



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION IV

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ATLANTA, GA 30303-8927

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July 27, 2017

Mr. Jere W. Morehead, President
Office of the President
220 South Jackson Street
Athens, Georgia 30602-1661

Re: Complaint # 04-15-2325

Dear Mr. Morehead:

On April 16, 2015, the U.S. Department of Education (Department), Office for Civil Rights (“OCR”), received the above-referenced complaint filed against the University of Georgia (University) School of Law (Law School) alleging discrimination on the basis of disability.

As a recipient of Federal financial assistance from the Department, the District is subject to 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, which prohibit discrimination on the basis of disability. As a public entity, the District is subject to the provisions of Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability. Accordingly, OCR has jurisdiction over this complaint. Additional information about the laws OCR enforces is available on our website at www.ed.gov/ocr.

OCR opened the following legal issues for investigation:

1. Whether, from August 2014 through October 2014, the Law School failed to offer the Complainant effective assistive technology and note taking academic adjustments, in noncompliance with Section 504, and its implementing regulation 34 C.F.R. § 104.44(a) and (d) and Title II and its implementing regulation at 28 C.F.R. § 35.130(b)(7)(i);
2. Whether, from August 2014 through October 2014, the Law School failed to implement the Complainant’s oral grading and weighted grading academic adjustments, in noncompliance with Section 504, and its implementing regulation 34 C.F.R. § 104.44(a) and (c) and Title II and its implementing regulation at 28 C.F.R. § 35.130;
3. Whether the Law School classrooms and library were not accessible, because objects obstructed entryways and where the Complainant, who is a wheelchair user, was unable to access the library aisles, in noncompliance with Section 504 and its implementing

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regulation at 34 C.F.R. § 104.4 and Title II and its implementing regulation at 28 C.F.R. §§ 35.149; 35.150;

4. Whether the Law School was not accessible to the Complainant, XXXX, when the door openers at the designated accessible entryways were not consistently operable; classroom doorways did not have heavy duty doorstops, the timers for the toilet rooms lights did not allow sufficient time to accommodate the Complainant's toileting needs; and the University failed to respond to the Complainant's request for a designated accessible parking permit, in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. §§ 104.4(a); 104.21, 104.22 and Title II and its implementing regulation at 28 C.F.R. §§ 35.149; 35.150.;
5. Whether the Complainant was subjected to different treatment because the University's Disability Van hours of operation were not comparable to the hours of operation of vans/busses for students without disabilities, in noncompliance with Section 504, and its implementing regulations at 34 C.F.R. § 104.4(a) and Title II and its implementing regulation at 28 C.F.R. § 35.149;
6. Whether the Law School forced the Complainant to withdraw from its program by refusing to provide the Complainant with effective academic adjustments, auxiliary aids and services and accessible facilities, in noncompliance with Section 504, and its implementing regulations at 34 C.F.R. § 104.4; 34 C.F.R. § 104.21 and § 104.22; and, 34 C.F.R. § 104.44(a), (c), and (d) and Title II and its implementing regulation at 28 C.F.R. §§ 35.149; 35.150.

Legal Standards

Accessibility

Section 504

Pursuant to the Section 504 implementing regulation at 34 C.F.R. § 104.21, no qualified person with a disability 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. Subject to the Section 504 implementing regulation at 34 C.F.R. § 104.22, a recipient shall operate its program or activity so that when each part is viewed in its entirety, it is readily accessible to persons with disabilities. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

A recipient may comply with the requirements 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 34 C.F.R. § 104.23, or any other methods that result in making its program or activity accessible to persons with disabilities. A recipient is not required to make

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structural changes in existing facilities where other methods are effective in achieving compliance with this section. In choosing among available methods for meeting the requirement of this section, a recipient shall give priority to those methods that serve persons with disabilities in the most integrated setting appropriate.

In the event that structural changes to facilities are necessary to meet the requirements of this section, a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including persons with disabilities or organizations representing persons with disabilities. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum: (1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to persons with disabilities; (2) Describe in detail the methods that will be used to make the facilities accessible; (3) Specify the schedule for taking the steps necessary to achieve full accessibility in order to comply with paragraph (a) of this section and, if the time period of the transition plan is longer than one year, identify the steps of that will be taken during each year of the transition period; and (4) Indicate the person responsible for implementation of the plan.

The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities.

Title II

The Title II implementing regulation at 28 C.F.R. § 35.149, no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity. Subject to the Title II implementing regulation at 28 C.F.R. § 35.150, a public entity shall operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This paragraph does not— (1) Necessarily require a public entity to make each of its existing facilities accessible to and usable by individuals with disabilities; (2) Require a public entity to take any action that would threaten or destroy the historic significance of an historic property; or (3) Require a public entity to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens.

A public entity may comply with the requirements of this section through such means as redesign or acquisition of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock or other conveyances, or any other methods that result in making its services, programs, or activities readily accessible to and usable by individuals with disabilities. A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. A public entity, in making alterations to existing buildings, shall meet the accessibility requirements of 28 C.F.R. § 35.151. In choosing among

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available methods for meeting the requirements of this section, a public entity shall give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

Academic Adjustments

Section 504

Pursuant to 34 C.F.R. § 104.44(a), a recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of disability, against a qualified applicant or student with a disability. Academic requirements that the recipient can demonstrate are essential to the instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

Pursuant to 34 C.F.R. § 104.44(c), in its course examinations or other procedures for evaluating students' academic achievement, a recipient to which this subpart applies shall provide such methods for evaluating the achievement of students who have disabilities that impair sensory, manual, or speaking skills as will best ensure that the results of the evaluation represents the student's achievement in the course, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

Pursuant to 34 C.F.R. § 104.44(d), a recipient to which this subpart applies shall take such steps as are necessary to ensure that no student with a disability is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills. Auxiliary aids may include taped texts, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

Title II

The Title II implementing regulation at 28 C.F.R. § 35.130 states that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity. (1) A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability— (i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service; (ii) Afford a qualified individual with a disability an

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opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others; (iii) Provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others; (iv) Provide different or separate aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aids, benefits, or services that are as effective as those provided to others.

