

RESOLUTION AGREEMENT

University of Massachusetts Dartmouth OCR Case No. 01-19-2105

In order to resolve Case No. 01-19-2105, the University of Massachusetts, Dartmouth (the University) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it 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, and Title II of the ADA (Title II) as amended, 42 U.S.C. Section 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35.

Action Item 1:

By August 31, 2020, the University will notify OCR whether it will develop an alternative plan to address the compliance issues noted in Appendix A, or make structural changes to address the compliance issues. The University acknowledges that if no effective alternative can be provided to achieve program accessibility, then it shall be required to make necessary structural changes. Any structural changes must conform to the 2010 ADA Standards for Accessible Design (2010 Standards), with a completion date for all structural changes not to exceed December 31, 2020. If the University chooses to make structural changes to address the compliance issues, the University will develop an alternate plan to ensure that each program and activity conducted at the University's Tripp Athletic Center arena and bleachers (Center), when viewed in its entirety, is readily accessible to and usable by individuals with disabilities until the structural changes are completed.

Reporting Requirements:

- a) By August 31, 2020, the University will notify OCR whether it will develop an alternate plan to ensure that each program and activity conducted at the Center, when viewed in its entirety, is readily accessible to individuals with disabilities; or, whether it will make structural changes to achieve accessibility.
- b) If the University chooses to develop an alternate plan to achieve accessibility, then by August 31, 2020, the University will provide a copy of that plan to OCR. OCR will review the documentation submitted to ensure that the University's plan complies with applicable accessibility standards.
- c) If the University chooses to make structural changes to achieve accessibility, then by September 30, 2020, the University will provide to OCR a plan for the completion of the structural changes and the plan for ensuring that each program and activity conducted at the Center, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities until the structural changes are completed; and, by December 31, 2020, the University 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:

By August 31, 2020, the University will make changes to address the compliance issues noted in Appendix B. Any changes must conform to the 2010 ADA Standards for Accessible Design.

Reporting Requirement: By September 30, 2020, the University 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.

General Requirements

The University understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the University understands that during the monitoring of this Agreement, if necessary, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this Agreement and is in compliance with Section 504 and Title II and their implementing regulations at 34 C.F.R. Part 104 and 28 C.F.R. Part 35. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

The University 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 shall give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the University's representative below:

By: _____/s/_____ Date: _____ May 26, 2020 _____
President

Appendix A¹
Existing Facility
Arena and Bleachers

Building/Facility	Tripp Athletic Center Arena and Bleachers
Date of Construction	1971
Accessibility Issues:	<p><u>Main Entrance</u></p> <ul style="list-style-type: none"> • The main entrance, which was not the designated accessible entrance to the arena and bleachers, lacked directional signage directing visitors to the designated accessible entrance. <ul style="list-style-type: none"> ○ Section 216.6 of the 2010 Standards provides that “where not all entrances comply with Section 404 (i.e., are accessible). . . Directional signs complying with 703.5 that indicate the location of the nearest entrance complying with 404 shall be provided at entrances that do not comply with 404.” <p><u>The designated accessible entrance</u></p> <ul style="list-style-type: none"> • The accessible entrance to the sporting arena and bleachers on the ground floor lacked signage identifying it as the accessible entrance with the international symbol of accessibility. <ul style="list-style-type: none"> ○ Section 216.6 of the 2010 Standards provides that “where not all entrances comply with Section 404 . . . entrances complying with 404 shall be identified with the International Symbol of Accessibility complying with 703.7.2.” <p><u>The upper level restrooms</u></p> <ul style="list-style-type: none"> • The unrenovated upper level restrooms lacked directional signage directing persons with disabilities to the designated accessible toilet room on the lower level. <ul style="list-style-type: none"> ○ Section 216.8 of the 2010 Standards provides that “where existing toilet rooms or bathing rooms do not comply with 603 (i.e. are not accessible), directional signs indicating the location of the nearest toilet room or bathing room complying with 603 within the facility shall be provided.” <p><u>The doors to the bleachers/stands</u></p> <ul style="list-style-type: none"> • The force required to open the doors to the arena and bleachers leading from the interior route from the designated accessible entrance and the designated accessible restroom was 8 pounds of force. <ul style="list-style-type: none"> ○ Section 404.2.9 of the 2010 Standards provides that the force for pushing or pulling open a door or gate other than fire doors shall be as follows: Interior hinged doors and gates: 5 pounds maximum.

¹ Because any alterations would need to be made consistent with current accessibility standards, all citations refer to the 2010 ADA Standards for Accessible Design.

