



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

January 19, 2018

VIA ELECTRONIC MAIL

Dr. Pradeep K. Khosla
Chancellor
University of California San Diego
9500 Gilman Drive #0005
San Diego, CA 92093

(In reply, please refer to OCR Docket Number 09-17-2415)

Dear Dr. Khosla:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against the University of California San Diego (University). The complainant, a student at the University,¹ alleged that the University discriminated against her (Student) on the basis of disability. OCR investigated whether the University discriminated against the Student based on her disability by denying her academic adjustments and by not providing her with information about the process for appealing accommodations determinations.

OCR is responsible for enforcing 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. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation, at 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities. As a recipient of federal financial assistance and as a public entity, the University is subject to Section 504, Title II, and their implementing regulations.

To investigate this complaint, OCR interviewed the Student and reviewed documents and other information provided by her and the University. Prior to OCR completing its investigation, the University voluntarily agreed to address the areas of concern identified by OCR with respect to

¹ OCR previously provided the University with the identity of the complainant. We are withholding her name from this letter to protect her privacy.

the issues investigated. This letter summarizes the applicable legal standards, the relevant facts obtained during the investigation, and the terms of the resolution reached with the University.

Legal Standard

The Section 504 regulations, at 34 C.F.R. § 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 Title II regulations, at 28 C.F.R. § 35.130(a), contain a similar prohibition applicable to public postsecondary educational institutions.

Under the requirements of Section 504 and Title II, 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.

The Section 504 regulations, at 34 C.F.R. § 104.44(a), 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. 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 Title II regulations, at 28 C.F.R. § 35.130(b)(1)(ii) and (iii), public colleges and 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 colleges and 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 regulations. Therefore, OCR interprets the Title II regulations to require

public colleges and universities to provide necessary academic adjustments to the same extent as is required under the Section 504 regulations.

The Section 504 regulations, at 34 C.F.R. § 104.7(b), require a recipient employing 15 or more persons to adopt grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging disability discrimination. The Title II regulations, at 28 C.F.R. § 35.107(b), similarly require a public entity employing 50 or more persons to adopt and publish prompt and equitable grievance procedures.

Factual Background

During the 2016-2017 school year, the Student was a graduate student at the University. The Student had a disability of ADHD combined type-severe. The Student told OCR that, because of her disability, it was important for her to have a “clarified syllabus” in each class that clearly states assignment due dates, instructor expectations, and grading criteria so that she may adequately plan her work and prepare for classes. The Student received accommodations for her disability previously as an undergraduate at another university (U2). The University provided OCR with a copy of the Student’s 2010 U2 accommodations letter, which included the accommodation of an “Early class syllabus,” described as follows:

Early class syllabus: It is essential that [the Student] be able to obtain the class syllabus, required texts, and reading packets before the quarter begins. This will allow her to review the class-related assignments and exam dates for all her classes and to build her schedule for the quarter. This advance planning will assist her in staying focused, on track, and on time with her work. Generally the student will contact you for the syllabus, in a few cases DRS staff may make this request on the student’s behalf.

The Student told OCR that she did not inform the University of her disability when she started her graduate program, but that when she began to have difficulty in classes related to the lack of a clear syllabus, she contacted the University’s Office for Students with Disabilities (OSD) for assistance. The Student told OCR that she first contacted OSD on May X, 2016 when she emailed and stated that she was struggling in her graduate program due to “issues stemming from misunderstanding and miscommunication,” and attached a copy of a letter from her physician diagnosing her with ADHD. The letter is dated April XX, 2016 and states that the Student has “a history of most of the symptoms of inattention and impulsivity and some of the symptoms of hyperactivity [and] thus [meets] the criteria for a diagnosis of ADHD.” The letter also states that the physician’s diagnosis was based on her evaluation of the Student in 2010. The Student received an email from OSD on May X, 2016 inviting her to call to make an intake appointment. The Student told OCR that she called the same day intending to start the intake process, that she spoke with an OSD staff member, and that when she orally requested an accommodation of a

clarified syllabus, the OSD staff member told her that this accommodation was not possible because a professor has autonomy over their syllabus. The Student states that she was discouraged by this response and decided not to continue with the intake appointment at that time.

