



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-1475

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
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WASHINGTON, DC

February 28, 2019

Ronald Mason, Jr. J.D.
President
University of the District of Columbia
4200 Connecticut Ave. NW
Washington, D.C. 20008

RE: OCR Complaint No. 11-18-2349
Resolution Letter

Dear Mr. Mason:

This letter is to advise you of the outcome of the complaint that the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) received on September 4, 2018 against the University of the District of Columbia (the University). The Complainant alleged that the University discriminated against her on the basis of disability. Specifically, the Complainant alleged that the University failed to promptly and appropriately respond to her XXXXX complaint of disability discrimination.

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 II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. Because the University receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

During the investigation to date, OCR reviewed information provided by the Complainant and the University. Before OCR completed its investigation, the University expressed a willingness to resolve the allegation pursuant to Section 302 of OCR's *Case Processing Manual*, which states that allegations may be resolved prior to OCR making a determination if the University expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified issues that can be addressed through a resolution agreement. Below is a summary of the evidence obtained by OCR during the investigation to date.

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

Legal Standard

The regulations implementing Section 504 at 34 C.F.R. Section 104.7(b) and Title II at 28 C.F.R. Section 35.107(b) require a covered entity, such as the University, to adopt and publish grievance procedures that provide for the prompt and equitable resolution of complaints alleging any action prohibited by their respective provisions.

Facts

In XXXXX, the Complainant became a student at the David A. Clarke School of Law (the “School”). She received a letter of accommodations from the University’s Disability Resource Center (the “DRC”) in XXXXX granting her, in part, a “reduced-distraction testing environment, test proctoring service and extended time in the classroom setting. During the XXXXX, the Complainant was enrolled in two courses: XXXXX. The Complainant alleges that she took XXXXX quizzes in XXXXX. The Complainant took the XXXXX and XXXXX final exams in XXXXX. The Complainant alleges that, after making arrangements with the School to take the exams, she was not provided a “reduced distraction” testing environment. The Complainant alleged that she filed a written and amended grievance with the University’s Section 504-ADA Coordinator (the “Coordinator”) in XXXXX. OCR reviewed a copy of the XXXXX amended grievance. In that document, among other disability and non-disability related allegations, the Complainant alleged that she was discriminated against on the basis of her disability because she was not adequately provided her reasonable accommodations for her disability during her quizzes and examinations. In the grievance, the Complainant also indicated that, XXXXX.¹

When OCR inquired how the University responded to the Complainant’s XXXXX grievance, the University provided an unaddressed, undated, unsigned document (which was not on University letterhead) that was apparently drafted by the Coordinator (who is no longer with the University). The University indicated that the University does not have any documentation that a response to the grievance was provided to the Complainant, but University staff believed this did occur. However, the Complainant stated to OCR that she never received a response to her Section 504 grievance. Regardless of this, OCR notes that the document did not respond to all of the disability-related allegations raised by the Complainant in her grievance.

Analysis

OCR has concerns that the University did not promptly and equitably respond to the Complainant’s disability-related grievance. Specifically, OCR has concerns that the Coordinator did not fully investigate the complaint or appropriately respond to the Complainant’s grievance. While it is unclear if the Coordinator investigated the complaint within 60 days according to the School’s grievance procedures (the “Procedures”), the University has not provided any documentation that it advised the Complainant of the outcome of her grievance as required by the Procedures.² In addition, based on OCR’s review of the document provided by the

¹ According to the Complainant, the School informed her on XXXXX that she would need to retake the final exams on XXXXX. The Complainant alleges that she expended considerable time locating a quiet room and took the exams on XXXXX in the DRC because the DRC could not administer them on XXXXX.

² According to the School’s Procedures, Section III. G: “At the conclusion of the investigation, the Section 504-

University, OCR has concerns whether the University completed its investigation of all the disability-related allegations raised by the Complainant in her grievance. As noted above, OCR was unable to interview the individual who conducted the investigation to clarify this, since the Coordinator is no longer with the University.

On February 28, 2019, the University signed the enclosed Resolution Agreement which, when fully implemented, will address the allegation investigated. The provisions of the Agreement are aligned with the allegation and the information obtained during OCR's investigation, and are consistent with applicable law and regulation. The Agreement requires the University to: investigate the Complainant's grievance and take appropriate action; and, provide training and/or guidance to the DRC, Coordinator and law school administrators and/or its professors regarding reasonable accommodations and responses to Section 504 complaints.³ Please review the enclosed Agreement for further details. OCR will monitor the University's implementation of the Agreement until the University has fulfilled the terms of the Agreement.

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, particularly the cooperation of the University's Acting General Counsel, Ms. Avis Russell. If you have any questions, please contact Jan Gray, the OCR attorney assigned to this complaint, at 202-453-6028 or Jan.Gray@ed.gov.

Sincerely,

ADA Coordinator shall conduct an exit interview with the parties and issue exit letters notifying the parties of the outcome.”

³ OCR notes that the University has previously entered into a resolution agreement with OCR about the School's compliance with the University's Section 504 grievance procedures, including whether the grievance procedures are adequate to provide for a prompt and equitable process which is currently in monitoring .

Kristi R. Harris
Team Leader, Team IV
District of Columbia Office
Office for Civil Rights

Enclosure

cc: Avis Russell, Acting General Counsel, University of the District of Columbia