



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-1475

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, DC

XXXX DATE REDACTED XXXX

Dr. M.G. “Pat” Robertson
Chancellor
Regent University
1000 Regent University Drive
Virginia Beach, Virginia 23464-9800

Re: OCR Complaint No. 11-17-2255
Letter of Findings

Dear Dr. Robertson:

The Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) has completed its investigation of the complaint we received on XXXX against Regent University (the University). The Complainant alleged that the University discriminates on the bases of disability and sex. Specifically, the Complainant alleged the following:

1. The University discriminates on the basis of disability, by:
 - a. Failing to designate an employee to coordinate its efforts to comply with Section 504, and to notify all beneficiaries and employees of the identity of the employee so designated, as required by the regulation implementing Section 504, at 34 C.F.R. §104.7(a) and §104.8(a).
 - b. Failing to publish an appropriate non-discrimination notice stating that the University does not discriminate on the basis of disability, as required by the regulation implementing Section 504, at §104.8(a).¹

2. The University discriminates on the basis of sex, by:
 - a. Failing to publish an appropriate non-discrimination notice stating that the University does not discriminate on the basis of sex, as required by the regulation implementing Title IX, at 34 C.F.R. § 106.9(a).²
 - b. Failing to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities, and to notify all of its students and employees of the name, office address and telephone number of the employee or employees so designated, as required by the regulation implementing Title IX, at 34 C.F.R. § 106.8(a).

¹ The Complainant also asserted that the notice is not easily located on the University’s website.

² The Complainant also asserted that the notice is not easily located on the University’s website.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. OCR also enforces Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulation at 34 C.F.R. Part 106, which prohibit discrimination on the basis of sex in program and activities that receive Federal financial assistance from the Department. Because the University receives Federal financial assistance from the Department, OCR has jurisdiction over it pursuant to Section 504 and Title IX.

In reaching a determination, OCR reviewed documents provided by the Complainant and the University; and examined the University's websites and electronic and printed publications. After carefully considering all of the information obtained during the investigation, OCR found sufficient evidence of Section 504 and Title IX noncompliance with respect to Allegations 1(a), 1(b), and 2(a), which OCR will resolve through the enclosed Resolution Agreement, pursuant to Section 303(b) of OCR's *Case Processing Manual*. However, OCR determined that there was insufficient evidence to substantiate Allegation 2(b). Further, during the course of its investigation, OCR also identified a compliance concern regarding the Age Discrimination Act of 1975 regarding the University's failure to provide notice of the requirements contained therein. OCR's findings and conclusions are discussed below.

Background

The University is a private collegiate institution located in Virginia Beach, Virginia. The University offers 128 graduate and undergraduate programs and enrolled approximately 10,000 students for the XXXX term.

The Complainant alleged that the University discriminates on the basis of disability and sex, by failing to sufficiently identify its Section 504 Coordinator and Title IX Coordinator in its notice of non-discrimination; and failing to publish an appropriate notice of non-discrimination. Specifically, the Complainant asserted that at the time the complaint was filed, the University's website, recruitment materials and handbooks did not provide sufficient notices of non-discrimination that comply with Section 504 and Title IX requirements.

In response to the instant complaint, the University contended that its policies and procedures, including the publication of a non-discrimination notice and the identification of both the University's Section 504 Coordinator and Title IX Coordinator, comply with requirements for Section 504 and Title IX. The University further reported that during the course of the investigation, it has continued ongoing efforts to enhance its notice of non-discrimination as well as its website to ensure that information related to Section 504 and Title IX requirements are readily found.³

³ Prior to the conclusion of the investigation, the University notified OCR that it revised its notice of non-discrimination to remedy the identified areas of noncompliance. Through the enclosed Resolution Agreement, OCR will monitor the University's continued efforts to implement its revised notice of non-discrimination and to comply with regulatory requirements.