The University provided OCR with a copy of the Student's May X, 2016 email to OSD but stated that it had no record of the Student having called and spoken with any OSD staff on May X, 2016. The University provided OCR with a copy of the Student's OSD specialist's notes, which contain an entry from February 2017 stating that the Student complained that she had called OSD on May X, 2016 and spoken with someone who informed her that she could not have the syllabus accommodation she was requesting. The notes state that the specialist responded by saying she didn't know who the Student had spoken with.

The Student told OCR that she experienced difficulty as a result of her disability in a Fall 2016 directed-study class because there allegedly was no course syllabus and no description of the course's content online. The Student told OCR that she had "no idea" about the structure of the class, assignment deadlines, or what was required of her, and that the professor emailed her only vague instructions to write a research paper which she did not fully understand. The Student did not know if other students enrolled in the class received a syllabus. The Student told OCR that she was frustrated by the alleged lack of clarity regarding the course requirements, and that it motivated her to re-contact OSD on November XX, 2016 and submit completed intake and consent forms and to request accommodations including a clarified syllabus.

The OSD website describes the process for obtaining accommodations at the University as follows: 1) the student must submit all paperwork (OSD Intake Form, Consent, and Documentation Forms); 2) engage in dialogue with a Disability Specialist about how the student's current functional limitations impact the student; 3) once the Disability Specialist and student have agreed upon accommodations for a given quarter, an Authorization for Accommodation (AFA) letter will be issued; 4) for Classroom/Lab, and Exam accommodations, the student is responsible for contacting faculty to meet with them and review the course syllabus and discuss accommodation arrangements for the quarter.² The OSD webpage "Registering with OSD" states that it is important that students provide documentation of their disability addressing its current, functional limitations particularly as they pertain to an academic setting.³

The University provided OCR with a copy of the Student's OSD intake form, which is date-stamped November XX, 2016. On the form, the Student stated that her disability is ADHD and that it was causing her difficulty with course expectations, including that the professor "says things in class that [she] cannot recall." The student indicated on the form that she was

² <https://disabilities.ucsd.edu/students/obtainaccommodations.html>

³ <https://disabilities.ucsd.edu/students/registering.html>

requesting accommodations including “clarification [of] syllabus” for “all” quarters. The Student told OCR that she had been seeking accommodations for the then current Fall 2016 quarter as well as for all future quarters during which she would be a student at the University.

The University informed OCR that students cannot request accommodations for current and future quarters at the same time, and that because a student’s needs may change, they are required to request accommodations for every class prior to the quarter that they will need them and that this information is posted on the OSD webpage.⁴ The University also informed OCR that OSD does not grant retroactive accommodations, and that this information is also posted online.⁵ The University stated that the Student told her OSD specialist on November XX, 2016 that she wanted her professor to write a syllabus more clearly so that she could better understand the course requirements, and that she “appeared to be referring to the syllabus for a course she was taking during the Fall 2016 quarter, which was almost over.” The University’s academic calendar shows that instruction for Fall 2016 quarter began on September 9, 2016 and ended on December 2, 2016.⁶ The University told OCR that the specialist explained to the Student on November XX, 2016 the types of accommodations available, that they needed to be requested each semester, and that she also asked the Student to complete an ADHD form regarding her current medical condition and its functional limitations so that OSD could assess which accommodations were appropriate. The University states that the Student told the specialist that she could not submit the ADHD form because she did not have a current medical provider. The Student agrees that the specialist asked her to complete the ADHD form and that she responded that she did not have a current provider, but denies that she was asked specifically on November XX, 2016 to provide information about the functional limitations of her ADHD.

On December X, 2016 the OSD specialist emailed the Student and asked for a copy of her U2 accommodations letter; she also informed the Student that OSD would not provide the clarified syllabus accommodation because it was “not in a position to make the professor make the changes” the Student was requesting, and provided contact information for the Ombuds Office if the Student had concerns. On December X, 2016, the Student responded that she could not get the ADHD form completed and asked if she could forward her doctor’s letter of diagnosis instead. The specialist responded that it would be sufficient for the Student to provide the U2 accommodations letter in lieu of the completed ADHD form.

