However, OCR has concerns about the sufficiency of the University's investigation of the Complainant's second and third disparate treatment allegations, which it communicated to the University. In particular, OCR is concerned that the University did not sufficiently compare the way the Complainant was treated to other non-disabled, younger students with respect to communications, expectations, and the evaluation of their writing. After OCR requested additional documentation from the University regarding the Canvas postings reviewed by the investigator but not produced to OCR, the University voluntarily agreed to do a more extensive investigation of the Complainant's disparate treatment claims pursuant to its internal policies for investigation of discrimination complaints. It is therefore unnecessary for OCR to determine whether the University provided a comparable resolution process with respect to the Complainant's second and third allegations.

### **Conclusion**

For the reasons set forth above, OCR finds that the University sufficiently investigated the Complainant's first and fourth allegations and provided a comparable resolution process pursuant to legal standards that are acceptable to OCR and is hereby dismissing those allegations pursuant to Section 108(i)(2) of OCR's Case Processing Manual.

During OCR's investigation, the District agreed to voluntarily address OCR's concerns regarding the sufficiency of its investigation of the Complainant's second and third allegations. Thus, pursuant to Section 302 of the CPM, OCR has not made a legal determination with respect to that issue.

The attached Voluntary Resolution Agreement requires the University to do a "formal investigation" of the Complainant's disparate treatment and harassment allegations (allegations two and three) pursuant to Section 13 of the University's 2019-20 Office of Equal Opportunity & Title IX Procedures. The University's execution of the attached Agreement will fully resolve the compliance concerns in this case.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the University's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. 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.

OCR routinely advises recipients of Federal funds 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.

Please note the Complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

The Complainant has a right to appeal OCR's determination within 60 calendar days of the date indicated on this letter. In the appeal, the Complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the Complainant appeals OCR's determination, OCR will forward a copy of the appeal form or written statement to the Recipient. The Recipient has the option to submit to OCR a response to the appeal. The Recipient must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the Recipient.

Under the Freedom of Information Act (FOIA), 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.

We thank the University and counsel for their cooperation in this matter. If you have any questions, please contact XXX.

Sincerely,

/s/

for

Thomas M. Rock  
Supervisory General Attorney

Attachment: Voluntary Resolution Agreement