A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.

Factual Findings and Analysis

Background

During the relevant time period, the Complainant was an applicant, and later, a student with a disability (cerebral palsy) at the University. After being accepted to the University's Law School, the Law School's Associate Dean of Admissions (Admissions Dean) directed the Complainant to the University's Disability Resource Center (DRC) to discuss academic accommodations for the 2014-2015 school year.

According to the DRC's written accommodations procedures, a student should contact the DRC to begin the intake process. Thereafter, students are invited to complete a "Request for Services Form" via the DRC website. Thereafter, the student should arrange to meet with a Coordinator. During that meeting, the student and the Coordinator discuss how the student's disability impacts them in their classes or in the campus environment and their past accommodations. The student then submits documentation to the DRC. Thereafter, the Coordinator schedules a follow-up meeting to discuss and develop an accommodations plan. After discussion of the accommodations plan, the DRC prepares letters for professors to assist the student with the accommodations process. DRC staff interacts with University faculty and staff on the student's behalf to facilitate the accommodations.

The DRC also maintains a written grievance procedure, which states that if a student disagrees with its eligibility or accommodations decisions, that student should submit an appeal in writing to the Assistant or Associate Director of the DRC. If the Assistant or Associate Director cannot assist the student in resolving the matter, then the matter is referred to the DRC Director. If the DRC Director is unable to assist, the student is directed to file a formal complaint with the University's ADA Compliance Officer in the Equal Opportunity Office. The Law School's accommodation procedures were consistent with the DRC policies.

In April 2014, the Complainant executed and submitted "Request for Services Forms" to her assigned DRC Coordinator (Coordinator). Therein, the Complainant requested the following accommodations: double time on all quizzes, tests, exams, papers, and projects; "reduction of

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written assignments and output by altering the graded weight of assignments; beyond double time for larger written projects; a seat in front of the room (wheelchair accessible); note taker and digital recorder for lectures; scribe for writing assignments and exams; option for large print testing book; ability to see the size and font before exam; enlarged graphs and tables; and, circling in testing book for multiple choice exams instead of scantron. The Complainant also submitted documentation regarding accommodations she received in the past.

On June 2, 2014, the Complainant met with the Law School's Academic Dean, Admissions Dean, the ADSA, and the Coordinator. During the meeting, the Complainant was approved for some of the accommodations she sought, but was informed that other accommodations would be addressed at a later time. On June 12, 2014, the DRC Coordinator met with Law School staff to address the concerns that had come up in a previous meeting on June 2, 2014 (regarding anonymous grading and note taking) and to move forward with the modifications. She described the process as "collaborative." In addition, the group discussed the case-by-case language for evaluating accommodation requests, which was included in a paragraph at the bottom of the notification letters the Complainant received.

The Coordinator told OCR that in her initial evaluation of the Complainant's accommodation requests, she met with her supervisor and the Associate Director to determine what would be recommended. The group considered their conversations with the Complainant, past modifications that worked, medical and other documentation, the Complainant's dexterity issues, the nature of the law program she was entering, and concerns that arose during the June 2, 2014 meeting with the Complainant and Law School staff. After this discussion, the Coordinator drafted the "Notification of Student Accommodations" letter dated June 23, 2014 (June 2014 Notification Letter). The Coordinator discussed the draft June 2014 Notification Letter with the Complainant on or around August 7, 2014.

The Complainant appealed the recommendations in the June 2014 Notification Letter to the Director of the DRC. The June 2014 Notification Letter was neither provided to the Law School nor was it a basis for the accommodations that were ultimately granted for Complainant. The documentation provided by the parties showed that after several telephone meetings between the Complainant, Associate Director, and Coordinator for the DRC, on August 14, 2014, the DRC approved a list of recommended accommodations (August 2014 Notification Letter).

The August 2014 Notification Letter approved the following accommodations, among others: alternative text; assistive technology; note takers; and, recorded lectures. In addition, the August 2014 Notification Letter provided that additional accommodations could be requested for specific classes directly through the DRC. By additional letter dated August 14, 2014 (Appeal Letter), the Director notified the Complainant of her decision concerning the Complainant's appeal. The Appeal Letter, in relevant part, did not approve the Complainant's request for a non-anonymous note taker, oral grading, and weighted grading as accommodations. The Appeal

Letter directed the Complainant to approach the oral and weighted grading requests on case-by-case basis using the Law School's procedures.¹

Whether, from August 2014 through October 2014, the Law School failed to offer the Complainant effective assistive technology and note taking academic adjustments, in noncompliance with Section 504, and its implementing regulation 34 C.F.R. § 104.44(a) and (d), and Title II and its implementing regulation at 28 C.F.R. 35.130 (b)(7)(i).

During an April 29, 2015 interview with OCR staff, the Complainant alleged that the Law School failed to offer her effective auxiliary aids and services and effective note-taking for her law school courses. The Complainant cited three specific examples of ineffective auxiliary aides and services described below.

Note Taking Accommodation

First, the Complainant alleged that the notetaking modification agreed to by the Law School was ineffective because she did not receive class notes frequently enough. Specifically, the Complainant alleged that for the first three weeks of school, she did not receive any notes. Thus, she was unable to review the course material. Thereafter, the Law School's Associate Director of Student Affairs (ADSA) delivered her class notes weekly. The Complainant contends that this modification was ineffective because she could not review the notes between classes.

OCR reviewed the Notification Letters and Appeal Letter identified above in addition to relevant documentation from the Law School, including the Law School's academic calendar and emails regarding when the Complainant received class notes. These documents show that for the 2014-2015 school year, classes began Monday, August 18, 2014. Emails show that the ADSA emailed the Complainant notes August 22, 2014, August 30, 2014, and September 3, 2014. Thus, the Complainant received notes from her classes at the conclusion of each of the first three (3) weeks of school. There was no documentary evidence that the Complainant alerted anyone to concerns regarding her note taking modification before September 2, 2014.

