



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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May 2, 2018

Mr. John Cannon
Director
Alaska Department of Labor,
Division of Vocational Rehabilitation
801 West 10th Street, Suite A
Juneau, Alaska 99801

Re: Alaska Department of Labor, Division of Vocational Rehabilitation
OCR Reference No. 10183003

Dear Mr. Cannon:

This letter is to inform you of the disposition of the above-referenced complaint filed against the Alaska Department of Labor, Division of Vocational Rehabilitation (DVR) with the U.S. Department of Education (Department), Office for Civil Rights (OCR). The complaint alleged that the DVR discriminated against the complainant, a former client, based on his race and national origin (Native Alaskan) and disability, and also retaliated against him when it closed his case file in June 2017.

OCR investigated this case under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504), Title VI of the Civil Rights Act of 1964 (Title VI), and their implementing regulations. These statutes prohibit retaliation and discrimination on the bases of disability (Section 504), race, color, and national origin (Title VI) in programs and activities that receive federal financial assistance. Because the DVR receives federal financial assistance from this Department, it is subject to Section 504 and Title VI.

Prior to completion of OCR's investigation, the DVR expressed an interest in voluntarily resolving this allegation, and signed the enclosed Voluntary Resolution Agreement (agreement), to address the complaint allegation.

The regulation implementing Section 504 at 34 C.F.R. §104.4, requires that, "No qualified disabled person 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 regulation implementing Title VI of the Civil Rights Act of 1964 at 34 C.F.R. §100.3 requires that, "No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this part applies."

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The regulation implementing Title VI at 34 C.F.R. §100.7(e) prohibits recipients of Department funding from intimidating, coercing, threatening or discriminating against individuals for the purpose of interfering with any right or privilege secured by Title VI, or because the person made or participated in a Title VI complaint. The Section 504 regulation at 34 C.F.R. §104.61 incorporates by reference 34 C.F.R. §100.7(e) and, therefore, contains the same prohibition against retaliation.

The investigation to date indicated that the DVR had determined that the complainant required a neurological evaluation to provide him with services, and the DVR attempted at least once to pay for an evaluation, but the complainant did not show up to the appointment. The DVR closed the case file before completing the evaluation to fully determine the complainant's needs. The DVR closed the complainant's case file on June 7, 2017, based on the complainant "no longer being interested in the DVR services." The complainant indicated that he was still seeking those services when his case was closed, and believed the case was closed based on his Native Alaskan race and in retaliation for a previous discrimination complaint he filed against the DVR.

In accordance with Section 302 of the OCR Case Processing Manual, a complaint may be resolved at any time before OCR issues a final determination, when the recipient expresses an interest in resolving the complaint allegation and OCR determines that it is appropriate to resolve the issues under investigation with an agreement. In this case, the DVR requested to resolve the complaint allegations prior to the conclusion of OCR's investigation. In light of the DVR'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 DVR resulted in the DVR signing the enclosed agreement to resolve the allegations.

This letter sets forth OCR's determination in an individual OCR case and should not be interpreted to address the DVR's compliance with any other regulatory provisions or to address any issues other than those addressed in this letter. 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.

Please be advised that the DVR 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 **May 11, 2018**.

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If you have any questions regarding this letter, 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: XXXXXXXX, MRC, CRC
Chief of Rehabilitation Services