



**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

March 15, 2023

By email only to XXXXX

XXXXX  
XXXXX  
XXXXX

Re: Case No. 11-22-2306  
XXXXX University

Dear XXXXX:

This letter is to advise you of the outcome of the investigation that the U.S. Department of Education, Office for Civil Rights (OCR) conducted of the complaint filed against XXXXX University. The Complainant alleged that the University discriminated against her on the basis of disability when it did not provide appropriate accommodations related to her service animal XXXXX through XXXXX.

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. The University receives federal financial assistance from the Department of Education, so OCR has jurisdiction over it pursuant to Section 504.

During its investigation to date, OCR reviewed information provided by the Complainant and the University and interviewed University staff. Before OCR completed its investigation, the University expressed interest in resolving 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 school expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified concerns that can be addressed through a resolution agreement. The following is a summary of the evidence obtained by OCR during the investigation to date.

### **Evidence Obtained to Date**

The Complainant enrolled in the University's Nursing Program (the Program) in the fall of 2020. On XXXXX, the Complainant contacted Student Support Services, informed them that she expected to have a service animal beginning in the fall of 2021, and asked if there was anything she needed to do to prepare for this. In an email dated XXXXX, the University's XXXXX informed the Complainant that her service dog was welcome and there was "nothing more [she] needed to do!" The XXXXX added that the University communicated with XXXXX (the

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Hospital) “regarding service dogs in clinicals. There are some places the dog would not be allowed, based on hospital protocols,” such as the Neonatal Care Intensive Unit (NICU), and that patients had the final say “and can refuse the presence of the animal in their room.” The email also stated that the Complainant could apply for other requested accommodations such as extended time for testing and a reduced distraction testing environment if she provided documentation, but the evidence provided does not appear to indicate that it treated the request for a service animal as an accommodation request.<sup>1</sup>

The Complainant began bringing a service animal to the University beginning in the fall of 2022. At that time, the Program placed the Complainant at XXXXX (the Medical Center), owned by the Hospital, for a clinical rotation for two classes, XXXXX and XXXXX. The Complainant attended her first clinical rotation on XXXXX with the service animal and brought the animal into patient rooms; however, the Medical Center stated that the service animal would not be permitted in patient rooms moving forward.

On XXXXX, the XXXXX emailed the Medical Center’s XXXXX to ask for clarification of the Medical Center’s guidelines regarding service animals. The XXXXX replied that pursuant to the Medical Center’s policy, students may have a service animal but the animal cannot go into patient rooms. In response, the XXXXX thanked the XXXXX for providing the policy, but noted that:

“In accordance with the Department of Justice’s interpretation of the ADA, we believe the law dictates that accommodation requests should be reviewed on an individualized basis. [The University] formally requests that this student be permitted to be accompanied by their service dog into the patient’s room. The dog would ‘place’ (sit or lie down) in an area away from the patient, but would still be within a small distance from the person with a disability. This is necessary for the service animal to carry out the tasks for which it has been trained. Of course, any patient would have the right to refuse the presence of the dog in the room.... Please note that we believe that the [Department of Justice and CDC’s] guidelines are very clear – denial must be based on valid, reasonable and science-based facts....”.

On XXXXX, the XXXXX informed the Complainant of the Hospital’s service animal policy prohibiting students from bringing service animals into patient rooms and that until the Hospital responded to the formal request to allow the Complainant’s service animal into patient rooms, she would have to abide by the Hospital policy and leave the service animal in the hallway. The Complainant replied that she was “not to be separated from [her] service dog unless in an emergency situation” and she would not leave him in the hallway unattended or be separated from him.

On XXXXX and XXXXX, the Complainant attended her assigned clinical rotations at the Medical Center; however, she did not complete them because the Medical Center staff informed her that she could not bring her service animal into patient rooms. On XXXXX, the Hospital denied the

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<sup>1</sup> The University and the Complainant frequently refer to academic adjustments and auxiliary aids as “accommodations.” The Section 504 regulation addressing post-secondary education refers to “academic adjustments and auxiliary aids.” When the term “accommodations” is used in this document, it refers to academic adjustments and auxiliary aids as those terms are used in 34 C.F.R. § 104.44.

University's formal request that it allow the Complainant's service animal into patient rooms, noting that to do so would impede on its ability to maintain "a safe environment for all patients, staff and visitors." The University continued without success to request that the Hospital reconsider its decision.