OCR reviewed a September 2, 2014 email from the Complainant to the ADSA requesting delivery of her notes immediately following each class. In their respective interviews with OCR, the Complainant and ADSA both confirmed that in response to the September 2, 2014 email, the ADSA arranged for the Complainant receive notes after each class. The Complainant told OCR that after September 2, 2014, she received the class notes on a regular basis and had no additional concerns about the frequency of the notes provided.

Lastly, the Complainant alleged that she was denied the modification of a "non-anonymous" note taker. In other words, she did not know the identity of the person who was taking notes for her, and she requested a note taker whose identity was known. The University did not provide the

¹ After additional communications with the Complainant about font size, the DRC approved additional testing accommodations for the Complainant in an August 25, 2014 Notification Letter. Those additions are not relevant to the Complainant's current allegations.¹

Complainant with a “non-anonymous” note taker. The Complainant was unable to identify any impact the anonymity of her note taker had on the effectiveness of the note taking accommodation.

Recorded Textbooks

Second, the Complainant acknowledged that the University offered her recorded textbooks and gave her the forms to initiate this academic modification during the fall of 2014. However, she contended that the modification was ineffective because the University delayed approval of the modifications. She explained that by the time this modification was approved, she did not have time to initiate the process for obtaining recorded textbooks because classes were underway.

Again, the Complainant’s August 14 Notification Letter shows that the Complainant was approved to receive alternative texts as an academic adjustment. Documentation submitted by the Complainant indicated that she also used voice dictation software, a wireless keyboard, and a trackball mouse in the past.

Documentation showed that the DRC Coordinator, who worked with the Complainant to evaluate her accommodation requests, emailed the Complainant on June 13, July 17, August 5, 2014, and August 6, 2014 seeking clarification of her needs for textbooks in an alternative format (*i.e.*, font size, adaptive technology, alternative text, and technology preferences). The evidence showed that the Complainant did not respond to the Coordinator’s email inquiries.

Electronic Textbooks

Third, the Complainant alleged that the University offered her electronic textbooks as an accommodation, but that this modification was ineffective because she could not highlight or make notes in the margins using her voice dictation software. Further, the voice dictation software was incompatible with law school citation formats. The Complainant further alleged that she asked the ADSA, the Director of the University’s Equal Opportunity Office & Applicant Clearing House (EEO Director), and library staff separately if her textbooks could be photocopied. According to the Complainant, the EEO Director declined this request based on copyright concerns.

The Complainant’s August 2014 Notification Letter states that the Complainant was approved for alternative texts, which could include electronic textbooks. The Complainant’s academic adjustments do not include photocopying of textbooks.

During an OCR interview, the EEO Director said that she never discussed photocopying textbooks with the Complainant; however, she added that the University has the latitude, based on her understanding of copyright law, to copy pages and chapters for students. The EEO Director also stated that she offered to house a second set of books for the Complainant at the Law School. According to the EEO Director, she then offered the Complainant an office at the Law School where she could house her own books (traveling to this area between classes to retrieve the books she needed). According to the Director, the Complainant stated that this solution was unacceptable.

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The Director also suggested that the Complainant bring half of her books during her first trip to school and only travel home during lunch, and that the Complainant contact Vocational Rehabilitation to obtain a carrier for her wheelchair that could accommodate all of her books. According to the EEO Director, the Complainant responded that her suggestions were not acceptable. During an interview with OCR, the Complainant confirmed that EEO Director made several suggestions as to how to transport her books to and from the Law School. The Complainant told OCR that she declined to accept the suggestions.

Conclusions

Note Taking Accommodations

The evidence showed that the Complainant was entitled to receive the academic adjustment of note taking. However, OCR found no evidence to support the Complainant's allegation that she did not receive class notes for the first three weeks of classes. Emails show that the ADSA emailed the Complainant notes on August 22, 2014, August 30, 2014, and September 3, 2014. With respect to the Complainant's allegation that she was not receiving class notes frequently enough, OCR found that the University responded to this concern within 24 hours by arranging delivery of her notes immediately following each class. Additionally, although the University did not grant the Complainant's request for a non-anonymous note taker, this had no effect on the quality of the note taking services the Complainant received, by her own admission. Therefore, the evidence is insufficient to establish that the Law School failed to effectively implement or otherwise unlawfully denied the Complainant this modification.

Recorded Textbooks

The evidence showed that the Complainant was approved for alternative texts as an academic adjustment. The evidence also showed that the DRC provided instructions to the Complainant so that she could obtain alternative textbooks, but that the Complainant failed to respond. Therefore, the evidence is insufficient to establish that the University failed to effectively implement or otherwise denied the Complainant this academic adjustment.

Electronic Textbooks

Again, the evidence showed that the Complainant was approved for alternative texts, which could include textbooks in an electronic format. However, she did not receive an academic adjustment for photocopying textbooks. The evidence is insufficient to establish that the University denied the Complainant's request to have her textbooks photocopied as an alternative to using electronic textbooks. The evidence also showed that the University offered to provide a place for the Complainant to house her books at the Law School and to keep a second set of books at the Law School for the Complainant's use. Accordingly, OCR finds the evidence insufficient to establish that the University failed to provide the Complainant with effective auxiliary aids and services.

Whether, from August 2014 through October 2014, the Law School failed to implement the Complainant's oral grading and weighted grading academic adjustments, in noncompliance with Section 504, and its implementing regulation 34 C.F.R. § 104.44(a) and (c) and Title II and its implementing regulation at 28 C.F.R. 35.130 (b)(7)(i).

The Complainant alleged that the University denied her requests for oral versus written grading and weighted grading. According to the Complainant's request for services form and accompanying documentation, these grading requests would involve the Complainant completing assignments orally rather than in written form.

As discussed above, the Complainant was notified in the Appeal Letter that her general requests for oral grading and weighted grading were not approved, but that she could request these accommodations for specific classes on a case-by-case basis. The Appeal Letter directed the Complainant to the EEO Director to appeal the decisions therein.