OCR reviewed the University’s website and surveyed the homepage, and webpages for admissions, academics, disability services, employment and human resources. OCR also reviewed the University’s online admissions application, recruitment materials for academic programs, student handbook⁴, employee handbook, faculty and academic handbook, and other publications.⁵ OCR’s review also included an examination of the University’s non-discrimination notice⁶, which states in relevant part that:

Regent University does not discriminate on the basis of race, color, sex, national or ethnic origin, disability, or veteran status in admissions, or in the administration of educational policies, scholarships, loan programs, athletics or other University administered student programs [...] Questions or concerns regarding discrimination based on sex may be directed to the University’s Title IX Coordinator at T9Coordinator@regent.edu, or the U.S. Department of Education’s Office for Civil Rights at OCR@ed.gov.

Further, the University’s webpages included a link for the non-discrimination policy which, in addition to the aforementioned notice, included the names and contact information for the University employees designated to address Section 504 and Title IX compliance concerns, which the University bifurcated between students and employees.

Allegation 1(a)

The Complainant alleged that the University discriminates on the basis of disability, by failing to designate an employee to coordinate its efforts to comply with Section 504, and to notify all beneficiaries and employees of the identity of the employee so designated, as required by the regulation implementing Section 504, at 34 C.F.R. §104.7(a) and §104.8(a).

Legal Standards

The regulation implementing Section 504, at 34 C.F.R. § 104.7(a), requires each recipient that employs 15 or more persons to designate at least one person to coordinate its efforts to comply with Section 504. The Section 504 regulation at 34 C.F.R. § 104.8 (a), also requires recipients to notify all beneficiaries and employees of the identity of the employee designated in a recipient’s non-discrimination notice.

Analysis

The University indicated that the Disability Services Coordinator and the Director of Human Services are the designated Section 504 Coordinators for students and employees, respectively. OCR surveyed the University’s website and Student Handbook and readily found the

⁴ The University’s Student Handbook for the XXXX academic year was effective XXXX.

⁵ Although the University referenced its Employee Handbook in its response to the allegation, OCR was unable to locate and access the Employee Handbook using the link provided by the University or through the University’s website search engine.

⁶ OCR found that the University interchangeably referred to its notice of non-discrimination as a “Non-Discrimination Policy” or “Equal Opportunity Policy for Students.” OCR encourages the University to uniformly characterize its notice of non-discrimination for clarity.

University’s non-discrimination notice⁷, which identified both employees by name, title, email address, and telephone number.⁸ However, although the University provided information indicating that both employees were responsible for coordinating efforts that may arise under Section 504, the University did not specifically identify the Disability Services Coordinator and the Director of Human Services as Section 504 Coordinators. Rather, the non-discrimination notice listed their contact information and title under the heading of “Disability Accommodations.” Because the University narrowly defined the purview of the identified officials to disability accommodations only, OCR found that the University failed to appropriately identify its designated officials as Section 504 Coordinators in its notice of non-discrimination consistent with regulatory requirements.⁹ Accordingly, OCR resolved Allegation 1(a) through a Resolution Agreement pursuant to Section 303(b) of OCR’s *Case Processing Manual*. To the extent that the University has asserted that it has made changes to its website in accordance with Section 504, the University will provide to OCR information to determine if it meets regulatory requirements for Section 504, at 34 C.F.R. §104.7(a) and §104.8(a).

Allegation 1(b)

The Complainant alleged that the University discriminates on the basis of disability, by failing to publish an appropriate non-discrimination notice stating that the University does not discriminate on the basis of disability, as required by the regulation implementing Section 504, at §104.8(a).¹⁰

Legal Standard

The Section 504 regulation at 34 C.F.R. § 104.8 requires that recipients notify participants, beneficiaries, applicants, and employees that it does not discriminate in admission or access to, or treatment or employment in, its program or activity. The notification shall include the identity of the responsible employee designated to coordinate compliance with Section 504. The non-discrimination notice shall be included in recruitment materials or publications containing general information that is available to participants, beneficiaries, applicants, or employees.

