Justice Department Settles Matter with Princeton University

BY MARY FEENEY • JANUARY 13, 2017

On December 19, 2016 the Justice Department announced a Settlement Agreement with Princeton University to resolve a compliance review of Princeton's policies, procedures and practices related to requests for reasonable modifications, withdrawals and leaves of absence by students with disabilities. The compliance review apparently was triggered by a student's complaint filed in Federal District Court (but unrelated to the Settlement Agreement) alleging discrimination on the basis of disability by Princeton's imposition of a mandatory leave following the student's attempted suicide and alleged denials of requested accommodations related to that incident. The resolution of the compliance review emphasizes the university's obligation under Title III of the ADA to make reasonable modifications in its policies, practices or procedures when the modifications are necessary to afford goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities, unless such modifications would fundamentally alter the nature of the program. The resolution also details specific changes to the published policies and procedures describing the scope of reasonable accommodations available to students with disabilities and the procedures to request modifications of policies, practices and procedures.

The Settlement Agreement provides explicit direction from DOJ of the precise language to be incorporated into stated policies and procedures on discrimination, expanding the currently listed options for academic, housing and dining accommodations to include the right of students to request modifications to policies, rules and regulations, environmental adjustments such as the removal of architectural, communication or transportation barriers, and auxiliary aids and services, consistent with Title III. DOJ further required a new procedural section entitled "Requesting Modifications to University Policies, Practices, or Procedures," consistent with existing published procedures on how to request academic, dining or housing accommodations. As a result of the compliance review, the Settlement Agreement states that Princeton revised its policy relating to undergraduate student leaves of absence and reinstatement and will further revise the policy to be consistent with Title III regulations prohibiting the imposition of eligibility requirements that screen out or tend to screen out an individual with a disability from the full enjoyment of the programs and services, unless necessary for the provision of the services, and permitting the imposition of safety requirements only based on actual risk and not on mere speculation. We surmise these provisions of the agreement were in response to the university's policy of imposing a mandatory withdrawal (as alleged in the student's complaint) in situations where a

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student presented a significant risk of self-harm, and the student does not want to take a leave voluntarily.

Client Tip: *The DOJ continues its practice of specifying language to be included in published university policies, in Princeton's case requiring the incorporation of Title III provisions, and emphasizing the right of students with disabilities to request modifications of all policies, practices and procedures, including academic standards (subject to a determination that a modification does not fundamentally alter the nature of the program). Disability Services websites typically contain a listing of available accommodations, many derived from the "academic adjustments" in the Section 504 regulations, and other options, under the categories of academic, dining, and housing as did Princeton; this practice has been generally acceptable so long as it is clear the list is not exclusive and there is a procedure in place for consideration of all requests for accommodations. Review your websites and the forms used to request accommodations to remove limitations, or list-based options. In addition, some academic policies and procedures that may need to be modified to provide a reasonable accommodation (that does not fundamentally alter the program) may be under the purview of the faculty, such as standards for academic withdrawal, consideration of academic probation, requests for reduced course loads.*

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