The Complainant acknowledged her receipt of the June 2014 Notification Letter, the August 2014 Notification Letter, and the Appeal Letter. The procedure for requesting specific accommodations was detailed in each of the notification letters. In addition, the Appeal Letter included the case-by-case process. In their respective interviews, the Coordinator, Associate Director of the DRC, the ADSA, and the Law School's Academic Dean (Academic Dean) stated that the Complainant never sought to use the case-by-case process for additional modifications.

According to the Complainant, her Advocate attempted to change these decisions through calls to the Coordinator, the Assistant Director, the ADSA, and the EEO Director. In support of this contention, the Complainant sent OCR copies of the Advocate's invoices. The invoices did not reflect any calls to University staff after August 5, 2014. The final accommodations decisions were issued August 14 and August 25, 2014. OCR could find no other evidence that the Complainant appealed the Associate Director's denial of these modifications according to the DRC or Law School's grievance procedures. Further, OCR could find no evidence that the Complainant utilized the case-by-case process to request the modifications of oral grading and weighted grading.

Conclusion

Under Section 504, a postsecondary institution may require that students follow reasonable procedures and students are responsible for knowing these procedures and following them. The process for determining what academic adjustments are reasonable should be an interactive process between the student and the appropriate disability services staff. The Complainant was notified in June and August 2014, that several modifications she requested were not on the list of approved accommodations, but could be considered on a case-by-case basis and through the procedures set forth by the law school. The evidence shows that the Complainant acknowledged receiving this information; but nevertheless, chose not to follow these procedures or to utilize the University's grievance procedures. Because the Complainant failed to complete the process for requesting the grading modifications, OCR finds the evidence insufficient to establish that the University discriminated against the Complainant on the basis of disability.

Whether the Law School classrooms and library were not accessible, because objects obstructed entryways and where the Complainant, who is a wheelchair user, was unable to access the library aisles, in noncompliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.4 and Title II and its implementing regulation at 28 C.F.R. §§ 35.149; 35.150.

OCR conducted an accessibility review of the Law Library and its Annex, including their study areas and toilet rooms, the Complainant's classrooms in Hirsch Hall and Dean Rusk Center, and the parking lots most frequently used by law students. OCR visited of the Law School on September 14 and 15, 2015.

The Section 504 regulation, at 34 C.F.R. § 104.23(c), delineates the American National Standards Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped [ANSI 117.1-1961 (1971) (ANSI)] as a minimum standard for determining accessibility for facilities constructed or altered on or after June 3, 1977, and before January 18, 1991, and the Uniform Federal Accessibility Standards (UFAS) for facilities constructed or altered on or after January 18, 1991. The Title II regulation, at 28 C.F.R. § 35.151(c), delineates UFAS or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADA Standards for Accessible Design)² as a minimum standard for determining accessibility for facilities constructed or altered on or after January 26, 1992.

The regulation implementing Title II and the ADA Standards for Accessible Design was amended in September 2010. Title II adopted new accessibility guidelines, the 2010 ADA Standards for Accessible Design (2010 ADA Standards), which became effective March 15, 2011. Title II, at 28 C.F.R. §35.151(c)(3), now provides, "If physical construction or alterations commence on or after March 15, 2012, then new construction and alterations subject to this section shall comply with the 2010 [ADA] Standards."

Since the Law School has not done any new construction or made any alterations on or after March 15, 2012, OCR used the ADA Standards for Accessible Design in evaluating the Law School facilities during its on-site review. OCR's observations are as follows:

Entrances

OCR viewed the front and rear entrances of Dean Rusk Center, Hirsch Hall, and the Law Library. Pursuant to Standard 4.13.12, if an automatic door is used, it shall require no more than 15 pounds of force to stop door movement. OCR found that the power assisted automated double-leaf doors at the Dean Rusk front and rear entrances required more than 15 pounds of force to stop door movement, contrary to Standard 4.13.12.

Law Library

The Complainant alleged that the aisles of the Law Library were not accessible because they were not wide enough to accommodate her wheelchair. With respect to library stacks, Standard

² https://www.ada.gov/1991ADASTandards_index.htm

8.5 requires a minimum clear width of 36 inches consistent with Standard 4.3.3. OCR visited the Law Library and its Annex and measured the aisle widths. On the first floor of the Law Library, the parallel aisle widths ranged from 32 to 65 inches. The first floor Law Library Annex (Annex) aisles ranged from 35½ to 48½ inches. Therefore, the evidence is sufficient to establish that not all of the Law Library aisles maintained a minimum clear width of 36 inches as required by Standards 4.3.3 and Standard 8.5.

OCR also viewed the copy room within the Law Library. Pursuant to Standard 4.13.11, the maximum force for pushing or pulling an interior door shall be 5 pounds of force. The copy room door required 8 lbs. of force to open, which exceeded the Standard 4.13.11 requirement. Therefore, the evidence is sufficient to establish that the University is not in compliance with Standard 4.13.11.

The Law Library had numerous student carrels for study and computer access. OCR measured the carrels and pull in desks in the lower and upper levels of the Law Library and its Annex. The numbered semi-private study carrels on the second level of the Law Library did not meet the 32 inch clear width entrance requirements of Standard 4.2.1. Some of the open air carrels in the Annex did not meet the Standard 4.32.3 width requirements for knee space of at least 27 in height, 30 inches in width, and 19 inches in depth. OCR notes that the majority of the carrels in the Annex were in compliance with Standard 4.32.3.

