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OFFICE FOR CIVIL RIGHTS

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April 27, 2017

Dana L. Thomas
Interim Chancellor
University of Alaska Fairbanks
P.O. Box 757500
Fairbanks, Alaska 99775-7500

Re: University of Alaska Fairbanks
OCR Reference No. 10172032

Dear Chancellor Thomas:

This is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) has resolved the above-referenced complaint against the University of Alaska Fairbanks (university). OCR investigated whether the university discriminates against students on the basis of disability with respect to student housing by charging more for single dormitory rooms and/or apartment style dormitory rooms with kitchens, even if such housing is required as an accommodation for a student's disability. 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. These laws prohibit discrimination in programs and activities receiving federal financial assistance and by public entities, respectively. The university receives federal financial assistance from this Department and is a public entity, and is therefore subject to these laws.

The regulation implementing Section 504 at 34 C.F.R. §104.45 states that a recipient that provides housing to its non-disabled students shall provide comparable, convenient, and accessible housing to disabled students at the same cost as to others. The regulation implementing Title II at 28 C.F.R. §35.130(b)(7)(i) states that public entities must make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless it can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

The investigation to date reflects that the university has established policies and procedures regarding the provision of services for students with disabilities. These policies state that the university will provide appropriate academic adjustments and other programmatic accommodations to qualified students with disabilities to ensure access to educational opportunities, programs and activities in the most integrated setting available. The policies also state that the university will not charge students with disabilities a fee for the provision of approved appropriate academic adjustments and other programmatic accommodations. In addition, the policies state that the university is not responsible for providing or for the cost of non-approved academic adjustments, personal care attendants, individually prescribed

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devices, or other devices or services of a personal rather than programmatic nature. The policies designate the university's Disability Support Services (DSS) coordinator as the person responsible to oversee all services for students with disabilities within the university's programs.

The university offers a variety of housing options for its students at differing rates. The university has 10 residence halls that include dormitory and apartment-style rooms. Differing rates are charged for double room, single room and double-single room accommodations, the least expensive of which is a double room. All residence halls have communal kitchens for student use. The university also offers apartments with differing rates depending on whether a student chooses an efficiency apartment, double-shared, one bedroom, two bedroom, or three bedroom and whether a garage is provided. Apartments have individual kitchens. The least expensive of the apartment options is a double-shared.

The university's student housing handbook includes a section titled "Residence Life Housing Accommodations" which describes the university's commitment to providing appropriate housing accommodations to students with disabilities who show a documented need. The handbook states that currently enrolled and prospective students with a documented disability in need of disability-related housing accommodations should contact DSS as early as possible to discuss accommodations. The handbook states that DSS works closely with residence staff to provide housing to meet each student's individual needs on a case-by-case basis. Examples of housing accommodations listed in the handbook include ADA compliant rooms, single occupancy room, room modifications, shared/private baths, dining plan exemptions, and service/assistive animals.

The university's DSS office provides written guidance to students regarding the availability of disability-related services. Under the "Frequently Asked Questions" (FAQ) of the DSS website, information is provided which addresses the question regarding "What do I do if I have disabilities that affect my UAF residential housing arrangements?" Prior to the OCR complaint being filed that is the subject of this investigation, the answer to this question was as follows:

The university has housing options that provide accessibility to students...Requests for single rooms are processed in the same way for all students and all students must follow the residential life procedures, deadlines, pay requisite fees and abide by the housing contract.

After receiving the OCR complaint, the university informed OCR that its policies were updated to remove "inaccurate or misleading information" concerning housing charges. Specifically, the FAQ section was revised to delete the previously cited section in its entirety. This section is now limited to web link references to "Disability Services/Accessible Housing" and "Residence Life/ Residence Life Home."

The evidence collected by OCR to date shows that during the 2015-2016 and 2016-2017 academic years, the university received inquiries or requests from four individuals regarding the need for single room student housing and/or apartment style dormitory rooms with kitchens as a disability-related accommodation. Of those four, two individuals enrolled in the university and lived in university housing. The university informed OCR that as a result of the OCR complaint, UAF was in the process of issuing refunds to the two individuals who may have incurred fees for their housing arrangements that resulted from their need for a disability-related accommodation request.

Based on the investigation to date, OCR has a concern that the university may have a policy or practice of charging students with disabilities more for single dormitory rooms and/or apartment style dormitory rooms with kitchens, even if such housing is required as an accommodation for a student's disability.

In accordance with Section 302 of the OCR *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 and OCR determines that it is appropriate to resolve the issues under investigation with an agreement during the course of an investigation. Before OCR completed its investigation with respect to the allegation, the university expressed an interest in voluntarily resolving this case. In light of the university's willingness to address the concerns identified by OCR comprehensively without further investigation, OCR determined entering into a voluntary resolution agreement was appropriate.

The actions the university will take under the agreement include the following:

- review and revise as necessary all relevant policies, procedures, and practices pertaining to the provision of housing to students with disabilities to reflect that: (a) the university does not discriminate in the provision of housing to students with disabilities; (b) the university will provide comparable, convenient, and accessible housing to students with disabilities; (c) students with disabilities approved for housing accommodations are not subject to surcharges; and (d) the university will make reasonable modifications to its housing policies, procedures, and practices when the modifications are necessary to avoid discrimination;
- disseminate a memorandum to relevant staff in the university's DSS office and the Residence Life Office which describes the university's obligations under Section 504 to provide comparable, convenient, and accessible housing to students with disabilities at the same cost as to others, and the obligations under Title II to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability; and
- reimburse students with disabilities who were granted single room student housing and/or apartment style dormitory rooms with kitchens as a disability-related accommodation during the academic years 2015-2016 and 2016-2017 and who were charged more than comparable non-disability related housing options.

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 **June 15, 2017**.

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 regardless of OCR's determination.

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Please be advised that the university may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the complainant 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, 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.

Thank you for the cooperation that you and your staff extended to OCR staff in resolving this complaint. If you have any questions, please feel free to contact Tania Lopez, Senior Attorney, by telephone at (206) 607-1623 or by e-mail at tania.lopez@ed.gov.

Sincerely,

Barbara Wery
Team Leader

Enclosure: Voluntary Resolution Agreement

cc: University General Counsel Office