



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

April 8, 2019

Dr. David Yager  
Office of the President  
University of the Arts  
320 S. Broad Street  
Philadelphia, PA 19102

**IN RESPONSE, PLEASE REFER TO: 03-17-2365**

Dear Dr. Yager:

This is to advise you of the resolution of the above-referenced complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR) against the University of the Arts (the University). The Complainant alleged that the University discriminates against persons with disabilities by failing to provide an accessible entrance to Hamilton Hall.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. Section 504's regulation prohibits retaliation at 34 C.F.R. § 104.61. As the University receives Federal financial assistance from the Department, the University is subject to Section 504.

To date, OCR has investigated this complaint by reviewing information provided by the Complainant and University. We also interviewed University staff and conducted an on-site visit. Prior to the completion of OCR's investigation, the University asked to resolve this complaint. On March 6, 2019, the University submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the issue in the complaint.

**Legal Standards**

The regulation at 34 C.F.R. 104.21 provides that no qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, 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.

### ***Existing Facilities***

The regulation at 34 C.F.R. § 104.22 (a), applies to “existing facilities,” and define them as any facility or part of a facility where construction was commenced prior to June 3, 1977 or January 26, 1992, respectively. With respect to existing facilities, the recipient shall operate its programs, services, and activities so that, when viewed in their entirety, they are readily accessible to and usable by persons with disabilities (“the program accessibility standard”).

The regulation at 34 C.F.R. § 104.22 (b) provides that a recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of 104.23, or any other methods that result in making its program or activity accessible to handicapped persons. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that serve handicapped persons in the most integrated setting appropriate.

The regulation at 34 C.F.R. §104.22(f), requires the University to adopt and implement procedures to ensure that, as to existing facilities, interested persons can obtain information as to the existence and location of programs, services, activities, and facilities that are accessible to and usable by persons with disabilities.

### **Investigation to Date**

#### ***Background***

Hamilton Hall was built in three major phases between 1824 and 1875. In the first phase, commencing in 1824, the main portion of what is now Hamilton Hall was built facing Broad Street. In approximately 1838, the two large wings running from the back of the structure to the center of the block , employees and visitors gain access the building as well as Furness Hall. The Broad Street entrance to Hamilton Hall has not been significantly modified or altered since its construction in 1824. According to the University, attempting to retrofit an accessible entrance to the Broad Street staircase and doorway without threatening or destroying the historic significance of the Greek revival structure would not be feasible. Moreover, according to the University, no lift or ramp could be constructed which would not destroy the symmetry or proportions of the building, which are among the attributes which give Hamilton Hall its architectural and historical significance.

The National Historic Preservation Act of 1966 includes Hamilton Hall in the National Register of Historic Places. Hamilton Hall has also been listed in the Philadelphia Register of Historic Places by the City of Philadelphia Historical Commission since 1956.

### ***Allegation***

According to the Complainant, the University holds art shows in Hamilton Hall. However, the Complainant maintains that Hamilton Hall is inaccessible to those individuals with disabilities. Specifically, individuals with disabilities must access the other floors through an elevator in Furness Hall and proceed through a hallway that connects both buildings. The Complainant believes there should be another entrance to Hamilton Hall because the elevator was broken that resulted in a period of inaccessibility for individuals with disabilities during the spring 2017.

According to the University, due to the age of the elevator, there have been occasional issues and breakdowns which required repair and maintenance, and resulted in at least one period of time where the elevator was inoperable for several weeks. Due to these ongoing reliability issues, in February and June 2018, the University replaced all the mechanical portions of the elevator within the existing elevator shaft. No structural changes were made to the car, shaft or shaft opening.

### ***Conclusion***

Prior to the completion of our investigation, the University signed a Voluntary Resolution Agreement with OCR. In light of the commitments the University has made in the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will monitor the University's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may request additional information as necessary to determine whether the University has fulfilled the terms of the Agreement and is in compliance with Section 504 with regard to the issue raised.

If the University fails to implement the Agreement, OCR may initiate administrative or judicial proceedings to enforce specific terms and obligations of the Agreement. Before initiating administrative or judicial proceedings to enforce the Agreement, OCR will give the University written notice of the alleged breach and sixty (60) calendar days to cure the breach.

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. 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.

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

Thank you for the assistance David Rapuano extended to OCR in resolving this complaint. If you have any questions, please contact Cynthia Wesley at (215) 656-8548 or [Cynthia.wesley@ed.gov](mailto:Cynthia.wesley@ed.gov).

Sincerely,

/s/

Aysha S. Ames  
Acting Team Leader

Enclosure: Resolution Agreement