



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

915 2nd AVENUE, ROOM 3310  
SEATTLE, WA 98174-1009

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April 7, 2023

**Via email only to:** [president@oit.edu](mailto:president@oit.edu)

Dr. Nagi Naganathan

President

Oregon Institute of Technology

Re: Oregon Institute of Technology  
OCR Reference No. 10222122

Dear President Naganathan:

The U.S. Department of Education, Office for Civil Rights (OCR) has resolved the referenced complaint against Oregon Institute of Technology, opened for investigation on September 22, 2022. OCR investigated whether the University discriminated, on the basis of disability, against a student (Student), by failing to provide the Student with approved academic adjustments and/or auxiliary aids (collectively, “accommodations”) on lab practical exams in the University’s XXXXXXXXXX program during the 2021-2022 academic year.

OCR investigated this complaint under OCR’s authority to enforce Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and their respective implementing regulations, at 34 C.F.R. Part 104 and 28 C.F.R. Part 35. These federal civil rights laws prohibit discrimination based on disability in programs and activities receiving federal financial assistance and by public entities, respectively. The University is a recipient of funds from the Department and a public entity and is thus subject to Section 504, Title II, and their implementing regulations. Accordingly, OCR has jurisdiction to investigate and resolve this complaint under Section 504 and Title II.

As explained below, prior to OCR completing its investigation, the University expressed an interest in voluntarily resolving the complaint and signed the attached Voluntary Resolution Agreement (Agreement) to address the complaint allegations.

The Section 504 implementing regulation at 34 C.F.R. § 104.4(b)(1)(ii) prohibits recipients from affording a qualified person with a disability an opportunity to participate in or benefit from the recipient’s aid, benefit, or service that is not equal to that afforded to others. The Section 504 implementing regulation at 34 C.F.R. § 104.44(a) requires a recipient to modify its academic requirements as necessary to ensure that they do not discriminate or have the effect of discriminating, on the basis of disability, against a qualified applicant or student with a disability, provided that academic requirements that the recipient can demonstrate are essential to the instruction being pursued by such student or to any directly related licensing requirement will not

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

be regarded as discriminatory. The Title II regulation at 28 C.F.R. § 35.130(b)(7) provides that a public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

OCR generally does not substitute its judgment for that of qualified educators and professionals regarding academic adjustments and modifications. OCR may, however, review the process that a postsecondary institution utilized to determine whether an academic adjustment modifies an essential requirement. OCR considers among other factors, whether the decisions regarding essential program requirements were made by a group of people who are trained, knowledgeable, and experienced in the area through a careful, thoughtful, and rational review of the academic program and its requirements; and whether the decision-makers considered a series of alternatives for the essential requirements, as well as whether the essential requirement in question can be modified for a specific student with a disability.

OCR's investigation to date indicates that, prior to the start of the fall 2021 academic term, the Student, who was enrolled in the University's XXXXXXXX, requested academic adjustments from the University's disability services center (ACES) for XXXXXXXX. On XXXXXXXX, ACES provided a letter to the Student approving her requested test accommodations, including extended time on exams and a reduced-distraction testing environment. On XXXXXXXX, ACES notified the instructor of XXXXXXXX of the Student's approved accommodations. The instructor emailed ACES back the same day stating that the Student's approved accommodations could not be provided because timed practical exams XXXXXXXX were an essential course requirement. The instructor's email included, with reference to this, only that extended time on exams and a less distracted environment were not within the guidelines of the technical standards for her course. On XXXXXXXX, ACES responded to the instructor informing her that she was not obligated to provide the approved accommodations. Thereafter, the Student took two practical exams in XXXXXXXXXXXX without accommodations and failed both. On or about XXXXXXXXXXXXXXXX, she was discharged from the XXXXXXXX.

OCR has a concern, based on the foregoing, that the University may have failed to conduct an appropriate review of the relevant academic program and its requirements prior to denying the Student use of her accommodations in XXXXXXXXXXXX, to have considered effective alternative accommodations for the Student, or whether the essential requirement in question could be modified with respect to the Student's specific disability-related needs.

According to § 302 of OCR's *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, 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 during an investigation. In this case, the University requested to resolve all the allegations before OCR concluded its investigation. Based on the University's willingness to comprehensively address the concerns identified by OCR without further investigation, OCR has determined that it is appropriate to enter into a voluntary resolution agreement. Subsequent discussions with the University resulted in the attached Agreement.

The actions the University will take under the Agreement include reviewing and, as needed, revising its procedures for deciding whether to grant student requests for disability-related academic adjustments, distributing revised procedures to relevant employees, and conducting training on its revised procedures. The University will also inform the Student of the actions the University is undertaking under the Agreement, will ameliorate any impact on her grade point average attributable to XXXXXXXXXX, and will refund her all costs, fees, and tuition for XXXXXXXXXX.

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 this complaint. The complainant may have a right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the University may not harass, coerce, intimidate, or discriminate against any individual because they have filed a complaint or participated in the complaint resolution process. If this happens, the individual may file a 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. If 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 University's implementation of the Agreement until the University is in compliance with the terms of the Agreement and the statutes and regulations at issue in the case. As noted in the Agreement, the University's first monitoring report to OCR is due by **May 5, 2023**.

Thank you for the cooperation that you and your staff extended to OCR staff in resolving this complaint. If you have any questions about this letter, please contact Isaac Conver, Attorney, at [isaac.conver@ed.gov](mailto:isaac.conver@ed.gov) or 202-987-1413.

Sincerely,

David Kauffman  
Supervisory Attorney

Attachment: Voluntary Resolution Agreement