



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

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ATLANTA, GA 30303-8927

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February 22, 2017

Dr. W. Kent Fuchs
Office of the President
University of Florida
226 Tigert Hall
P.O. Box 113150
Gainesville, FL 32611

Re: OCR Complaint #04-17-2024

Dear Dr. Fuchs,

On October 11, 2016, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received the above referenced complaint filed against the University of Florida (University), alleging discrimination on the basis of disability. Specifically, the Complainant alleged that on football game days, accessible parking on campus, including accessible parking located near Library West, is not available without possession of a football parking pass.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit recipients of Federal financial assistance from the Department from discriminating on the basis of disability, and Title II of the Americans with Disabilities Act of 1990 (Title II), as amended, 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. Because the University receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

Based on the allegation, OCR investigated whether the University's facilities, programs and activities are accessible to or usable by individuals with disabilities on football game days through the provision of accessible parking spaces, in compliance with Section 504 and its implementing regulation at 34 C.F.R. §§ 104.21-104.23, and Title II and its implementing regulation at 28 C.F.R. §§ 35.149-35.151.

Before OCR completed its investigation, the University offered, and OCR agreed, to resolve the allegation by entering into a resolution agreement. Pursuant to Section 302 of OCR's *Case Processing Manual*, a complaint "may be resolved at any time when, before the conclusion of an OCR investigation, the recipient expresses an interest in resolving the allegations and issues *and* OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation." Set forth below is a summary of the evidence that OCR obtained thus far in its

investigation, which serves as the basis of the resolution agreement entered into by the University.

Legal Standards

The regulations implementing Section 504 and Title II, at 34 C.F.R. § 104.21 and 28 C.F.R. § 35.149, respectively, state that no qualified individual with a disability shall be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination by a recipient because the recipient's facilities are inaccessible to or unusable by persons with disabilities. The Section 504 regulation, at 34 C.F.R. §§ 104.22-104.23, and the Title II regulation, at 28 C.F.R. § 35.150-35.151, contain different standards, based on when a facility was constructed, for determining whether a recipient's programs, activities, and services are accessible to individuals with disabilities.

Summary of Investigation

The Complainant alleged that on a game day he attempted to access Library West and a Gainesville City Police officer directing traffic prevented him from accessing campus parking, stating that on game days, campus access is restricted to individuals in possession of a football parking pass.

OCR's investigation revealed that on game days, the University's Athletic Association holds four reserved lots that include reserved accessible spaces. All other marked accessible spaces on campus are available on game day, without a game day parking pass, on a first come first serve basis. The parking lot for Library West, which remains open on game days, is not a reserved lot and its marked accessible spaces are available without a game day parking pass. During the fall 2016 football season, the City of Gainesville, through a permit obtained from the Florida Department of Transportation, restricted access to University Avenue three hours before kickoff and one hour after the end of each home game. The University, however, trains game day parking attendants and law enforcement personnel to permit state accessible parking placard holders into available marked accessible spaces, without requiring a game day parking pass.

OCR did not complete the investigation to determine whether the University's facilities, programs and activities are accessible to or usable by individuals with disabilities during games days in compliance with Section 504 and Title II prior to receiving the request from the University to resolve this matter. However, OCR's investigation identified an area of concern regarding the possibility that law enforcement may have provided incorrect information to state accessible parking placard holders during game days. The University has agreed to resolve this concern.

Resolution Agreement

To remedy the allegation raised by OCR's complaint, the University agreed to implement the provisions of the attached Resolution Agreement (Agreement), which when fully implemented, will resolve the issue in this complaint. Pursuant to the terms of the Agreement, the University will provide training to game day attendants and law enforcement personnel, including

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Gainesville Police Department officers, involved in directing traffic onto the University campus during game days, to permit state accessible parking placard holders, without game day parking passes, to access campus and available marked accessible spaces, in compliance with Section 504 and Title II.

The Agreement is aligned with the complaint allegation and the information obtained thus far and is consistent with applicable regulations under Section 504 and Title II. OCR will monitor the University's implementation of the Agreement to ensure that it is fully implemented. If the University fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504 and Title II.

This concludes OCR's investigation of the complaint and 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. The Complainant may file a private lawsuit in federal court regardless of whether OCR finds a violation.

This letter sets forth OCR's determination in an individual 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 duly authorized OCR officials and made available to the public.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records, upon request. If we receive such a request, we will seek to protect, to the extent possible, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Finally, OCR reminds the University that intimidation or retaliation against complainants by recipients of Federal financial assistance is prohibited. No recipient may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the laws OCR enforces or because one has made a complaint or participated in any manner in an investigation in connection with a complaint.

OCR will proceed with monitoring the Agreement, effective the date of this letter. OCR is committed to a high quality resolution of every case. If you have any questions regarding this complaint, please contact Ms. Claudia Campo, the assigned attorney, at (404) 974-9378, or, me, at (404) 974-9376.

Sincerely,

/s/

Arthur Manigault, Esq.
Compliance Team Leader

Enclosure

cc: XXXXX XXXX (via electronic mail only to XXXXX@ufl.com)

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