



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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WASHINGTON, DC 20202-1475

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WASHINGTON, D.C.

January 8, 2014

Dr. Ben E. Hancock  
Office of the President  
Methodist University  
5400 Ramsey Street  
Fayetteville, North Carolina 28311

Re: OCR Complaint No. 11-13-2278  
Letter of Findings

Dear Dr. Hancock:

This letter is to notify you of the resolution of a complaint filed with the District of Columbia Office for Civil Rights (OCR), within the U.S. Department of Education, on August 12, 2013, against Methodist University. The Complainant alleged that the University discriminated against her on the basis of disability (hearing impaired). Specifically, the Complainant alleged:

1. The University subjected her to different treatment based on disability when her Spring 2013 semester XXXX Professor graded her XXXX;
2. The University subjected her to different treatment based on disability when it denied her admission to the University's Nursing Program; and,
3. The University discriminated against her on the basis of disability when she was not provided approved modifications on the XXXX examination.

OCR investigated the complaint under the authority of 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 from the Department of Education. Because the University receives federal financial assistance it is subject to the provisions of Section 504.

In reaching a determination with regard to the complaint allegations, OCR reviewed documents provided by the Complainant and the University and conducted interviews of the Complainant, the XXXX Professor, the Coordinator for Disability Services and a University staff member who participated in the Nursing Program's Admissions process. After carefully considering all of the information, OCR had concerns with the University's inconsistent application of the admissions policy and found sufficient evidence that Complainant was not provided approved modifications on the XXXX examination. OCR also found insufficient evidence that the University subjected the Complainant to different treatment XXXX. An explanation of our analysis and conclusions follows.

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

## **Background**

During the 2012-2013 academic year, the Complainant was an undergraduate student at the University with aspirations of entering the University's Nursing Program. <XXXX SENTENCE REDACTED XXXX>. The University approved her to receive the following testing modifications during the spring 2013 semester: extended time for exams, reduced distraction environment for exams, and an alternate exam schedule.

## **Analysis**

*Allegation 1: The University subjected the Complainant to different treatment based on disability when her Spring 2013 semester XXXX Professor graded her PNCI group presentation poorly*

When investigating a complaint of different treatment based on disability, OCR generally looks at whether there is a difference in the treatment of a student with a disability as compared with a similarly situated student without a disability. If so, an initial or *prima facie* case of different treatment exists. OCR then inquires whether the college or university had a legitimate, nondiscriminatory reason for the difference in treatment. Finally, we determine whether the reason given by the college or university is an excuse or pretext for unlawful discrimination.

<XXXX TWO SENTENCES REDACTED XXXX>. OCR reviewed the presentation grades of all students in XXXX. Many students without disabilities received scores higher than XXXX. Because the Complainant was treated less favorably than some students without disabilities, OCR concluded that there is a *prima facie* case of different treatment here.

OCR next considered whether the University had a legitimate, nondiscriminatory reason for the difference in treatment. In an interview with OCR, the XXXX Professor explained that she scored each group according to a grading rubric that she made available to the class at the beginning of the course. The Professor recalled that the Complainant's presentation group did not fulfill the requirements of the rubric. For each presentation group, the XXXX Professor made notations on the grading rubric assessing the group's performance on each of the seven elements. OCR reviewed the notations made by the Professor for the Complainant's presentation group. The notes stated that the group XXXX. The Complainant's group scored the lowest possible rating on five of the seven elements on the grading rubric.

The group's purported failure to satisfy the academic standards of the assignment is a legitimate, nondiscriminatory reason for the lower grade. OCR is not in a position to second-guess educational decisions, such as the quality of students' work. However, OCR did examine whether there is evidence that the University's explanation is a pretext for discrimination. OCR finds that there is not a basis to conclude that the University's explanation here is pretextual. <XXXX SENTENCE REDACTED XXXX> All XXXX students in the group received the same grade. In addition, another student in the class who has a disability received a higher score on her group presentation (XXXX). The fact that XXXX students without disabilities received the same treatment as the Complainant while a student with a disability received more favorable

treatment suggests that the Complainant's disability was not the reason for the grade decision. OCR concluded that there is insufficient evidence to find that the University discriminated against the Complainant as alleged.

