



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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DIRECTOR
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May 26, 2023

Sent via email only to president@stonybrook.edu

Maurie McInnis, Ph.D.
President
University at Stony Brook
State University of New York
310 Administration Building
Stony Brook, New York 11794-0701

Re: Case No. 02-23-2035
State University of New York at Stony Brook

Dear Dr. McInnis:

By letter dated December 9, 2022, the U.S. Department of Education, Office for Civil Rights (OCR) notified you that it would investigate a complaint filed against the State University of New York - Stony Brook University (the University). The Complainant alleged that the following University facilities at its Southampton campus are inaccessible to individuals with disabilities:

- **Southold Hall** – (a) the automatic door openers at the exterior main entrance are not consistently operational from both inside and outside the building; (b) doors to the common room and laundry room are too heavy; and (c) the elevator car dimensions, including the door width, are too small; and (d) the doors to and at the elevator are too heavy and do not have accessible hardware (Allegation 1);
- **Atlantic Hall** – (a) the second set of interior doors at the main entrance and (b) the interior doors to the two first-floor classrooms, conference room, student lounge, and first-floor restroom (on the left upon entrance) are too heavy (Allegation 2); and
- **Student Center** – (a) the building lacks an accessible entrance because the doors are too heavy; and (b) the restroom doors on the main level are too heavy (Allegation 3).

OCR enforces 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, which prohibit discrimination on the basis of disability in programs and activities receiving Federal financial assistance. In addition, OCR enforces Title II of the Americans with Disabilities Act (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. Under Title II, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities. As a

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public post-secondary education system that receives federal financial assistance from the Department, the University is subject to Section 504, Title II, and their implementing regulations.

The regulation implementing Section 504, at 34 C.F.R. § 104.21, provides that “[n]o qualified person with a disability shall, because a recipient’s facilities are inaccessible to or unusable by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.” Title II includes a similar requirement for public entities at 28 C.F.R. § 35.149.

In its investigation, OCR reviewed documentation that the University provided and interviewed the Complainant. The regulation implementing Section 504, at 34 C.F.R. § 104.23, categorizes facilities constructed or altered by, on behalf of, or for the use of a recipient after June 3, 1977, as “new construction.” Under the regulation implementing the ADA, at 34 C.F.R. § 35.151, construction or alterations commenced after January 26, 1992, are considered “new construction.”

The University’s Facilities

OCR determined that the University’s Southold Hall (Southold), including its original doors, was constructed in 1965. The University altered Southold when it constructed an elevator in 2007, and installed automatic door openers at the exterior main entrance and common room and constructed the laundry room in 2022.

OCR determined that Atlantic Hall (Atlantic), including its original doors, was constructed in 1965. The University informed OCR that it began renovations on the first floor of Atlantic in October 2019, and the first floor includes two classrooms, a conference room, a student lounge, and a restroom. The University stated that in October/November 2022, it installed automatic door openers at Atlantic’s second set of interior doors at the main entrance, making the entrance to Atlantic Hall accessible; and installed automatic door openers at Atlantic’s first-floor gender neutral restroom.

OCR determined that the Student Center, including its original doors, was constructed in 1966. The University informed OCR that it installed automatic door openers at the two restroom doors on the main level of the Student Center in December 2022, and installed automatic door openers at the Student Center’s interior and exterior doors at the designated accessible entrance in or before March 2023.

OCR determined that Southold’s exterior main entrance, doors to the common room and laundry room, elevator, and doors providing access to the elevator; Atlantic’s second set of interior doors at the main entrance and first floor, including two classrooms, a conference room, a student lounge, and gender neutral restroom; and the Student Center’s interior and exterior doors at the designated accessible entrance¹ and two main-level restrooms that were at issue in this case were renovated

¹ The Student Center has two sets of exterior and interior entrance doors. As stated above, the main entrance and accompanying interior set of doors are not considered new construction, as they were constructed in 1966. The University has designated another entrance as its accessible entrance. The designated accessible entrance has a set of exterior and interior entrance doors and the University installed automatic door openers there in 2022/2023. Under the Department of Justice’s 2010 Americans with Disabilities Act Standards for Accessible Design, the main entrance doors are not required to be accessible as long as the designated accessible entrance and the exterior and interior routes to the designated accessible entrance are found to be accessible.

between 2007 and 2023, and therefore, are considered “new construction” under Section 504 and Title II.