On December X, 2016 the OSD specialist emailed the Student a list of her approved accommodations which included a smart pen, audio recording device, and a peer note-taker; she also instructed the Student to come to the OSD office to pick up her Authorization For Accommodation (AFA) letters. The email did not explain why the Student’s clarified syllabus

⁴ <https://disabilities.ucsd.edu/students/obtainaccommodations.html>

⁵ <http://senate.ucsd.edu/Operating-Procedures/Senate-Manual/Appendices/3>

⁶ <http://registrar.ucsd.edu/studentlink/academicCalendar16-17.pdf>

accommodation request was not granted. The Student told OCR that these accommodations were insufficient to accommodate her disability, and that partly as a result, she took an incomplete in the directed-study class and went on a leave of absence. The Student and the University agree that the Student did not come in to pick up her AFA letters; the University states that the Student also did not “otherwise engage with OSD to discuss the proposed accommodations.”

The Student emailed her OSD specialist on January X, 2017 and asked who she should contact to file a grievance on the basis of her request for disability accommodations not being met. The OSD specialist responded and asked for more information about what the student meant when she said “disability accommodations not being met,” as that would help the specialist better understand the Student’s request and refer her to the correct person. The Student responded by asking to meet with the Specialist, which occurred on January XX, 2017. The University stated that during this meeting the specialist gave the Student a print-out of information about grievance procedures from the OSD webpage, “Concerns and Appeals”; that she reviewed each of the possible grievance procedures with the Student; that she discussed with the Student possible next steps including contacting the University’s Office for Prevention of Harassment and Discrimination (OPHD) and the Ombuds office; and that the specialist discussed that, if the accommodations granted were not what the Student had requested and were not what OSD could provide, the Student should work directly with the professors and the Student responded that she had done that already. The University told OCR that during this meeting the Student said, “for the first time, that the syllabi she wanted clarified were for Winter 2017 and Spring 2017 – not Fall 2016, as OSD had previously understood.”

The Student told OCR that she did not recall being given a print-out of the Concerns and Appeals webpage and denied that the specialist discussed each possible grievance procedure with her. The Student told OCR that she did not appeal the accommodations determination because she did not know how to/that she could do so, and also because she thought she needed a lawyer which she could not afford. The OSD specialist’s notes from the January XX, 2017 meeting document that the Student complained that she missed a due date because she did not have an updated syllabus; they do not include that the specialist reviewed grievance procedures with the Student.

The OSD Concerns and Appeals webpage states that a student who believes they have experienced disability-based discrimination should contact OPHD; and that a student who has concerns involving academic accommodations should refer to the University’s “Policy on Students with Disabilities and Steps for Academic Accommodations” (Accommodations Policy).⁷ The Accommodations Policy states that if after a student has been authorized for an

⁷ <https://disabilities.ucsd.edu/students/appealprocess.html>

accommodation by OSD but is not able to reach agreement about the accommodation with the instructor, the student may request a joint meeting with OSD staff, the instructor, and other administrators to review the request and that if the outcome of the meeting is unsuccessful, the student may appeal the faculty decision or action to the Educational Policy Committee utilizing Section 23.10.12 Student Grievance Procedures.⁸ The document, “University Of California Practices For The Documentation And Academic Accommodation Of Students With Attention-Deficit/Hyperactivity Disorder,” which is available on the University’s website,⁹ states that each University of California campus has procedures for resolving complaints or grievances regarding the provision of academic accommodations and services.

The University informed OCR that, while the Accommodations Policy governs an instructor’s denial of an authorized accommodation, the University does not have a policy regarding how a student can appeal the OSD’s denial of a requested accommodation, specifically. The University also informed OCR that it is standard protocol for OSD staff to discuss grievance and appeal procedures with students when they pick up their AFA letters, including providing students with the document, “Reminders for Students Obtaining Accommodations.” Reminder #7 states that a student should contact OSD immediately if they feel that reasonable and appropriate accommodations were not timely provided, and if the issue is not resolved, to contact the OSD Director. OCR was unable to locate a copy of this document on the University’s website.