*Allegation 2: The University subjected the Complainant to different treatment based on disability when it denied her admission to the University's Nursing Program*

In the spring of 2013, the Complainant applied to enter the University's Nursing Program (the Program) for the 2013-14 school year. Her application was denied. Twenty-six students without disabilities applied and twenty-four of those students were admitted to the Program. Because the Complainant was treated less favorably than the students without disabilities who were admitted, OCR concluded there is a *prima facie* case of different treatment.

OCR next considered whether the University had a legitimate, nondiscriminatory reason for the difference in treatment. The University explained that the Complainant received a grade of C- in XXXX. Applicants to the Program are required to earn a minimum grade of C in certain pre-nursing courses, including XXXX. The University stated the Complainant's application was denied because she did not earn that minimum grade.

The Complainant's failure to satisfy the prerequisites for admission is a legitimate, non-discriminatory reason for the University's denial of her application. OCR considered whether there is evidence that this explanation was a pretext for discrimination based on disability. The requirement that students earn grades of C in pre-nursing courses is explained in the Student Handbook and the Complainant affirmed to OCR that she was aware that she needed to earn at least a C in XXXX. OCR reviewed the transcripts of all other applicants to the Program for the 2013-14 school year. OCR identified one applicant who received a D- in a pre-nursing course; that applicant was admitted to the Program. That applicant has not disclosed a disability to the University. OCR interviewed one member of the admissions committee, who was unable to explain why that applicant was admitted despite the policy regarding grades in prerequisite courses. That witness indicated that there were two people who may have made that decision; neither of those individuals is still employed by the University. In light of this inconsistent application of the policy, the University expressed an interest in resolving this complaint allegation.

*Allegation 3: The University discriminated against the Complainant on the basis of disability when she was not provided approved modifications on the XXXX examination*

As previously stated, the University determined that the Complainant was entitled to receive certain testing modifications, including extended time and a reduced distraction environment. The University administered the XXXX examination to pre-nursing students on XXXX. The examination served two purposes. First, a passing score on the examination is a prerequisite for admission to the Program. Second, the examination score counted for 10% of students' grades in XXXX. The University acknowledges that the Complainant did not receive extended time or a reduced distraction environment during the initial administration of the XXXX examination. She did not earn a passing score. After the Complainant expressed concerns about not having received those modifications, she was permitted to re-take the two portions of the examination

that she had not been able to complete. Her new XXXX score, factoring in the scores from the sections she re-took, was above the cut-off score required for admission to the Program. However the new score, when included in her XXXX grade, resulted in a C-; consequently, as previously noted, the Complainant was deemed ineligible for admission to the Program.

The University acknowledges that the Complainant was never provided an opportunity to take the XXXX examination in its entirety while receiving the testing modifications for which she had been approved. OCR calculated that it would have been possible for the Complainant to earn a C in XXXX if her overall XXXX score had been a XXXX.

OCR finds that the University's actions were inconsistent with the Section 504 regulation's requirement that a college or university that receives Federal financial assistance make modifications to its academic requirements as necessary to ensure that the academic requirements do not discriminate or have the effect of discriminating against qualified individuals with disabilities. The University has agreed to take appropriate steps to resolve this allegation.

### **Resolution**

OCR obtained a Resolution Agreement with the University which, when implemented, will resolve the compliance concerns identified. OCR will monitor the University's implementation of the agreement.

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.

We have advised the Complainant that the University may not harass, coerce, intimidate, or discriminate against her because she filed a complaint or participated in the complaint resolution process. If this happens, she may file another complaint alleging such treatment. Also, 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, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

We greatly appreciate the assistance of the University's counsel, Mr. Daniel Harrison, during the resolution of this complaint. If you have any questions please contact Christa Cothrel at 202-453-5926 or via e-mail at [Christa.Cothrel@ed.gov](mailto:Christa.Cothrel@ed.gov) or Martha Russo at 214-661-9622 or via e-mail at [Martha.Russo@ed.gov](mailto:Martha.Russo@ed.gov).

Sincerely,

/S/

Robin C. Murphy

Team Leader  
District of Columbia Office  
Office for Civil Rights