Main Floor Law Library: Toilet Rooms and Drinking Fountains

OCR viewed the designated accessible water closet on the main floor of the Law Library as well as the toilet rooms in the Law Library, Annex, and those accessed by the Complainant in Dean Rusk Center (nearest to Room K). Standard 4.16.3 states that the height of water closets shall be 17 inches to 19 inches, measured to the top of the toilet seat. The water closet on the main floor of the Law Library measured 16 inches from the floor to the top of the seat-lower than the Standard 4.16.3 requirement. OCR measured the recessed drinking fountain in the area near the designated accessible water closet on the main floor of the Law Library. According to Standard 4.15.12, spouts shall be no higher than 36 inches, measured from the floor or ground surface to the spout outlet. The height of the bottle filling mechanism on the drinking fountain measured 53 ½ inches, which exceeds the maximum height requirement of Standard 4.15.2.

Law Library Annex: Toilet Rooms

OCR staff viewed the male and female toilet rooms located in the Law Library Annex. The door to the female toilet room required 9 pounds of force to open, which exceeds the Standard 4.13.11 requirement cited above. Standard 4.19.2 requires that lavatories be mounted with the rim or counter surface no higher than 34 inches above the finished floor and provide clearance of at least 29 inches above the finished floor to the bottom of the apron. Figure 31 shows that knee clearance (depth) should be a minimum of 17 inches, with a maximum toe clearance of 6 inches. The lavatory did not provide knee or toe clearance. (There were cabinets beneath the lavatory).

With respect to the male toilet room in the Law Library Annex, OCR noted that the toilet room entrance was obstructed by a trashcan inside of the doorway. Without the obstruction, the door

width was in compliance with the applicable Standard. However, the door required 20 pounds of force to open, which is in excess of the Standard 4.13.11, cited above.

According to Standard 4.18.2 urinals shall be stall-type or wall-hung with an elongated rim at a maximum of 17 inches above the finished floor. The urinal in the male toilet room measured 21 inches from the floor to its lip, in non-compliance with Standard 4.18.2. Standard 4.18.4 requires that urinal flush controls shall be hand operated or automatic, and be mounted no more than 44 in above the finish floor. The urinal flush control in the mail toilet room measured 46 inches from the finished floor.

Standards 4.27.1 and 4.2.5 state that if clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be 48 inches. The minimum low forward reach is 15 inches. Standard 4.2.6 states that if the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be 54 inches and the low side reach shall be no less than 9 inches above the floor.

OCR viewed the accessible stall in the male stall. The seat cover dispenser was mounted 57 inches from the floor, higher than the maximum forward and parallel reach requirements of Standards 4.2.5 and 4.2.6 cited above. In the toilet room, the bottom edge of the reflecting surface of the mirror was mounted 40.5 inches from the finished floor, which exceeds Standard 4.19.6's requirement of no higher than 40 inches.

Standard 4.19.4 states that hot water and drain pipes under lavatories shall be insulated or otherwise configured to protect against contact. The male toilet room lavatory had an exposed drain. The hot water was functioning.

Dean Rusk Center: Lower Level Toilet Rooms

OCR viewed the separate male and female toilet rooms located in Dean Rusk Center near classroom K and a drinking fountain between the two toilet room entrances.

Standards 4.27.1 and 4.2.5 state that if clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be 48 inches. The minimum low forward reach is 15 inches. Standard 4.2.6 states that if the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be 54 inches and the low side reach shall be no less than 9 inches above the floor.

Female Toilet Room

The female toilet room had one accessible stall, which measured 59 inches by 56 inches in depth. According to Standard 4.17.3 (Figure 30(a)) the size of a standard accessible stall should measure 50-59 inches (depending on whether the water closet is floor or wall mounted) by 60 inches. Therefore, the accessible stall dimensions of this toilet room are not in compliance with Standard 4.17.3. Further, the toilet seat cover dispenser was mounted 55 inches from the floor, which is not in compliance with the forward and parallel reach requirements of Standards 4.27.1, 4.2.5, and 4.2.6, cited above.

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Male Toilet Room

Standard 4.17.6 states that grab bars (compliant with Figures 30 (a), (b), (c), and (d)) shall be provided. The accessible stall measured 58 ½ inches by 55 inches long, which is not compliant with the size requirements articulated in Standard 4.17.3, cited above.

Classrooms

OCR visited 3 of the 4 rooms where the Complainant took classes: Room F (246); Room K (109); and Room C (256). The fourth classroom where the Complainant took classes Room J (347) was identical in configuration to Room F (246). Therefore, OCR did not evaluate that classroom for compliance.

Room F (246)

OCR viewed the accessible door and route into the classroom for Room F (246), including the built-in accessible countertops (desks). The door marked as accessible required 14 pounds of force to open, which is higher than the 5 pounds of force maximum permitted by Standard 4.13.11. Standard 4.8.3 requires a minimum width of 36 inches for ramps. The entrance and ramp leading to classroom F measured 32.5 inches. Therefore, the ramp for classroom F (246) is not in compliance with Standard 4.8.3.

Standard 4.8.2 states that the least possible slope shall be used for any ramp. The maximum slope of a ramp in new construction shall be 1:12 (4.76 degrees). The slope of the hallway ramp in Room F (246) measured 5.1 degrees, which is higher than the Standard 4.8.4 requirement.

Room K (109)

OCR reviewed the accessible route for Room K (from the door marked as accessible), including the built-in counter-tops (desks). The narrowest route in the classroom was the path between the designated accessible desks and the podium and lectern, which was 32 inches. However, the lectern and podium were both movable.

Room C (256)

OCR reviewed the accessible route from the door designated as accessible, including the ramp from the door and the built-in countertops (desks). The slope of the ramp ranged was 5.1 degrees, which is higher than the slope permitted for ramps 1:12 (4.76 degrees). Under Standard 4.8.2.

Parking Lots

In an OCR interview, the Parking Manager explained that parking lots are not specifically designated by school or class location. According to ADA Standard 4.6.2, in parking facilities that do not serve a particular building, accessible parking shall be located on the shortest

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accessible route of travel to an accessible pedestrian entrance of the parking facility. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrance.”

The University identified seven (7) parking lots surrounding the Law School. According to the diagrams provided by the University, pursuant to Standard 4.1.2 (5), each of the seven (7) lots had the required number of spaces designated as accessible. OCR reviewed lots N05A³, N05B, and North Deck.