Analysis

As stated previously, OCR examined the University’s notice of non-discrimination, located on the University’s webpages and publications. OCR determined that the University’s notice of non-discrimination did not fulfill Section 504 requirements to constitute adequate notice. Specifically, OCR determined that the language was narrowly tailored to student programs, and

⁷ Specifically, the University included a link at the end on its webpage, which leads to its notice of non-discrimination.

⁸ OCR notes that at the time the Complainant filed the complaint, he alleged that the University’s website did not include a reference to its notice of non-discrimination or Section 504 Coordinator. The Complainant provided a purported archive version of the University’s website from XXXX. OCR reviewed the alleged archived website and did not readily locate information related to the University’s notice of non-discrimination or Section 504 Coordinator. As previously mentioned, the University acknowledged that during the course of the investigation, it has continued to enhance its website to ensure compliance with Section 504 requirements.

⁹ OCR determined that listing officials without identification as Section 504 Coordinators and under a heading for “Disability Accommodations” did not provide adequate notice of the breath of requirements under Section 504.

¹⁰ The Complainant also asserted that the notice is not easily located on the University’s website.

thus inconsistent with the applicable regulation requiring the University to state that it does not discriminate in admission, treatment, employment, or access to its programs or activities. Moreover, while OCR readily found the notice of non-discrimination on the University's website, Student Handbook, recruitment materials, and admissions forms, OCR did not readily locate a similar notice in the University's Employee Handbook or Faculty and Academic Handbook. Because the notice of non-discrimination failed to comply with Section 504 regulations requirements including, but not limited to, publication to employees and notification of non-discrimination in both employment and its programs *and* activities, OCR found sufficient evidence of noncompliance with respect to Allegation 1(b). Accordingly, OCR resolved Allegation 1(b) through a Resolution Agreement pursuant to Section 303(b) of OCR's *Case Processing Manual*. OCR notes that during the course of the investigation, the University took steps to revise its notice of non-discrimination, which OCR will review to determine whether it meets Section 504 regulatory requirements.

Allegation 2(a)

The Complainant alleged that the University discriminates on the basis of sex, by failing to publish an appropriate non-discrimination notice stating that the University does not discriminate on the basis of sex, as required by the regulation implementing Title IX, at 34 C.F.R. § 106.9(a).¹¹

Legal Standard

The regulation implementing Title IX, at 34 C.F.R. § 106.9, requires that recipients notify applicants for admission and employment, students, employees, sources of referral of applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of sex in its education programs or activities, and that it is required by Title IX not to discriminate in such a manner. Such notification shall state at least that the requirement not to discriminate in the education program or activity extends to employment. The notice must also state inquiries concerning Title IX may be referred to the recipient's Title IX coordinator or to OCR.

Analysis

Similar to Allegation 1(b), OCR reviewed the notice of non-discrimination with respect to sex to determine whether the University met the requirements of Title IX. OCR determined that the notice of non-discrimination appropriately directed inquiries concerning Title IX to the University's Title IX Coordinator or to OCR. However, the notice of non-discrimination failed to fully encompass education programs and activities and failed to extend to employment as required by Title IX regulation. Moreover, while OCR readily identified the notice of non-discrimination on the University's website and various publications, OCR did not readily locate the University's notice of non-discrimination in the Employee Handbook or Faculty & Academic Handbook. Therefore, OCR concluded that the University did not provide adequate notice to

¹¹ The Complainant also asserted that the notice is not easily located on the University's website.

employees and others of the afforded protections under Title IX regulation. Because OCR identified areas of Title IX noncompliance, OCR resolved Allegation 2(a) through a Resolution Agreement pursuant to Section 303(b) of OCR’s *Case Processing Manual*.

Allegation 2(b)

The Complainant alleged that the University discriminates on the basis of sex, by failing to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities, and to notify all of its students and employees of the name, office address and telephone number of the employee or employees so designated, as required by the regulation implementing Title IX, at 34 C.F.R. § 106.8(a).