The University told OCR it considered various information and factors in making its decision to deny the Student’s request for a clarified syllabus, including the following: 1) lack of documentation stating the Student’s current functional limitations, or stating that her request for a clarified syllabus was related to her current functional limitations, as well as that in conversations with her specialist, the Student could not explain the nexus between her request for a clarified syllabus and her disability; 2) the request was retroactive for a quarter that was almost over; 3) the Student’s documentation did not address the impact of the Student’s disability at the University; and 4) the Student’s documentation did not discuss the nexus between her request for a clarified syllabus and her disability. The University also stated that it ultimately denied the Student’s request for a clarified syllabus because OSD cannot require a professor to write a syllabus in a particular way; and because the request would have been retroactive. However, the University also stated it may reconsider the Student’s request if she provided sufficient documentation.

The Student told OCR that she was never informed by OSD that the documentation she had provided to the specialist, specifically her 2016 doctor’s letter and U2 accommodations letter, was insufficient to establish the functional limitations of her disability for the purpose of obtaining the accommodation of a clarified syllabus; or that she had not sufficiently explained

⁸ <http://senate.ucsd.edu/Operating-Procedures/Senate-Manual/Appendices/3>

⁹ https://disabilities.ucsd.edu/_files/PDFs/UCGuidelinesforDocumentingADHD.pdf

the reasons that she wanted a clarified syllabus. The University provided OCR with approximately a dozen emails between the Student and her OSD specialist, and in none of the emails does the specialist ask the Student to provide evidence of the functional limitations of her disability. The University told OCR that this was because the specialist understood that the Student as of November XX, 2016 did not have information including documentation about her current functional limitations other than that which she had already provided.

The Student obtained a new doctor's letter on February XX, 2017, but did not initially provide it to the University. It contained further information about her ADHD and its functional limitations, including that it is on the severe spectrum, that it impairs her ability to sustain concentration/attention and maintain adequate executive functioning skills, and that her executive functioning is deficient in particular with regard to school assignments requiring prioritization, organization, preparation, and the ability to remember and retain course expectations and guidelines. The letter states that as a result of her disability, the Student "requires specialized accommodation...[such as] having detailed outlines of objectives, expectations, and deadlines for classroom assignments at the start of the course."

The Student told OCR that she returned to the University for summer sessions X and X during 2017, and that she met with the OSD Director in July 2017 who explained to her what functional limitations were with regard to accommodations requests, as well as that she could appeal her December 2016 accommodations determination. The Student told OCR that she did so on August XX, 2017 by emailing her OSD specialist and providing the February 2017 doctor's letter. The Student told OCR that she did not provide it to OSD sooner because she was never informed that the letter would help her receive "better accommodations." On August XX, 2017, OSD authorized accommodations for the Student for summer sessions X and X and Fall 2017 including audio-recording (including the explanation of the syllabus) and professor or Teaching Assistant (TA) clarification of the syllabus prior to the start of class. The email authorizing the accommodations reminded the Student that OSD cannot "force professors to make the changes [she was] requesting, such as providing written syllabi and replacing revised syllabi immediately" but that OSD staff would help the Student work with professors to clarify and discuss syllabi.

The student told OCR that she continued to experience difficulty related to the syllabus in a summer session class when her professor allegedly made a last-minute change to the date of quiz and did not update the course syllabus to reflect the change. The Student is not currently taking classes at the University.

Analysis

Based on the facts gathered to date, OCR has significant concerns that the University may not have adequately engaged in the interactive process, may not have denied the requested accommodation on an appropriate basis, and may not have provided an adequate grievance

process. OCR is concerned that the OSD may not have adequately engaged in the interactive process and may have informed the Student that she could not have an accommodation of a clarified syllabus before she had submitted her intake forms and supporting documentation. The Student alleges that on May X, 2016 she spoke on the phone with an unidentified OSD staff member who informed her that OSD could not offer her a clarified syllabus as an accommodation because a professor has autonomy over their course syllabus; the Student's specialist informed the Student that she could not have a clarified syllabus on December X, 2016, which was prior to the accommodations determination. OCR is thus concerned that OSD denied modifications to its academic requirements that were necessary to ensure that the Student could participate in the educational program before she submitted any information about her disability, and that as a result the Student continued to take classes without accommodations for another six months.

