



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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SEATTLE, WA 98174-1099

October 14, 2015

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Dr. Joseph E. Robertson, Jr.
President
Oregon Health and Science University
3181 SW Sam Jackson Park Road
Portland, Oregon 97239-3098

Re: Oregon Health and Science University
OCR Reference No. 10152009

Dear Dr. Robertson:

This is to inform you that the U.S. Department of Education, Office for Civil Rights (OCR), is discontinuing its investigation of the above-referenced discrimination complaint against the Oregon Health and Science University because it has obtained an agreement to address the allegations in the complaint. The complaint alleged that:

1. Between April 17 and September 12, 2014, the university failed to implement the student's academic adjustment in which the student is to be afforded weekly meetings with his clerkship coach to receive direction and guidance regarding concerns about the student's disability-related behavior that are identified by the student's clerkship team. Specifically, the student alleged that:
 - a. On April 17, 2014, following a complaint filed against the student by a psychiatry clerkship team member for behavior related to his disability, the university failed to implement the student's academic adjustment, which led to the student being suspended from class, having to attend a hearing with the Medical Student Progress Board, and having to remediate the education that the student missed due to the suspension.
 - b. On September 12, 2014, following the student's internal medicine rotation, the student received negative evaluations from his clerkship evaluators for disability-related behavior that was not brought to the attention of the clerkship coach as required by the academic adjustments. The student alleged that failure to provide the information to the clerkship coach directly resulted in the university

lowering the student's grade from successful to marginal, the student needing to remediate the clerkship, and the university extending the student's academic probation.

2. The university took the actions, described above in allegation No. 1, to retaliate against the student for raising various concerns with the university, including filing an appeal of his dismissal, regarding its failure to provide him with academic adjustments during the 2013-2014 school year.

OCR accepted this complaint for resolution under the authority of section 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act of 1990, and its implementing regulation. These statutes prohibit discrimination and retaliation on the basis of disability in programs and activities that receive federal financial assistance from the U.S. Department of Education, and by public entities, respectively. Specifically, the Section 504 regulation at 34 CFR 104.44 (a) states that a recipient shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of disability, against a qualified student with a disability. The Title II regulation at 28 CFR 35.130(b)(7) requires reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disabilities, unless public entities can demonstrate that making modifications would fundamentally alter the nature of the services, programs, or activities.

With respect to retaliation, the Section 504 regulation at 34 CFR 104.61 incorporates by reference the prohibition against retaliation found at 34 CFR 100.7(e), which state that no recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Section 504 or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The Title II regulation contains a similar prohibition against retaliation at 28 CFR 35.134.

During the 2013-2014 school year, the student attended the university's medical school and was identified as needing specific disability-related academic adjustments. It is the student's position that, according to his approved academic adjustments, the university was to provide him with immediate feedback about his professional behavior and his academic progress so that he could adapt his behavior and/or academic performance to meet the medical school's expectations. In this regard, the student asserts that he should have been first given an opportunity to address any behavioral concerns identified by the university before the university withdrew him from a clerkship and requiring him to remediate the clerkship at a later date. The student also maintains that he relied on the weekly meetings with the clerkship director for information regarding his academic and professional progress during the internal medicine clerkship. It is the student's position that unfavorable comments from evaluators following the clerkship were unexpected, and

he did not have an opportunity to address those concerns, as was required under his academic adjustments, before being required to remediate the clerkship.

OCR's investigation to date suggested that there may have been inconsistency in the manner in which the student's academic adjustments were administered by the university. In accordance with Section 302 of OCR's Case Processing Manual, a complaint may be resolved at any time when, before the conclusion of an investigation, the institution expresses an interest in resolving the complaint. In such a case, the provisions of an agreement to resolve the complaint must be aligned with the complaint allegations or any information obtained during the discontinued investigation and must be consistent with applicable regulations. In this case, the university requested to resolve the complaint prior to the conclusion of OCR's investigation. Subsequent discussions with the university resulted in the university signing the enclosed agreement.

The actions the university will take under the agreement will include implementing the student's approved academic adjustments; providing notices to all relevant staff, including clinical directors at the respective clerkship sites about the university's prohibitions against disability discrimination; and preventing retaliatory actions against individuals who exercise disability-related rights under Section 504 and Title II.

OCR will monitor the implementation of the agreement and will close the complaint when OCR determines that the terms of the agreement have been satisfied. The first report under the agreement is due by December 15, 2015.

Thank you for your cooperation throughout this investigation. If you have any questions, please feel free to contact Kwame Amoateng, attorney, by telephone at (206) 607-1602, or by e-mail at kwame.amoateng@ed.gov.

Sincerely,

/ s /

Sukien Luu
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement