



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

REGION IX
CALIFORNIA

50 UNITED NATIONS PLAZA
MAIL BOX 1200; ROOM 1545
SAN FRANCISCO, CA 94102

November 16, 2016

Mr. Paul Mantea
Paul Mitchell, the School, Sherman Oaks
15301 Ventura Blvd. Suite P2
Sherman Oaks, California 91403

(In reply, please refer to case no. 09-16-2368.)

Dear Mr. Mantea:

The U.S. Department of Education, Office for Civil Rights (OCR), has resolved the above-referenced complaint against Paul Mitchell, the School (Recipient). OCR began an investigation of whether the Recipient discriminated against the Student¹ on the basis of his disability by treating him differently than other students on the basis of his disability and by failing to provide him with the accommodations necessary to ensure that he could participate in the educational program in a nondiscriminatory manner.

OCR investigated the complaint pursuant to Section 504 of the Rehabilitation Act of 1973, and its implementing regulation. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance. The Recipient receives Federal financial assistance and is subject to the requirements of Section 504 and the regulations. Therefore, OCR has jurisdiction over this complaint.

The Section 504 regulations, at 34 C.F.R. §§104.4(a) and 104.43(a), provide 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 regulations require recipient colleges and 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. Academic requirements that the recipient can demonstrate are essential to the instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

In January 2014, the Student enrolled in the Recipient's cosmetology program. The Student participated in the program without any significant attendance issues from the time of his initial enrollment through the spring of 2014. In the summer of 2014, he

¹ OCR previously notified the Recipient of the Student's name and is not including it in this letter to protect the student's privacy.

began having medical problems, and on or around September 2014, the Student learned that he had been diagnosed with an immune disorder and other conditions that caused extreme fatigue and significantly limited major life activities, including using the bathroom. The Student told OCR that he informed the faculty in his program about his condition shortly after he was diagnosed, in approximately September 2014. When the Recipient attempted to terminate the Student's financial aid in the summer of 2015 due to his attendance issues, the Student submitted an appeal which included a note from his doctor about his absences. The Student also told OCR that he met with representatives from the Recipient in November and December 2015 and told them that his medical condition represented a disability and was the cause of his attendance problems. Nevertheless, according to the Student, the administrators told him that it was too late to request an accommodation and did not otherwise engage the Student in an interactive process to discuss potential modifications to its program requirements, taking into account the Student's disabling condition. OCR confirmed that on December XX, 2015, the Recipient expelled the Student from the program for "exceeding [the] maximum time frame" for completing the program.

During the course of the OCR investigation, OCR spoke with a representative for the Recipient to discuss the allegations and options for resolution, and the Recipient indicated its willingness to take action to resolve the complaint. On November 10, 2016, the Recipient voluntarily entered into the enclosed Resolution Agreement, which requires that the Recipient offer the student readmission to the Recipient's program and reconsider the Recipient's decision to terminate his financial aid. The Resolution Agreement also prohibits the Recipient from reinstating the Student's previous tuition charges, and requires that the Recipient providing written guidance and training to its staff regarding how students with disabilities should be treated in the Recipient's programs.

OCR generally will not continue the complaint resolution process if OCR receives information that a Recipient has taken actions that resolve the complaint allegations. Based on the information provided by the Recipient, OCR has determined that the Recipient has taken action to resolve the allegations, and there are no current allegations appropriate for continued resolution. Therefore, prior to completing its investigation and making a finding as to whether the Recipient is in compliance with the regulations at issue, OCR is closing the case as of the date of this letter and notifying the complainant by concurrent 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. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

OCR routinely advises recipients of Federal funds and public education entities that Federal regulations prohibit intimidation, harassment or retaliation against those filing complaints with OCR and those participating in the complaint resolution process.

Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR.

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

OCR would like to thank you and your staff for your courtesy and cooperation in resolving this case. If you have any questions, please contact Blake Thompson, Civil Rights Attorney, at (415) 486-5630.

Sincerely,

/s/

Ava DeAlmeida-Law
Acting Team Leader

Encl: Resolution Agreement

Cc: XXXX XXXXX (by email only)