OCR is also concerned that that OSD may have denied the Student's request for a clarified syllabus without thoroughly reviewing information she submitted regarding the functional limitations of her disability. The University told OCR that it determined the Student's accommodations based on information in her April 2016 doctor's letter, her U2 accommodations letter, her OSD intake form, and information she self-reported to her OSD specialist, and that none of these sources addressed the functional limitations of the Student's disability or how her request for a clarified syllabus was related to them, as well as that in conversations with her OSD specialist, the Student "did not explain" the nexus between her request for a clarified syllabus and her disability. The Student told OCR that she was never informed that the documents she provided were insufficient to establish the functional limitations of her disability, nor was she ever informed that she did not explain sufficiently the ways a clarified syllabus would accommodate the effects of her ADHD.

The University provided OCR with approximately a dozen emails between the Student and her OSD specialist, as well as the specialist's notes documenting her meetings with the Student. The emails and notes OCR reviewed showed that the Student did provide some information about the functional limitations of her disability, and that the specialist did not request additional information. In fact, the Student was told via an email from her OSD specialist on December X, 2016 that the information the Student had provided from U2 was sufficient to obtain accommodations. The University told OCR that the specialist made this statement because the Student had informed her orally on November XX, 2016 that she did not have a current medical provider, which the Student confirmed to OCR. However, OCR is concerned that the Student's lack of a current provider to complete a specific form may have resulted in the premature curtailment of the interactive process. For example, the Student obtained a more detailed doctor's letter in February 2017 but did not provide it to OSD until July 2017 because, she told OCR, she was never informed that a new letter would help her receive "better accommodations."

Similarly, OCR is concerned that the Student may not have been sufficiently asked to explain her accommodations request in the context of her disability. The University stated that the Student “did not explain the nexus between the request for more clarification on the syllabus and her disability.” It is not clear from this statement whether the Student was asked and could not explain the nexus sufficiently, or whether she was not asked at all. The Student stated on her intake form that her ADHD was causing her difficulty with course expectations and recalling statements her professor made in class; the U2 accommodation letter stated that it was essential for the Student to obtain an early syllabus so that she could review assignments and exam dates and plan her schedule, which would help her stay focused, on track, and on time with her work. The specialist’s notes from January XX, 2017 document that the Student complained that she missed a due date because she did not have an updated syllabus. These statements convey that the Student had difficulty remembering and keeping track of deadlines, as well as with planning and completing her assignments, and that a detailed and dated syllabus would be helpful; moreover, the challenges the Student reported are all common executive functioning manifestations of ADHD, and OSD staff were aware that the Student’s disability was ADHD. The Student was also able to explain the nexus between her disability and her request for a clarified syllabus during her interviews with OCR.

OCR is also concerned that OSD was not able to determine the quarter(s) for which the Student was requesting accommodations. The Student indicated on her accommodations request form that she wanted accommodations for “all” quarters, and told OCR that because she was not aware that students must request accommodations every quarter, that she assumed “all” meant the current (Fall 2016) quarter and all subsequent quarters. The University’s narrative data response states both that the Student asked for a clarified syllabus during her intake meeting on November XX, 2016, where she “appeared to be referring to the syllabus for a course she was taking during the Fall 2016 quarter, which was almost over”; and also that she told her OSD specialist on January XX, 2017, “for the first time, that the syllabi she wanted clarified were for Winter 2016 and Spring 2016 – not Fall 2016, as OSD had previously understood.” These statements are not consistent; however, if the Student had informed OSD for the first time on January XX, 2017 that she wished the accommodations to be retroactive, then retroactivity could not have been the basis for the denial of a clarified syllabus on December X, 2017.

The evidence OCR has obtained to date thus raises concerns that the University may not have adequately engaged in the interactive process with the Student to obtain information relevant to her request for a clarified syllabus accommodation, including information about how the Student’s disability impacted her ability to understand a non-clarified syllabus and how a clarified syllabus would remedy these limitations, as well as the specific time period for which the Student was requesting accommodations.