Standard 4.6.3 states that accessible parking spaces shall be at least 96 in wide. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle (see Fig. 9). Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.

Standard 4.6.4, accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility. Van accessible spaces shall have an additional sign “Van-Accessible” mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.

Standard 4.6.6 states that passenger loading zones shall provide an access aisle at least 60 inches wide and 20 feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp shall be provided. Vehicle standing spaces and access aisles shall be level with surface curbs may be used where pedestrians would not normally walk across the ramp.

N05 (A)

There were only two parking spaces in N05 (A), each was designated as accessible. OCR measured the two designated accessible spaces. Neither space met the 96 inch width requirement of Standard 4.6.3. In addition, Space 2 sloped to the left 3.3 degrees, which is inconsistent with Standard 4.6.6 requirement that vehicle standing spaces and access aisles be level with surface slopes not exceeding 1.15 degrees (1:50, or 2%) in all directions.

Therefore, OCR concludes that lot N05A is not in compliance with Section 504 and Title II’s accessibility requirements.

N05 (B)

Lot N05 (B) was identified by University staff as the lot located on the shortest accessible route of travel from the Law Library, its Annex, and Hirsch Hall to the designated accessible pedestrian entrance. Lot N05 (B) had 14 spaces designated as accessible. OCR measured each of the 14 accessible spaces, beginning from the eastern most space farthest from the Law

³ OCR observed that lot N05A contained only two parking spaces, both of which were identified as accessible. According to University staff, the two accessible spaces do not serve the Law School. Therefore, OCR focused its analysis on its review of N05B and North Deck, the two parking lots for which the University offered the Complainant parking permits.

Library, numbering them from 1 to 14. Each accessible space was marked as accessible by paint on the asphalt; however, only 8 spaces were marked by a grounded sign located at the rear of the space. Therefore, lot N05 (B) was not in compliance with Standard 4.6.4, cited above.

Lot N05B was configured such that there were two parallel rows of parking separated by a single vehicle route of ingress and egress. OCR measured both rows of parking. With respect to row 1, Space 3 measured 86 inches wide, Spaces 4, 5, 9, and 10 measured 85 inches in width, Space 8 measured 84 inches in width. Space 10 was located next to two standard parking spaces, which concluded the first row of parking. The slope measurements for spaces 11, 12, 13, and 14 in row two exceeded the maximum slope (1:50) under Standard 4.6.3.

Spaces 13 and 14 on row 2, including the 130 inch-wide access aisle that separated them were flush with the pathway that ran directly behind the Law Library Annex and Hirsch Hall, such that persons exiting their cars from this row would not need to cross the ingress and egress route to use Curb Ramp 1. There was a fourth curb ramp located between the flush area pathway and the street that ran behind the Law School buildings, was measured as a part of the accessible route to the Law Library and thus will be discussed below.

Because not all of the spaces in lot N05 complied with Standard 4.6.3 (96 inch minimum width requirement) and because the slope of the accessible spaces on row 2 exceeded Standard surface slopes requirement (not exceeding 1.15 degrees (1:50, or 2%), OCR finds that lot N05B is not in compliance with the Section 504 and Title II accessibility standards.

North Deck:

OCR staff viewed levels B through G of the North Deck parking facility. Access to each level was by a set of elevators, the path from which was flush with ground on each of the parking lot levels. For at least some of the accessible spaces, travel through the route of traffic was necessary for persons using accessible spaces to access the elevator bank. OCR observed that there were spaces marked accessible on each level of North Deck that did not comport with the 96 inch width requirement under Standard 4.6.3. All spaces, but one on level G, were appropriately marked as reserved. However, one designated accessible space on level G did not have signage that could not be obscured by a vehicle, which is inconsistent with Standard 4.6.4.

Space 6 on level B did not have an access aisle. Space 1 on level E had an access aisle of 50 inches. Therefore, not all of the accessible spaces in North Deck complied with Standard 4.6.6, which states that passenger loading zones shall provide an access aisle at least 60 inches wide and 20 feet long adjacent and parallel to the vehicle pull-up space.

Accessible Route

OCR viewed accessible routes from lots N05B and North Deck because these were the lots for which the Complainant was offered parking permits. Standard 4.3 governs accessible routes. Standard 4.3.2 states that “[a]t least one accessible route within the boundary of the site shall be provided . . . accessible parking, and accessible passenger loading zones, and public streets or sidewalks to the accessible building entrance they serve. The accessible route shall, to the

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maximum extent feasible, coincide with the route for the general public. At least one accessible route shall connect accessible buildings, facilities, elements, and spaces that are on the same site. At least one accessible route shall connect accessible building or facility entrances with all accessible spaces and elements and with all accessible dwelling units within the building or facility. An accessible route shall connect at least one accessible entrance of each accessible dwelling unit with those exterior and interior spaces and facilities that serve the accessible dwelling unit.

Standard 4.3.7 states that an accessible route with a running slope greater than 1:20 (2.86 degrees) is a ramp and shall comply with Standard 4.8. Nowhere shall the cross slope of an accessible route exceed 1:50 (1.15 degrees).

Standard 4.7.1 states that curb ramps complying with Standard 4.7 shall be provided wherever an accessible route crosses a curb. Standard 4.7.2 states that slopes of curb ramps shall comply with 4.8.2 (4.76 degrees). Transitions from ramps to walks, gutters, or streets shall be flush and free of abrupt changes. Maximum slopes of adjoining gutters, road surface immediately adjacent to the curb ramp, or accessible route shall not exceed 1:20 (2.86 degrees). Standard 4.7.3 requires the minimum width of a curb ramp to be 36 in, exclusive of flared sides. Standard 4.7.4 states that surfaces of curb ramps shall comply with 4.5. With respect to the sides of curb ramps, Standard 4.7.5 states that if a curb ramp is located where pedestrians must walk across the ramp, or where it is not protected by handrails or guardrails, it shall have flared sides; the maximum slope of the flare shall be 1:10 ((5.74 degrees). Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp.

