



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

915 2ND AVE., SUITE 3310
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January 3, 2019

Mr. Keith Watson
President
Pacific Northwest University of Health Sciences
111 University Parkway, Suite 202
Yakima, Washington 98901

Re: Pacific Northwest University of Health Sciences
OCR Reference No. 10182126

Dear Mr. Watson:

This letter is to inform you of the disposition of the above-referenced complaint filed against the Pacific Northwest University (university) with the U.S. Department of Education (Department), Office for Civil Rights (OCR). The complaint alleged that the university discriminated against a student (hereinafter, “the student”), on the basis of disability, by:

1. failing to provide the student with a requested accommodation of additional time on quizzes and lab practicals during the 2017-2018 academic year; and
2. failing to establish a prompt and equitable grievance process to resolve disability discrimination complaints.

As explained below, prior to completion of OCR’s investigation, the university expressed an interest in voluntarily resolving the complaint and signed the enclosed Voluntary Resolution Agreement (agreement) to address the complaint allegations.

OCR initiated an investigation of the complaint allegations under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulations. This statute prohibits discrimination on the basis of disability in programs and activities that receive federal financial assistance. The university is a recipient of federal financial assistance from this Department and is therefore subject to Section 504.

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

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The Section 504 regulation, at 34 C.F.R. § 104.44(a), requires a university to modify its academic requirements as 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, unless the recipient can demonstrate that the academic requirements are essential to the instruction being pursued by the student or to any directly related licensing requirement. The Section 504 regulation, at 34 C.F.R. § 104.44(c), provides that recipients are required to ensure that course examinations are administered in such a way that they measure the achievement of students with disabilities, rather than simply reflecting a student's impaired sensory, manual, or speaking skills (except where such skills are the factors the test is intended to measure). Additionally, the Section 504 regulation, at 34 C.F.R. § 104.44(d), requires a university to ensure that no qualified individual with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

Section 504 also requires recipients to adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of disability discrimination complaints.

The investigation to date indicated that the university may not have provided the student with some of her requested accommodations prior to the university dismissing the student from her medical program. OCR did not identify during its investigation that the university had a specific published procedure for either requesting accommodations or a specific grievance procedure for complaints of disability discrimination.

In accordance with Section 302 of the OCR *Case Processing Manual*, a complaint may be resolved at any time when, before OCR's final determination, the recipient expresses an interest in resolving the complaint allegations and OCR determines that it is appropriate to resolve the issues under investigation with an agreement.

In this case, the university requested to resolve the complaint prior to OCR's final determination. In light of the university's willingness to address the concerns identified by OCR comprehensively without further investigation, OCR determined that entering into a voluntary resolution agreement was appropriate. Subsequent discussions with the university resulted in the university signing the enclosed agreement. When fully implemented, the agreement will address all of the allegations and OCR will monitor the implementation of the agreement.

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.

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

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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.

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 **February 25, 2019**.

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 Ellen Chestnut, Attorney, by telephone at (206) 607-1605 or by e-mail at ellen.chestnut@ed.gov.

Sincerely,

Paul Goodwin
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement

cc: Director, Human Resources