OCR is concerned that OSD may not have provided an adequate grievance process to the Student regarding being denied the syllabus accommodation. The Student told OCR that she did not complain about the accommodations determination because she did not know that she could, or how to do so. The evidence gathered to date shows that the Student emailed her specialist on January X, 2017 and asked who she should contact to file a grievance on the basis of her request for disability accommodations not being met; the specialist responded and asked for more information; and that the Student and the specialist then met on January XX, 2017. The Student and OSD disagree about whether information about the right to challenge accommodations determinations was discussed adequately during the meeting. The University states that the specialist gave the Student a print-out of information from the OSD webpage “Concerns and Appeals” and reviewed each of the possible grievance procedures. The Student does not recall being given the print-out and denies that the specialist reviewed each grievance procedure with her. The specialist’s notes from this meeting do not include that she provided the Student with the print-out or other information about how to challenge the accommodations determination. The Student states that she met with the Director of OSD in July 2017 and learned for the first time that she could complain about the denial of her request for a clarified syllabus, and that she did so and obtained additional accommodations in August 2017.

The University informed OCR that it has policies and procedures for complaining of disability-based discrimination, generally, as well as for complaining that an instructor is refusing to implement an authorized accommodation, but that it does not have a policy regarding how a student can grieve an OSD denial of a requested accommodation, specifically. The University told OCR that OSD’s standard protocol is to discuss grievance and appeal process with students at the time they pick up their AFA letters, when they are provided with the document, “Reminders for Students Obtaining Accommodations.” The University told OCR that the Student did not pick up her AFA letters in December 2016 as she had been advised, “nor did she otherwise engage with OSD to discuss the proposed accommodations.” The Student agrees that she did not pick up her AFA letters.

OCR reviewed “Reminders for Students Obtaining Accommodations,” and it states that a student should contact OSD immediately if they feel that reasonable and appropriate accommodations are not being provided in a timely manner, and that if the issue is not resolved, to contact the OSD Director. However, this document was not on the website and OCR did not obtain evidence showing that it was sent to the Student.

For the foregoing reasons, OCR has concerns that the University may not have provided the Student an interactive process and may have not provided her a process to grieve the denial of an accommodation. Because the University expressed interest in voluntary resolution, OCR did not complete its investigation. To complete the investigation, OCR would need to interview

University staff regarding their meetings, communications, and accommodation decisions regarding the Student.

Summary and Resolution

Prior to OCR concluding its investigation and to address the issues alleged in the complaint, the University, without admitting to any violation of law, entered into the enclosed resolution agreement which is aligned with the complaint allegation and the information obtained by OCR during its investigation. Under the agreement, the University will develop and distribute a guidance memo to all OSD staff with information about the University's policies and procedures for providing accommodations, including a reminder that accommodations determinations cannot be made until OSD has reviewed all information submitted by a student, and that such denials can only be made consistent with the regulations implementing Title II and Section 504; and identifying the process for a student to dispute an accommodations denial. The University also agrees to review the information provided by OSD staff to students during the accommodations process, to revise or develop if necessary a document to be provided to Students that details the steps for requesting accommodations and includes information about required documentation and relevant deadlines, as well to revise or develop if necessary a similar document for OSD intake staff. The University also agrees to revise the document, "Reminders for Students Obtaining Accommodations" to include that disagreements over accommodations can be grieved through the University's disability-based discrimination grievance procedures, and to post the revised document on the OSD webpage as well as in another relevant locations, and to send it to all students who fail to pick up their AFA letters. The University also agrees to provide the Student with a copy of the syllabus for each of her classes before they begin; for classes without a syllabus, an OSD staff member will facilitate a conversation between the Student and her instructor with the goal of developing a document that details course assignments, deadlines, and other due dates to help the Student organize her coursework.

Conclusion

Based on the commitments made in the enclosed resolution agreement, OCR is closing the investigation of this complaint as of the date of this letter, and notifying the complainant concurrently. When fully implemented, the resolution agreement is intended to address all of OCR's compliance concerns in this investigation. OCR will monitor the implementation of agreement until the University is in compliance with the statute(s) and regulations, which were at issue in the case.

This concludes the investigation of this complaint. OCR's determination in this matter 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. The Student may have the right to file a private suit in federal court whether or not OCR finds a violation. 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.

Please be advised that the University may not harass, coerce, intimidate, retaliate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Student may file another complaint alleging such treatment.

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

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact OCR attorney Matthew Wood at (415) 486-5591 or via email at Matthew.Wood@ed.gov

Sincerely,

/s/

Brain Lambert
Acting Team Leader

Encl.