



**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

November 28, 2022

Sent by email only to: Rita.Snyder@gvltec.edu

Keith Miller, Ph.D.
President
Greenville Technical College
506 S Pleasantburg Dr.
Greenville, SC 29607

Re: Case No. 11-22-2225
Greenville Technical College

Dear Dr. Miller:

The U.S. Department of Education, Office for Civil Rights (OCR) has completed its investigation of this complaint filed against Greenville Technical College. The Complainant alleged that the College discriminated against her on the basis of disability. Specifically, the Complainant alleged that:

- On XXXXX, the College requested the Complainant to provide vaccination records, proof of training for her service dog, and documentation of her disability diagnosis before the College would permit the Complainant to bring her service dog to her graduation ceremony. (Allegation 1)
- The College's service animal policy discriminates against individuals on the basis of disability. (Allegation 2)

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, 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. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 et seq., 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. The College receives federal financial assistance from the Department of Education and is a public entity, so OCR has jurisdiction over it pursuant to Section 504 and Title II.

Summary of OCR's Investigation

In reaching a determination, OCR reviewed information provided by the Complainant and the College, and interviewed the Complainant and the College's Director of Student Disability

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Services. After carefully reviewing all of the information obtained during the investigation, OCR found sufficient evidence of a violation of Title II, which the College agreed to resolve through the enclosed resolution agreement. OCR's findings and conclusions are discussed below.

Facts

During the 2021-2022 academic year, the Complainant was enrolled in her final term at the College. The Complainant reported to OCR that she has a disability and uses a psychiatric service animal that is trained to perform deep pressure therapy, crowd control, panic attack alert, and self-harm prevention.

In an email to the College's Student Disability Services staff on March 9, 2022, the College's Registrar reported that five students, including the Complainant, had self-identified a need for disability-related accommodations for the College's May 6, 2022 graduation ceremony. On March 15, 2022, the Director of Student Disability Services (the Director) emailed the Complainant requesting a discussion regarding any accommodations the Complainant needed for the graduation ceremony. The Complainant responded via email that she needed to be accompanied by her service dog that was trained to perform tasks related to anxiety and depression alert and response.

In an email to the Complainant on March 16, 2022, the Director informed the Complainant that she would need to provide the College with her service animal's vaccination information from a licensed veterinarian dated within the past year, and verification that her service animal was individually trained to provide the service/assistance to meet the Complainant's needs. Additionally, the Director notified the Complainant that she needed to provide documentation from her medical provider that included, among other information, her diagnosis and a diagnostic code, or a MyChart that listed her diagnosis. The Director attached a copy of the College's service animal brochure to the email.

The brochure stated that service animals must have a "health statement, including vaccinations from a licensed veterinarian dated within the past year; be well-groomed and receive excellent veterinary care, including an annual checkup; have flea and odor under control at all times." Regarding identification, the brochure stated that service animals should have a "[c]ommonly recognized identification symbol, identifying the animal as a working animal, but not disclosing disability."

The brochure also referenced a "2-17 Service Animals Policy" and directed readers to the College's website to view the policy. The College provided OCR with policy "3-04 Service Animals," (the Policy) which is currently on the College's website. Similar to the brochure, the Policy requires service animal owners to meet with the Director and states that all requests are handled "through the regular accommodation process." Under "documentation requirements," the Policy states that animals must have a "health statement, including vaccinations from a licensed veterinarian dated within the past year," "a veterinarian's statement within the past 12 to 15 months as to good health...", and verification that the service animal has been minimally trained. The Policy also states in the documentation requirements section that, "it is recommended that the animal wear some type of identification symbol, identifying the animal as a working animal, but

not disclosing disability.” Additionally, the Policy requires that a service animal be on a leash when not providing a needed service to handler, and that it respond to voice commands at all times.

On April 29, 2022 the Director emailed the Complainant asking whether the Complainant was able to follow up with the requirements for her service dog to walk with her at graduation. The Complainant responded that she met the requirements under the ADA, that her service dog is trained through a reputable company, and that she was not obligated to provide the College with her medical information, require the dog to wear a vest, provide identification, or prove ability to perform tasks in order for her to bring her service dog with her to graduation. The Director responded that she would contact the Complainant the following day regarding her concerns. The Director further stated that Disability Services has worked with students who have service dogs, and that service dogs are considered an accommodation. In response, the Complainant stated that the Director could continue the conversation with the Complainant via email.