Legal Standard

The Title IX regulation, at 34 C.F.R. § 106.8(a), requires that each University designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX, including any investigation of any complaint communicated to the University alleging noncompliance with Title IX. The University must notify all students and employees of the name, office address, telephone number, and email address of the designated coordinator.

Analysis

The University asserted that both a designated Title IX Coordinator and Deputy Title IX Coordinator are responsible for coordinating efforts to comply with the University’s responsibilities under Title IX.¹² In reviewing the University’s website, OCR readily located the title and contact information for the University’s Title IX Coordinator and Deputy Title IX Coordinator. Specifically, OCR found information related to the Title IX Coordinator in the notice of non-discrimination provided at the bottom of the University’s webpages pertinent to students and employees alike.¹³ Moreover, OCR also found contact information to the Title IX Coordinator included on webpages designated for prospective students and prospective employees. Finally, OCR reviewed various publications, including recruitment and admissions materials which contained contact information for the Title IX Coordinator. Accordingly, OCR found insufficient evidence to substantiate the allegation and will take no further action with respect to Allegation 2(b).

Other Concerns

Further, during the course of OCR’s investigation, OCR identified a concern regarding the University’s notice of non-discrimination notice as it pertains to the Age Discrimination Act of 1975.

¹² OCR notes that the University should consider describing each coordinator’s respective responsibilities to clarify who will handle complaints filed by students, faculty, and employees.

¹³ In addition to the designated Title IX Coordinator, OCR also found information to suggest that the Assistant Director of Human Resources is the contact person for employees for matters arising under Title IX. OCR reiterates the necessity to clarify the responsibilities of the officials designated to address Title IX concerns.

Legal Standards

OCR enforces the Age Discrimination Act of 1975 (the Age Act) and its implementing regulation at 34 C.F.R. Part 110, which prohibit discrimination on the basis of age in any program or activity receiving Federal financial assistance from the Department.

The Age Act regulation at 34 C.F.R. § 110.25, requires recipients to notify its beneficiaries, in a continuing manner, of information regarding the provisions of the Act and its implementing regulations. The notification must also identify the responsible employee by name or title, address, and telephone number.

Analysis

During the course of the investigation, OCR identified that the University failed to notify its beneficiaries of the prohibition of discrimination on the basis of age in accordance with the regulatory requirement of the Age Act at 34 C.F.R. § 110.25. Because the University has expressed an interest in resolving this issue of noncompliance, the University will revise its notice of non-discrimination to provide sufficient information of the protections provided under the Age Act pursuant to Section 303(b) of OCR's *Case Processing Manual*.

Conclusion

On November 7, 2017, the University agreed to implement the enclosed Resolution Agreement (Agreement), which commits the University to take specific steps to address the identified areas of noncompliance. The Agreement entered into by the University is designed to resolve the issues of noncompliance. Under Section 303(b) of OCR's *Case Processing Manual*, a complaint will be considered resolved and the University deemed compliant if the University enters into an agreement that, fully performed, will remedy the identified areas of noncompliance (pursuant to Section 303(b)). OCR will monitor closely the University's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may conduct additional visits and may request additional information as necessary to determine whether the University has fulfilled the terms of the Agreement and is in compliance with Title IX, Section 504, and the Age Act with regard to the issues raised. As stated in the Agreement entered into by the University on November 7, 2017, if the University fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings, including to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings, including to enforce the Agreement, OCR shall give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the University's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. 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 whether or not OCR finds a violation.

Please be advised that the University must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

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 personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciate the University's cooperation in the resolution of this complaint. If you have any questions regarding this letter, please contact the OCR staff assigned to this complaint, Judy Briggs at 202-453-5902 or Judy.Briggs@ed.gov; or Erika Westry at 202-453-7025 or Erika.Westry@ed.gov.

Sincerely,

/s/

Letisha Morgan
Team Leader, Team II
Office for Civil Rights
District of Columbia Office

Enclosure

cc: Louis A. Isakoff, Senior Vice President and General Counsel, Isakoff@regent.edu