



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

May 22, 2017

Mr. C. L. Max Nikias, Ph.D.
President
University of Southern California
Los Angeles, California 90089-0012

(In reply, please refer to case no. 09-17-2130.)

Dear President Nikias:

On January 9, 2017, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint against the University of Southern California (University). OCR began an investigation of whether the University discriminated against the Student¹ based on disability by failing to provide him with auxiliary aids in the education program and accommodations to his disability in the workplace, and by retaliating against him after he complained of disability discrimination by terminating his employment.

OCR began an investigation of this complaint pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. §794, and its implementing regulation, at 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability in programs and activities operated by recipients of federal financial assistance. As a recipient of federal financial assistance, the University is subject to Section 504 and its implementing regulation.

Under Section 302 of OCR's Complaint Processing Manual², a complaint may be resolved at any time when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint. Prior to the completion of OCR's investigation, the University informed OCR that it was amenable to resolving the complaint in this manner. OCR and the University entered into the attached agreement to resolve the complaint. Accordingly, OCR did not complete its investigation of the complaint or reach conclusions regarding the University's compliance with Section 504.

The applicable legal standards, the facts OCR gathered during its preliminary investigation and the disposition of the allegations are summarized below.

Legal Standards

¹ OCR previously provided the University with the Student's name. We are withholding the Student's name from this letter for privacy reasons.

² OCR's Case Processing Manual may be found at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

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

Under the Section 504 regulations, at 34 C.F.R. §104.4(a) and (b), no qualified individual 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 regulations, at 34 C.F.R. §104.61, incorporate 34 C.F.R. §100.7(e) of the regulations implementing Title VI of the Civil Rights Act of 1964 and prohibit recipients from intimidating, coercing, or retaliating against individuals because they engage in activities protected by Section 504.

OCR's preliminary investigation showed the following:

The Student alleged to OCR that during the fall 2016 semester, the University did not provide him with all of the auxiliary aids that he had requested in his program of study, and denied him access to the class notes to which he was entitled via an approved notetaker. With respect to his student employment position, he alleged that he had requested accommodations for his disabilities in a letter to the ADA/Section 504 Coordinator, dated September 29, 2016, but did not receive a response from the University. He further alleged that the University retaliated against him by removing him from his student employment position after he requested accommodations and assistance for his disabilities.

Resolution and Conclusion

In April and May 2017, OCR contacted the University to discuss the complaint. The University provided an explanation in response to each allegation and indicated its interest in voluntary resolution. As noted above, under OCR's procedures, a complaint may be resolved at any time when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint. Prior to the completion of OCR's investigation, the University entered into the attached agreement, signed May 9, 2017, to resolve the complaint. The agreement requires the University to send a letter to the Student that 1) offers to engage in the interactive process with the Student to discuss whether the auxiliary aids in place for the Student meet his needs and whether he needs additional auxiliary aids, such as a chair or a recording device; 2) offers to discuss comparable employment options on campus and accommodations for the application process and ensures that any requests for accommodations by the Student would be processed expeditiously; 3) provides assurance to the Student that it will not retaliate against him for filing complaints or tolerate or permit retaliation; and 4) restates the University's commitment to providing a work and academic environment free of unlawful harassment or discrimination. Since the University voluntarily agreed to resolve this complaint, OCR did not complete its investigation or reach conclusions regarding the University's compliance with Section 504. OCR will monitor the University's implementation of the agreement.

This concludes OCR's investigation of the complaint and 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. OCR is closing the investigation of this complaint as of the date of this letter, and notifying the Student concurrently.

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.

If you have any questions, please contact Shilpa Ram, Civil Rights Attorney, at shilpa.ram@ed.gov.

Sincerely,

/s/

Zachary Pelchat
Team Leader

cc: Patrick Noonan, Office of Equity and Diversity