The Complainant reported to OCR that she attended the graduation ceremony on May 6, 2022 without her service animal. The Complainant reported that her disability makes being in crowds of people difficult and that at one point during the graduation ceremony, she “got lost,” which caused her to panic. The Complainant asserted that the ceremony would have been easier for her if she had her service dog because in crowds of people, her service dog alerts her to panic attacks.

The College asserted that the Complainant was not prohibited from attending graduation. The College confirmed that the Complainant attended the graduation without her service animal.

Legal Standard

The Section 504 regulation, at 34 C.F.R. § 104.4(a), provides that no qualified person with a disability shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in a school’s programs or activities on the basis of disability. The Title II regulation contains a similar prohibition at 28 C.F.R. § 35.130(a). The Title II regulation also requires schools to make reasonable modifications to policies, procedures, or practices when necessary to avoid discrimination on the basis of disability, unless the modification would fundamentally alter the nature of the service, program, or activity.

Title II regulations, at 28 C.F.R. § 35.136, provides that a public school generally must modify its policies, practices, or procedures to permit individuals with disabilities to use service animals. The regulation, at 28 C.F.R. § 35.104, defines a service animal as “any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.”

Under the Title II regulation, at 28 C.F.R. § 35.136, persons with disabilities have the right to be accompanied by service animals in all parts of facilities where the public, participants in programs and activities, or invitees are allowed. A public entity is not permitted to ask about the nature or extent of a person’s disability or require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. If it is not readily apparent that an animal is trained to do work or perform tasks for an individual with a disability, a school is permitted to make two inquiries to determine whether an animal qualifies as a service animal: 1) if the animal

is required because of a disability; and 2) what work or task the animal has been trained to perform. A public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Analysis

Based on the aforementioned, OCR finds that both the Director's March 16, 2022 request to the Complainant as well as the College's policy/brochure pertaining to service animals violates 28 C.F.R. § 35.136. Regarding the Complainant's individual request, OCR found that the College requested a medical diagnosis from the Complainant, and required documentation that the service animal had been vaccinated and trained, in contravention of 28 C.F.R. § 35.136(f).

With regards to the College's written policies and materials regarding service animals, OCR determined that these also impermissibly required documentation, such as proof that the animal has been trained as well as health records.¹ OCR found that the Policy also requires that a service animal be on a leash when not providing a needed service to handler, but that it did not give the option of a harness or other tether, which is also permissible under 28 C.F.R. § 35.136(d). Further, OCR determined that the Policy requires that service animals respond to voice commands at all times, even though 28 C.F.R. § 35.136(d) only requires that the service animal generally be under a handler's control (e.g., the handler could have control through signals or other effective means).

Based on the above, OCR found sufficient evidence to conclude that the College's inquiries regarding the Complainant's service animal and the College's service animal policy violated provisions of Title II.

Conclusion

On November 28, 2022, the College agreed to implement the enclosed Resolution Agreement, which, when fully implemented, will address the identified violations. OCR will monitor the College's implementation of the Agreement until the College is in compliance with the terms of the agreement and the statutes and regulations at issue.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the College'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. OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

¹ The Policy also "recommended that the animal wear some type of commonly recognized identification symbol, identifying the animal as a working animal, but not disclosing disability." Although this provision is not required, as technical assistance, OCR recommends modifying this language to ensure that it is not perceived as pressuring individuals with disabilities to provide a disclosure that may go outside the scope of 28 C.F.R. § 35.136(f).

Please be advised that the College 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 against the College 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, OCR will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

We appreciate the College's cooperation in the resolution of this complaint. If you have any questions, please contact Rhonda Porter, the OCR attorney assigned to this complaint, at (202) 245-7271 or Rhonda.Porter@ed.gov.

Sincerely,

Chenelle Love
Team Leader, Team V
District of Columbia Office
Office for Civil Rights

Enclosure

cc: Brett Gaffney <Brett.Gaffney@gvltec.edu>