



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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KANSAS
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September 15, 2016

Via email to: xxxxxx@semo.edu

Xxxx Xxxxx, University Legal Counsel
Southeast Missouri State University
One University Plaza
Cape Girardeau, Missouri 63701

Re: Docket No. 07162070

Dear Ms. Xxxxx:

On March 22, 2016, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against Southeast Missouri State University (University), Cape Girardeau, Missouri, alleging discrimination on the basis of disability. This letter is to confirm the University has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

The Complainant alleged that the University discriminated against him on the basis of disability (xxxx, xxxxxx xxxxxxxx, xxxx, xxxxxxxxxxxx) during the 2015-16 academic year by:

1. refusing to adjust the “academic progress” requirement imposed by his financial aid package;
2. failing to adjust course rules (due consideration for absences and due consideration for breaks from class)
3. failing to adjust course examinations (extended test times); and
4. failing to provide necessary auxiliary aids (recorded lectures, links to ITV classes).

OCR is responsible for enforcing:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal Financial Assistance (FFA).
- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Title II prohibits discrimination on the

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

basis of disability by public entities.

As a recipient of FFA from the Department and a public entity, the University is subject to these laws. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

On April 20, 2016, OCR sent notification letters to the Complainant and the University, including a data request to the University. On July 26, 2016, the University provided OCR with documents and information responding to OCR's data requests. On August 8, 2016, OCR interviewed the Disability Services Coordinator and the Financial Aid Coordinator.

OCR's investigation established that the Complainant identified himself as a student with disabilities and worked with the University to establish appropriate academic adjustments, aids, and services. The investigation further established that the University determined in the Spring 2016 semester that the Complainant was failing to meet the Satisfactory Academic Progress (SAP) requirements of the University's SAP policy, rendering him ineligible for further federal financial aid. The Complainant appealed that determination in July 2016. In support, the Complainant alleged that he had not received all of his academic adjustments, aids, and services, causing him to need to drop or take incompletes in multiple classes. OCR's investigation established that the appeal committee did not investigate the Complainant's allegation in making its determination denying the Complainant's appeal.

On August 10, 2016, the University expressed to OCR an interest in engaging in resolution negotiations pursuant to Section 302 of OCR's *Case Processing Manual*.¹

Prior to the completion of OCR's investigation, on September 15, 2016, the University submitted a signed Agreement that, when fully implemented, will address the allegations of this complaint and any concerns raised during the course of the investigation.

OCR considers the allegations of this complaint resolved effective the date of this letter and will monitor the University's implementation of the Agreement. When OCR concludes the University has fully implemented the terms of the Agreement, OCR will close the complaint. If the University fails to carry out the Agreement, OCR may resume the investigation.

The University 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, please be advised the complainant 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, we 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.

¹ OCR's *Case Processing Manual* is online at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrepm.html>.

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.

If you have any questions, please contact XXXXXXXXX XXXXXX, Attorney, by telephone at (816) 268-0576 or (877) 521-2172 (telecommunications device for the deaf) or by email at xxxxxxxxx.xxxxxx@ed.gov.

Sincerely,

/s/ J. Earlene Gordon

J. Earlene Gordon
Supervisory Attorney