The regulation implementing Section 504, at 34 C.F.R. § 104.23, requires that new construction be readily accessible to and usable by individuals with disabilities. The regulation implementing Title II contains a similar requirement at 34 C.F.R. § 35.151. The regulation implementing Section 504, at 34 C.F.R. § 104.23, requires that all buildings constructed or alterations to existing facilities made after January 18, 1991, must comply with UFAS, or it must be clearly evident that equivalent access is provided to meet the requirements of Section 504, such as through compliance with AADAG. Pursuant to the regulation implementing Title II, at 28 C.F.R. § 35.151, new construction or alteration of existing facilities commenced after January 26, 1992, must conform to UFAS, ADAAG, or equivalent standards. Beginning on March 15, 2012, all new construction or alterations of existing facilities must conform to the Department of Justice’s 2010 Americans with Disabilities Act Standards for Accessible Design (2010 ADA Standards), 28 C.F.R. Part 36, Appendix A.

On February 9, 2023, OCR contacted the University to discuss OCR’s Rapid Resolution Process (RRP) pursuant to Section 203 of OCR’s *Case Processing Manual (CPM)*.² On February 15, 2023, the University agreed to voluntarily resolve the OCR complaint to address possible concerns OCR identified with respect to the accessibility of the University’s facilities, including consideration of individualized requests for access to particular facilities. On May 22, 2023, the University voluntarily entered into the attached resolution agreement to resolve these concerns in accordance with Section 302 of OCR’s *CPM*.

Under the agreement, the University agreed that by June 1, 2023, it will ensure that the following designated areas comply with the requirements of the 2010 ADA Standards: the Southold automatic door openers at the exterior main entrance and doors to the common room and laundry room; the Atlantic second set of interior doors at the main entrance and interior doors to the two first-floor classrooms, conference room, student lounge, and first-floor restroom; and Student Center automatic door openers for its interior and exterior doors at the designated accessible entrance and two restroom doors on the main level.

The University also agreed that by August 1, 2025, it will ensure that if the Southold elevator car and doors to and at the Southold elevator are not already compliant with the requirements of UFAS or ADAAG, the University will ensure that they comply with the requirements of the 2010 ADA Standards. The University also agreed that by May 1, 2023, and each semester thereafter until the accessibility of the Southold elevator and cars to and at the Southold elevator is achieved, it shall make a written offer of weekly laundry services at no additional cost to a student who XXXX XXXXXX XXXXXX (Student A), as well as to any other student the University identifies who may not be able to access laundry facilities at the University’s Southampton campus due to disability.³

The University further agreed to provide training to all University staff in its Student Accessibility Support Center responsible for the Southampton campus who are involved in evaluating and approving requests for housing accommodations regarding the University’s obligations to consider

² See *CPM* (July 18, 2022) at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrspm.pdf>.

³ By email dated XXXXX XX, 2023, an administrator in the University residential life department offered weekly laundry services to Student A, who accepted the offer by email the following day.

requests for housing accommodations based on a student's individual needs, including with respect to accessing laundry services available at the University's Southampton campus.

OCR will monitor the University's implementation of the resolution agreement. Upon the University's compliance with the terms of the Agreement, Section 504 and its implementing regulations at 34 C.F.R. Part 104, and Title II and its implementing regulations, at 28 C.F.R. Part 35, which were at issue in this case, OCR will close the case.

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.

Please be advised that the University must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint against the University with OCR.

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, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, please contact David Krieger, Senior Compliance Team Attorney, at (646) 428-3893 or David.Krieger@ed.gov; Jonathon LeBeau, Compliance Team Investigator, at (646) 428-3790 or Jonathon.LeBeau@ed.gov; and Eboné Woods, Compliance Team Leader, at (646) 428-3898 or Ebone.Woods@ed.gov.

Sincerely,

/s/

Rachel Pomerantz

cc: Suzanne Shane, Esq.

Attachment