N05B

The accessible path from the lot No5(B) curb ramp closest to the Law School buildings ranged in slope from -2.5 degrees to 4.3 degrees (as measured at 4 pace increments). The path was the shortest distance from any parking lot entrance to the Law school buildings. The path had no obstructions and was more than 36 inches in width. Because the cross slope exceeded 1.15 degrees, the evidence is sufficient to conclude that the accessible route from lot N05(B) was not in compliance with Standard 4.3.7.

North Deck

The accessible path from North Deck to the Law School crossed a two-way street (Jackson Street) and included a ramped area with landings at both ends of the accessible path, and a landing between two ramps. The width of the route from the North Deck elevator bank to the Law School buildings exceeded 60 inches. The slope of the route from the North Deck elevator bank to the first curb ramp at the Jackson Street crossing measured between 1.8 and 4.7 degrees in slope, which exceeds the maximum slope requirement of Standard 4.3.7.

The curb ramp at Jackson Street was level at its entrance and sloped downward 5.8 degrees and sideways 1.6 degrees. The slope for the right flared side (facing Jackson Street) was 5.3 degrees and the left flared side was 1.4 degrees in slope. The evidence is sufficient to establish that this curb ramp is not in compliance with Standards 4.7.2 and 4.8.2.

Across Jackson street was a ramp (Ramp 1) that measured 3.2 degrees in slope and 70 inches in width, followed by a landing that measured 82 inches in width and 69 ½ inches in length. The landing lead to a second ramp (Ramp 2) that was equipped with handrails located 34 ½ inches from the ground surface. Ramp 2 was 58 ½ inches in width (from handrail to handrail), was 387 inches in length, and had slopes that ranged between 3.6 and 5.5 degrees. The slope measurements at the top and bottom of Ramp 2 were 4.4 and 3.3, respectively. The slope of Ramp 2 exceeded 4.76 degrees, which is not in compliance with the maximum slope requirement for ramps articulated in Standard 4.8.2, cited above.

A second landing (Landing 2) was located at the top of Ramp 2. Landing 2 measured 157 inches in length and 60 inches in width (between the rails). Landing 2 connected to a third ramp (Ramp 3), which ran immediately parallel to Ramp 2. Ramp 3 was 389 inches in length, 60 inches in width (between handrails), and its slope ranged 4.2 to 6.2 degrees. The slope of Ramp 3 exceeded 4.76 degrees, which is not in compliance with the maximum slope requirement for ramps articulated in Standard 4.8.2, cited above.

From the top of the ramp, there was a pathway that lead to the entrance of the Law Library (with access to the Annex and Hirsch Hall), which ranged from 1.7 degrees to 4.5 degrees in slope.

Conclusion

On September 16, 2015, prior to the conclusion of the OCR's accessibility review, the University asked to resolve the accessibility compliance concerns for the Law School buildings and surrounding parking lots, pursuant Section 302 of OCR's Case Processing Manual. The University voluntarily entered into the attached Resolution Agreement. When fully implemented, the Resolution Agreement will address all issues of accessibility compliance at the Law School and parking lots N05, including its subdivisions. OCR will monitor the implementation of the agreement to ensure compliance with the applicable statutes and regulations.

Whether the Law School was not accessible to the Complainant, a wheelchair user, when the door openers at the designated accessible entryways were not consistently operable; classroom doorways did not have heavy duty doorstops, the timers for the toilet rooms lights did not allow sufficient time to accommodate the Complainant's toileting needs; and the University failed to respond to the Complainant's request for a designated accessible parking permit, in noncompliance with 34 C.F.R. §§ 104.4(a); 104.21, 104.22 and Title II and its implementing regulation at 28 C.F.R. §§ 35.149; 35.150.

The Complainant alleged that she began complaining about access to the Law School at the beginning of the school year (mid-August 2014). The parties provided OCR with copies of a September 3, 2014 email correspondence submitted by the Complainant to the EEO Director, the Academic Dean, the ADSA, the Associate Director of the DRC, and the Coordinator. Therein, the Complainant asked that the Law School take the following actions:

1. “Utilize doorstops in classrooms where they are available so classroom doors can be kept open for entrance & exit.”
2. “For those rooms that do not have doorstops like in my Criminal Law & contracts classrooms, install them. . .”
3. “Figure out a solution to the wheelchair accessible desk situation. In most of my classes, there’s not even enough room for me to access them independently without someone else having to move my desk, the professor’s work stations, or a lectern.”
4. “Adjust the effort it takes to manipulate the push button doors inside & outside of the law school. I’ve been having to use my fists & have been having to press them repeatedly.”
5. Add a push button to the inside door of Dean Rusk where contracts is because as of now, if I have to use the restroom before class, due to its illogical location, I am prevented from entering the rest of the building where my classroom is. . .”

Below, OCR will address each of the Complainant’s concerns in the in order which they were set forth in the September 3, 2014 email quoted above and the additional concerns she identified in her OCR complaint.

Doorstops

OCR reviewed documentation produced by the University, which showed that in response to the Complainant’s September 3, 2015 email, the ADSA ensured that doorstops were installed on all applicable doors by September 10, 2015. At the time of OCR’s site visit, OCR staff observed fully operational doorstops on the doors for Room K (109) and Room F (246). OCR was informed that the Complainant also attended classes in Room C (256). The door to Room C (256) did not have a doorstop installed. However, there was evidence that a doorstop was once installed.

The Complainant alleged the concern she had with doorstops was an issue in Classroom K in particular because she entered and exited the classroom using two separate doors. Further, although the Law School installed doorstops, its solution was inadequate because she requested “heavy duty” or “magnetic doorstops,” which were not provided. In her OCR interview, the ADSA confirmed that she was aware of a September 30, 2014 petition submitted by the Complainant’s classmate seeking heavy duty doorstops. In response to the petition, she investigated the issue of heavy duty doorstops and determined that the doorstops provided functioned properly. There was no evidence that the Complainant appealed or otherwise complained further about the doorstops that were installed.