On **XXXXX**, the **XXXXX** emailed the Complainant that in light of the Hospital's policy not permitting service animals in patient rooms, she could either attend her clinical without her service animal or attend her clinical with the service animal placed outside the patient room. If that was not possible, then the University was "unable to fulfill [her] learning objectives" since clinical hours were required for two of her clinical courses, and the Complainant could choose to take an academic hiatus for the semester.

On **XXXXX**, the Complainant met with **XXXXX**. The University informed the Complainant that despite requests by the University, the Hospital refused to change its policy to allow the Complainant's service animal in patient rooms. The faculty also "attempted to work with [the Complainant] by providing space immediately outside of the patient room," but the Complainant felt that would not work. As a result, the Complainant could not complete her clinical rotation at the Medical Center. Additionally, the University "could not offer a reasonable immediate alternate placement for clinical" for her classes because all clinical groups were currently scheduled at the Medical Center and the Complainant could not take them in the spring 2023 semester because the University did not offer the courses during that semester.

The University offered for the Complainant to remain in class and receive an incomplete with the possibility of fulfilling her clinical hours at a later date. It added that they would try to arrange for a clinical placement at **XXXXX** for the Summer 2023 semester. The University also suggested that the Complainant add a minor to remain a full-time student status for the Spring 2023 semester.

On **XXXXX**, the University confirmed that **XXXXX**'s service animal policy permits service animals in patient rooms. On **XXXXX**, the University received approval from the Virginia Board of Nursing to permit travel for a clinical beyond a 50-mile radius, making **XXXXX** an eligible location for the Complainant's clinicals. The Complainant completed her course work for **XXXXX** in the fall 2022 semester and is scheduled to begin her clinical rotations at **XXXXX** in summer 2023.

### **Legal Standards**

The Section 504 regulation, at 34 C.F.R. § 104.43(a), provides that a qualified person with a disability may not be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any postsecondary aids, benefits, or services on the basis of disability. The regulation at § 104.44(a) requires a college or university to modify its academic requirements as necessary to ensure that such requirements do not discriminate or have the effect of discriminating on the basis of disability against a qualified student with a disability. The regulation at § 104.44(d) requires a college or university to ensure that no qualified individual with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills.

Schools may establish reasonable requirements and procedures for students to provide documentation of their disability and request academic adjustments and auxiliary aids and services. Students are responsible for obtaining disability documentation and for knowing and following the procedures established by the school. Once the student has provided adequate notice and documentation of his/her disability and the need for modifications due to the disability, the school must provide the student with appropriate academic adjustments and auxiliary aids and services that are necessary to afford the student an equal opportunity to participate in the school's program. However, the school is not required to make adjustments or provide aids or services that would result in a fundamental alteration of the school's program or impose an undue burden.

In determining what modifications are appropriate for a student with a disability, the school should familiarize itself with the student's disability and documentation, explore potential modifications, and exercise professional judgment. The question of whether a school has to make modifications to its academic requirements or provide auxiliary aids is determined on a case-by-case basis. OCR generally does not substitute its judgment for that of qualified educators and professionals regarding modifications. Instead, OCR reviews relevant factual evidence to determine whether a school acted in a reasonable manner and whether it took appropriate steps consistent with Section 504 in making decisions regarding a student's eligibility for academic adjustments. The school and the student should engage in an interactive process to determine appropriate modifications. If a school denies a request for a modification, it should clearly communicate the reasons for its decision to the student so that the student has a reasonable opportunity to respond and provide additional documentation that would address the school's objections.

### **Analysis**

OCR found that the University and the Complainant decided, through an individualized process, that having a service animal accompany the Complainant during her clinical rotation, including in a patient's room, was necessary to afford the Complainant with an equal opportunity to participate in the University's clinical program. Nonetheless, despite recognizing the need for an individualized process, the University ultimately denied the Complainant's request due to the Hospital's blanket policy restricting students from bringing service animals into a patient's room, raising concerns that this decision was not individualized to the specific disability-based needs of the Complainant.

Before OCR completed its investigation of the complaint, the University expressed interest in resolving the complaint pursuant to Section 302 of OCR's *Case Processing Manual*. On March 15, 2023, the University agreed to implement the enclosed Resolution Agreement, which, when fully implemented, will address the evidence obtained and the allegation investigated. 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.

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. 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.

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 against the University 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 University's cooperation in the resolution of this complaint. If you have any questions, please contact **XXXXX** and **XXXXX**, the OCR attorneys assigned to this complaint, at **XXXXX** and **XXXXX**.

Sincerely,

**XXXXX**  
Team Leader, Team III  
District of Columbia Office  
Office for Civil Rights

Enclosure

cc: **XXXXX**