	<p><u>Bleachers/stands</u></p> <ul style="list-style-type: none"> • The viewing areas that would be available for disabled persons (on the ground in front of the bleachers, although not designated as such) may not be horizontally or vertically dispersed to provide equal access and lines of sight. <ul style="list-style-type: none"> ○ 34 CFR § 104.22 requires that although a recipient is “not required to make structural changes in existing facilities,” a recipient must “give priority to those methods that serve handicapped persons in the most integrated setting appropriate.” The University shall designate spaces in multiple locations from which spectators who use wheelchairs can view games with unobstructed views and are able to sit with companions.
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**Appendix B
New Construction (2010 Standards)**

Building/Facility	Center Lot
Date of Construction	Re-Striped Parking Lots within past 5 years (i.e. later than 2014)
No. of Accessible Spaces	4 of 37
Accessibility Issues:	<ul style="list-style-type: none"> • One of the four signs designating an accessible parking space is twisted and cannot be seen on a forward approach to the parking space. <ul style="list-style-type: none"> ○ Section 502.6 of the 2010 Standards requires that parking space identification signs shall include the International Symbol of Accessibility. • The lot lacked a designated van accessible parking space. <ul style="list-style-type: none"> ○ Section 208.2.4 and 502.6 of the 2010 Standards require that for every 6 or fraction of 6 accessible parking spaces, at least one must be designated as a van accessible parking space, and [s]igns identifying van parking spaces shall contain the designation “van accessible.” • The slope of the exterior accessible route from the center lot to the designated accessible entrance to the arena and bleachers features a portion of its run that exceeded 1:20 (or .05), the slope measured .077 (which is greater than .05). <ul style="list-style-type: none"> ○ 403.3 of the 2010 Standards requires that the slope of walking surfaces shall not be steeper than 1:20.

Building/Facility	Lot 13
Date of Construction	Re-Striped Parking Lots within past 5 years (i.e. later than 2014)
No. of Accessible Spaces	7 of 154
Accessibility Issues:	<ul style="list-style-type: none"> • One of the signs designating an accessible parking space is twisted and cannot be seen on a forward approach to the parking space. <ul style="list-style-type: none"> ○ Section 502.6 of the 2010 Standards requires that parking space identification signs shall include the International Symbol of Accessibility. • One of the accessible parking spaces lacks a sign. <ul style="list-style-type: none"> ○ Section 502.6 of the 2010 Standards requires that parking space identification signs shall include the International Symbol of Accessibility. • The lot lacked a designated van accessible parking space. <ul style="list-style-type: none"> ○ Section 208.2.4 and 502.6 of the 2010 Standards require that for every 6 or fraction of 6 accessible parking spaces, at least one must be designated as a van accessible parking space, and [s]igns identifying van parking spaces shall contain the designation “van accessible.”
Building/Facility	Lot 6
Date of Construction	Re-Striped Parking Lots within past 5 years (i.e. later than 2014)
No. of Accessible Spaces	6 of 145
Accessibility Issues:	<ul style="list-style-type: none"> • The lot lacked a designated van accessible parking space. <ul style="list-style-type: none"> ○ Section 208.2.4 and 502.6 of the 2010 Standards require that for every 6 or fraction of 6 accessible parking spaces, at least one must be designated as a van accessible parking space, and [s]igns identifying van parking spaces shall contain the designation “van accessible.”

Building/Facility	Lot 5
Date of Construction	Re-Striped Parking Lots within past 5 years (i.e. later than 2014)
No. of Accessible Spaces	5 of 108
Accessibility Issues:	<ul style="list-style-type: none"> • The lot lacked a designated van accessible parking space. <ul style="list-style-type: none"> ○ Section 208.2.4 and 502.6 of the 2010 Standards require that for every 6 or fraction of 6 accessible parking spaces, at least one must be designated as a van accessible parking space, and [s]igns identifying van parking spaces shall contain the designation “van accessible.”

Building/Facility	Shuttle Bus Notification Policy
Date of Construction	Re-Striped Parking Lots within past 5 years (i.e. later than 2014)
Accessibility Issues:	<ul style="list-style-type: none"> • The University has not developed a policy or procedure, or posted one on its website, to notify the public, or visitors to the University’s sporting events, of the availability of accessible vans or the manner in which to request that one be made available <ul style="list-style-type: none"> ○ An Exception to Section 208.3.1 of the 2010 Standards provides that “parking spaces shall be permitted to be located in different parking facilities if substantially equivalent or greater accessibility is provided in terms of distance from an accessible entrance or entrances, parking fee, and user convenience.”

Building/Facility	Tripp Athletic Center Arena and Bleachers
Date of Renovation	2012-2013
Accessibility Issues:	<p><u>The designated accessible restroom</u></p> <ul style="list-style-type: none"> • The signage on the renovated toilet room on the lower level of the Center lacked the International Symbol of Accessibility. <ul style="list-style-type: none"> ○ Section 216.8 of the 2010 Standards provides that “where existing toilet rooms or bathing rooms do not comply with 603, the toilet rooms or bathing rooms complying with 603 shall be identified by the International Symbol of Accessibility complying with 703.7.2.1.” • The existing sign on the designated accessible toilet room on the lower level, which contained tactile characters (Braille), was not mounted so that the baseline of the highest character was no more than 60 inches above the floor (at 62.5 inches). <ul style="list-style-type: none"> ○ Section 703.4.1 of the 2010 Standards requires that tactile characters on signs shall be located 48 inches (1220 mm) minimum above the finish floor or ground surface, measured from the baseline of the lowest tactile character and 60 inches (1525 mm) maximum above the finish floor or ground surface, measured from the baseline of the highest tactile character. • The lower level toilet room door required 13-15 pounds of force to open. <ul style="list-style-type: none"> ○ Section 404.2.9 of the 2010 Standards requires that the force for pushing or pulling open a door or gate other than fire doors shall be as follows: Interior hinged doors and gates: 5 pounds maximum.