

RESOLUTION AGREEMENT

Merrimack College OCR Case No. 01-16-2073

In order to resolve Case No. 01-16-2073, Merrimack College (the College) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it has taken and/or will take the following actions pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104.¹

Action Item 1:

The College addressed the compliance issues noted in Appendix A by constructing Merrimack Stadium, which is the new home to the Merrimack College field hockey, football, women's lacrosse, men's lacrosse and women's and men's track & field programs. The College invites OCR to inspect Merrimack Stadium to ensure that it cures the compliance issues noted in Appendix A and conforms to the 2010 ADA Standards for Accessible Design (2010 ADA Standards). If, after OCR's review, there remain any outstanding compliance issues, the College will correct those issues in a prompt manner or develop an alternate plan to ensure that each program and activity conducted at the site of the Martone-Mejail Field, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities until the structural changes are completed.

Reporting Requirements: The College will provide documentation to OCR (e.g., photographs, measurements, summaries, etc.) demonstrating that structural changes have been made that comply with applicable accessibility standards, in accordance with Appendix A. OCR may conduct an on-site visit to confirm that any alterations were completed consistent with applicable accessibility standards.

Action Item 2:

The College represents that it has made changes to address the compliance issues noted in Appendix B. The College represents that the changes conform to the 2010 ADA Standards for Accessible Design.

Reporting Requirement: As with Action Item 1, the College will provide documentation to OCR (e.g., photographs, measurements, summaries, etc.) demonstrating that structural changes have been made that comply with applicable accessibility standards, in accordance with Appendix B. OCR may conduct an on-site visit to confirm that any alterations were completed consistent with applicable accessibility standards.

¹ Prior to receiving the above-reference complaint, the College planned and financed a project to replace entirely the physical structures that were called into question by the Complainant. Prior to OCR's onsite visit in the summer of 2017, the College broke ground on this project and it was completed as of October 2017. The College is willing to enter this Resolution Agreement with OCR solely to conclude this matter.

General Requirements

The College understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. Further, the College understands that during the monitoring of this Agreement, if necessary, OCR may visit the College, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms of this Agreement.

Upon satisfaction of the commitments made under this Agreement, OCR will close this case.

The College understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this Agreement, OCR will give the College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the College’s representative below.

Date March 26, 2018

/s/
President
Merrimack College

**Appendix A
Existing Facilities**

The College must submit an alternate plan for ensuring that each program and activity conducted at the Martone-Mejail Field, when viewed in its entirety, is readily accessible to the disabled; or make the structural changes outlined below:

Building/Facility	Martone-Mejail Field and Stands/Bleachers
Date of Construction	Prior to 1977
Accessibility Issues:	<p><u>Bleachers/Stands</u> To resolve compliance concerns that the bleachers/stands provided for visitors are not readily accessible to persons with disabilities (e.g., do not feature any wheelchair spaces or companion seats, and the viewing areas on the ground on the side of the bleachers are not horizontally or vertically dispersed to provide equal access and lines of sight), the College shall ensure that such bleachers/stands comport with the 2010 ADA Standards, including the following:</p> <ul style="list-style-type: none"> • 2010 ADA Standards 221.2.1 – Wheelchair spaces complying with 802.1 shall be provided in accordance with Table 221.1.1.1 (51 to 150 seats = 4 wheelchair spaces). • 2010 ADA Standards 221.2.3 – Wheelchair spaces shall provide lines of sight complying with 802.2 and shall be dispersed and provide spectators with choices of seating locations and viewing angles that are substantially equivalent to, or better than, the choices of seating locations and viewing angles available to all other spectators. <p><u>Exterior Route from Designated Accessible Parking Lot (Lot F)</u> To resolve compliance concerns that the exterior route from parking lot F may be inaccessible to persons with disabilities (e.g., features a steep change in level), the College shall ensure that any such route comport with the 2010 ADA Standards, including the following:</p> <ul style="list-style-type: none"> • 2010 Standards 206.2.1 – At least one accessible route shall be provided within the site from accessible parking spaces and accessible passenger loading zones; public streets and sidewalks; and public transportation stops to the accessible building or facility entrance they serve. • 2010 Standards 402.2, 403.3 – The running slope of walking surfaces shall not be steeper than 1:20.

Building/Facility	Martone-Mejail Field and Stands/Bleachers
	<ul style="list-style-type: none">• 2010 ADA Standards 208.3.1 - Accessible spaces that serve a particular building or facility shall be located on the shortest accessible route from parking to an entrance complying with 206.4. Where parking serves more than one accessible entrance, parking spaces complying with 502 shall be dispersed and located on the shortest accessible route to the accessible entrances. In parking facilities that do not serve a particular building or facility, parking spaces complying with 502 shall be located on the shortest accessible route to an accessible pedestrian entrance of the parking facility. <p><u>Portable Toilets</u> OCR did not make a compliance determination regarding portable toilets; however, the College has voluntarily agreed to ensure that such portable facilities comport with the 2010 ADA Standards, including the following:</p> <ul style="list-style-type: none">• 2010 ADA Standards 604.8.1 Ambulatory accessible toilet compartments shall comply with 604.8.2

**Appendix B
New Construction**

Building/Facility	Lot F
Date of Construction or Alterations	2012-on
Accessibility Issues:	<p>To resolve compliance concerns that the van accessible parking space(s) in Lot F has an access aisle that is too narrow, the College shall ensure that such access aisles comport with the 2010 ADA Standards, including the following.</p> <ul style="list-style-type: none"> • 2010 ADA Standards 5.2.2 – van parking spaces shall be 132 inches wide minimum, shall be marked to define the width, and shall have an adjacent access aisle complying with 502.3

Building/Facility	Lot G
Date of Construction or Alterations	2012-on
Accessibility Issues:	<p>To resolve compliance concerns that the van accessible parking space(s) in Lot G has an access aisle that is too narrow, the College shall ensure that such access aisles comport with the 2010 ADA Standards, including the following.</p> <ul style="list-style-type: none"> • 2010 ADA Standards 5.2.2 – van parking spaces shall be 132 inches wide minimum, shall be marked to define the width, and shall have an adjacent access aisle complying with 502.3 <p>To resolve compliance concerns that Lot G lacks appropriate vertical signage or ground markings indicating van accessibility, the College shall ensure that such access aisles comport with the 2010 ADA Standards, including the following.</p> <ul style="list-style-type: none"> • 2010 Standards 502.6 – Parking space identification signs shall include the International Symbol of Accessibility complying with 703.7.2.1. Signs shall be 60 inches minimum above the finish floor or ground surface measured to the bottom of the sign.