



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

THE WANAMAKER BUILDING, SUITE 515  
100 PENN SQUARE EAST  
PHILADELPHIA, PA 19107-3323

**REGION III**  
DELAWARE  
KENTUCKY  
MARYLAND  
PENNSYLVANIA  
WEST VIRGINIA

October 9, 2014

**IN RESPONSE, PLEASE REFER TO: 03142310**

Dr. E. Gordon Gee  
President  
West Virginia University  
P.O. Box 6201  
1500 University Avenue  
Morgantown, WV 26506-6201

Dear Dr. Lee:

This is to notify you of the resolution of the above-referenced complaint filed with the U.S. Department of Education (the Department), Office for Civil Rights (OCR), against West Virginia (the University). The Complainant, XXXXXX, alleged that the University discriminates on the basis of disability. Specifically the Complainant alleged that XXXXXX not accessible XXXXXX and other persons with disabilities because:

1. There is insufficient designated accessible seating;
2. Routes to designated accessible seating and the "Athletic Club" (a food and drink area XXXXXX) are not accessible;
3. There is an insufficient number of accessible restrooms; and
4. XXX – paragraph deleted - XXX

OCR enforces:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance.
- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities.

As a recipient of Federal financial assistance from the Department and a public entity, the University is subject to the provisions of Section 504 and Title II and their implementing regulations. The issues raised in this complaint are governed by 34 C.F.R. § 104.21 and 28 C.F.R. §§ 35.138, 35.150 and 35.151.

Under OCR procedures, a complaint may be resolved before the conclusion of an investigation if a recipient asks to resolve the complaint by signing a resolution agreement. The provisions of

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

the resolution agreement must be aligned with the complaint allegations and be consistent with applicable regulations. Such a request does not constitute an admission of a violation on the part of the University, nor does it constitute a determination by OCR of any violation of our regulations.

Consistent with OCR's procedures, the University agreed to resolve this complaint through a resolution agreement and, on October 8, 2014 the University signed a Voluntary Resolution Agreement (Agreement) with OCR in order to resolve the matter. Accordingly, OCR is concluding its investigation of this complaint. As is our standard practice, OCR will monitor the University's implementation of the Agreement, a copy of which is enclosed.

This letter is not intended, nor should it be construed, to cover any other issues regarding the University's compliance with Section 504, Title II or their implementing regulations that may exist and are not discussed herein. The Complainant may have the right to file a private lawsuit in Federal court whether or not OCR finds a violation.

Please be advised that the University may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Complainant may file another complaint alleging such treatment.

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

Thank you for your cooperation in this matter. Additionally, we would also like to take this opportunity to thank Carol Ann Marunich for all of her assistance and cooperation with regard to this matter as well. If you have any questions, please feel free to contact Dale J. Leska, Investigator, at (215) 656-8562 or by email at [dale.leska@ed.gov](mailto:dale.leska@ed.gov).

Sincerely,

/s/

Vicki Piel  
Team Leader/Supervisory Attorney  
Philadelphia Office

Enclosure  
cc: Carol Ann Marunich, Deputy General Counsel (w.encl.)