



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

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MICHIGAN
OHIO

April 2, 2019

Jeffrey R. Docking, Ph.D.
President
Adrian College
110 S Madison Street
Adrian, Michigan 49221

Re: OCR Docket #15-17-2049

Dear President Docking:

This letter is to notify you of the disposition of OCR complaint 15-17-2049, filed on December 12, 2017, with the U.S. Department of Education's Office for Civil Rights (OCR) against Adrian College (the College), alleging discrimination on the basis of disability. Specifically, the complaint alleged that the College discriminates against students with disabilities in its housing program by:

- charging students who need air-conditioning as disability-related service a fee for that service or by charging them the same higher rate charged to students without disabilities for an air-conditioned room; and,
- charging students who need a single-occupancy room as a disability-related service the full single room rate.

OCR enforces Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 (Section 504), which prohibit discrimination on the basis of disability by recipients of Federal financial assistance. As a recipient of such financial assistance from the U.S. Department of Education, the College is subject to this law. OCR therefore had jurisdiction to investigate this complaint.

During OCR's investigation, OCR interviewed the Complainant and certain College personnel, as well as reviewing preliminary documentation from the College and reviewing information on the College's website. Before OCR completed its investigation, the College asked to resolve this complaint voluntarily, and OCR determined that it was appropriate do so under Section 302 of OCR's Case Processing Manual (CPM).

Summary of Investigation to Date

Room Rate Issue

The Complainant informed OCR that he spoke with the College's Director of Housing (Director), who told him that students with disabilities are not charged more than students

without disabilities for private rooms; however, single rooms always cost more than other rooms and, even if a student has a documented disability, the student would still have to pay the same fee, as the College bills by room type.

In its data response, the College provided OCR with a document entitled “Prices for 2016-2017,” detailing the price for double rooms, suites, and apartments, as well as for single rooms, singles within suites, and single apartments; the prices for singles consistently exceeded the prices for multiple occupancy options. OCR also reviewed the College’s disability handbook as posted on its website on February 13, 2017, which stated that disability-related housing accommodations “are provided, as needed, on an individual basis.... The majority of first-year students are assigned roommates. Students with disabilities will also be assigned roommates unless they request a single room at additional cost and a single room is available.”

During an interview on September 17, 2018, College personnel stated that the College had not had any student request a single room for reasons related to disability during the past three years and is working out how it would handle that.

Air Conditioning Issue

According to the Complainant, the Director of College Housing told him that students with disabilities are not charged more, generally, than students without disabilities for air-conditioning. Students may receive air-conditioning as an accommodation for disability by being assigned to a room with central air-conditioning; these rooms always cost more than rooms without it or being assigned to a room without central air-conditioning and then paying the College a fee to install their own air conditioner. He stated that the Director said that, even with a documented disability, a student with a disability would pay the same fees as others.

In its data response, the College provided OCR with copies of its policies related to the issues in question. A document entitled “Adrian College Request for Exemption to Air Conditioner Policy” stated:

Air conditioners are not permitted in the residence hall due to excessive electrical load and potential damage to college property and safety unless a student has a medical condition that necessitates use of an air conditioner and provides documentation from a physician documenting this need. **Students who are approved to use air conditioners will be allowed to use a window air conditioner with a BTU of 8000 or less. The student is responsible for any costs for the installation and removal of the unit (\$60)** [emphasis in original].

In addition, Adrian College’s “Request for Exemption to Air Conditioner Policy” form included the following statement:

I request an exception to the air conditioner policy. I agree to follow all rules regarding the unit’s use and accept all responsibility and liability for all damage and accidents resulting from its use. I also agree to allow the College to contact my physician and discuss my medical condition(s). **I agree to purchase an**

acceptable air conditioner and to have my student account charged for installation and removal of the unit [emphasis in original].

During an interview on September 17, 2018, College personnel stated that a student who requests air conditioning as a disability-related service and provides documentation supporting that the student has a disability and that the service is recommended may receive air conditioning by providing his/her own unit and paying a fee to the College for installation or may choose, if they qualify and there is space available, to live a premium facility with air conditioning where they will be charged the higher, premium facility rate.

Legal Standards and Analysis

The Section 504 implementing regulation prohibits recipient institutions from excluding qualified individuals with disabilities from participation in, denying them the benefits of, or otherwise discriminating against them on the basis of disability in their programs and activities, including, for postsecondary education recipient institutions, housing programs. 34 C.F.R. §§ 104.4(a) and 104.43(a). The Section 504 regulation also prohibits affording qualified individuals with disabilities an opportunity to participate in or benefit from aids, benefits, or services that is unequal to the opportunity afforded others. 34 C.F.R. § 104.4(b)(1)(ii). An individual with a disability, or a class of individuals with disabilities, may be provided with a different or separate aid, benefit, or service only if doing so is necessary to ensure that the aid, benefit, or service is as effective as that provided to others. 34 C.F.R. § 104.4(b)(1)(iv). Further, the regulation implementing Section 504, at 34 C.F.R. § 104.4(b)(4), states that a recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration that have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability.

While OCR has not yet completed its investigation, evidence received to date indicates that most College students have roommates, that single rooms are available but at a higher cost than shared rooms, that the College could make single rooms available as a disability-related service but that, by policy, students would pay the higher rate than students without disabilities pay. Evidence obtained to date also indicates that the College requires students who need air conditioning as a disability-related aid or service to supply their own machines and pay a fee for installation or live in more expensive, premium housing that is air conditioned but is also more expensive than other housing, without exception.

As stated above, before OCR completed its investigation or made findings concerning the College's compliance with Section 504, the College expressed an interest in resolving this complaint voluntarily. Such a request does not constitute an admission of liability on the part of a recipient institution such as the College, nor does it constitute a determination by OCR that the College has violated any of the laws that OCR enforces. The College has signed the enclosed Resolution Agreement, which, when fully implemented, will address the concerns which the College agreed to resolve via Section 302 of the CPM. OCR will monitor implementation of the agreement.

This concludes OCR's investigation of the complaint and 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.

Please be advised that the College may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file another 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. In the event that OCR receives such a request, OCR 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. The Complainant may file a private suit in federal court, whether or not OCR finds a violation.

OCR looks forward to receiving the College's first monitoring report by June 30, 2019. For questions about implementation of the Agreement, please contact Ms. Karla Ussery. She will be overseeing the monitoring and can be reached by telephone at (216) 522-2683 or by e-mail at Karla.Ussery@ed.gov. If you have questions about this letter, please contact Ms. Ussery.

Sincerely,

/s/

Donald S. Yarab
Supervisory Attorney/Team Leader

Enclosure