Accessible Desk

During her interview with OCR, the ADSA explained that accessible desks were placed in each of the Complainant’s classrooms. During OCR’s site visit, University staff pointed out that in each of the Complainant’s classrooms, there were accessible desks (built in to the front row of

each class). However, because the Complainant requested it, the University provided a detached accessible desk for the Complainant to use in each classroom.⁴

In her OCR interview, the ADSA explained that in all classes except Classroom K, the Complainant's detached desk was placed in the middle of the floor in the front of the classroom. OCR observed that the front middle areas of each classroom were the spaces within the classrooms with the most unobstructed maneuverable area. In response to the Complainant's September 3, 2014 email, the ADSA investigated the Complainant's concern and concluded the accessible desk was being moved from its original position by students in other classes. Therefore, she placed signs on all of the detached desks that stated that the desks were not to be moved under any circumstances.

With respect to classroom K, the ADSA determined that the detached desk was accessible if the Complainant entered through the double doors rather than the single door entry (the designated accessible entrance). Therefore, she put a sign on the desk in classroom K as well signs on the double doors that indicated that they should remain open and not be touched.⁵ According to the ADSA, when she told the Complainant what she had done in response to her concerns, the Complainant opted to enter through the accessible entrance instead of the double doors.

On September 16, 2015, OCR visited Classroom K. OCR observed the double door entryway, which was not marked as an accessible entrance. OCR was informed that Classroom K was readily accessible through the single door entrance, which was marked as accessible. University staff remarked that, in addition, they propped the door open (using the doorstop) for the Complainant.

From the Complainant's desired route, the narrowest path between the single door accessible entrance and the detached desk was no less than 32 inches in width. The path would have required the Complainant to traverse a computer station and lectern to reach the detached desk. OCR notes that the computer station and lectern were movable. Thus, the 32 inch width could be expanded

Automated Doors and Accessible Entryways

The Complainant told OCR staff that on a daily basis she had difficulty accessing the Dean Rusk Center because the door openers were not consistently operable. In a follow-up interview, the Complainant stated that on August 14, 2014, she reported this issue to the DRC Associate Director and Coordinator and to the ADSA and Academic Dean. Specifically, the Complainant

⁴ Although the Complainant did not use the built in desks, OCR reviewed the designated accessible routes and built-in accessible seats and desks in Classrooms K, F, and C and found them to be compliant with the applicable ADA Standards. OCR notes that classroom J is configured in the same manner as Classroom F.

⁵ OCR reviewed the route created by the ADSA during its site visit. The width of both sets of double doors was 55 inches when both doors remained open. The vestibule between the two sets of double doors measured 93 inches by 92 inches. The width was reduced to 27 ½ inches with one door closed. OCR measured the movable accessible desk the Complainant was provided. However, the desk at the time of our visit was not located within Classroom K. Thus, OCR was unable to determine accessibility from the double doors.

contends that she complained about the effort it took to manipulate the accessible doors, that there were obstructions to the main entrance of the Law School, and that the Law Library doors were not automated. Further, the Complainant told OCR that she reported these concerns to one of her professors, who she alleged told her that he would speak to someone in facilities about the issue.

During a site visit, OCR staff evaluated the accessible entrances to Hirsch Hall (which houses the Library and its Annex) and Dean Rusk Center. When OCR visited the Law School on September 15 and 16, 2015, the automated accessible doors at the front and rear entrance of Dean Rusk Center, and front and rear of Hirsch Hall were operable. In addition, the interior Law Library entrance doors were automated (by sensor) and operable. Further, the automated doors from the Law Library to the Annex were operable.⁶

The Complainant told OCR that her concerns were addressed in October 2014, after her classmate submitted a petition to the Academic Dean on September 30, 2014, requesting that the Law School make certain accommodations for her. The Complainant and University provided OCR with copies of the petition. In summary, the petition requested that the door openers be adjusted and doorstops added to Room K.

The ADSA acknowledged that she received a report from a professor that a student was having difficulty re-entering the building from the restroom area located in between two sets of automated glass doors. Email documentation showed that the ADSA began making efforts to remedy the Complainant's concerns on August 27, 2014. The adjustments were expected to be completed September 5, 2014. At the time of OCR's site visit, OCR staff observed automatic door buttons in the area between the double sets of doors at the entrance to Dean Rusk Center.

The ADSA told OCR that she first became aware of the Complainant's concerns regarding adjustments to the automatic door openers when the Complainant sent her September 3, 2014 email. In response to the Complainant's emails, she had all of the automatic door openers checked and received an "all clear" email on October 1, 2014, stating that the doors were operating correctly. In addition, the Law School adjusted the delay times on the automatic door opener.

OCR notes that while all Law School accessible entrances were unobstructed on September 15, 2015, the rear entrance to Hirsch Hall was partially obstructed by a table on September 16, 2015. During OCR's site visit, the EEO Director explained that the Complainant did not make anyone aware that she was having difficulty accessing the Law School because of obstructions to the entryway. She stated that had the University been so notified, it would have simply asked the individuals obstructing the entrance to move.

⁶ OCR observed that the automated doors at each entrance were operational. NOTE: The accessibility concerns OCR identified with doors are addressed within the discussion of "Allegation No. 2" above.

Toilet Room Lights

The Complainant alleged that the Law School's toilet rooms were not accessible because the toilet room lights were on a timer that was too short to allow her to complete her toileting needs.⁷ The Complainant told OCR that she shared her concern with a "facilities person." In interviews with University staff, no one was aware that the Complainant had concerns regarding the toilet room light timers. The University's EEO Director told OCR that had the Complainant notified the Law School of her concern with the light timers, the Law School would have simply made the adjustment.

OCR could find no documentary evidence that the Complainant submitted a request to have the light timers extended using the University's request for services form or other written documentation. OCR notes that in an August 11, 2014 conversation with the Associate Director of the DRC, the Complainant went into extensive detail regarding her toileting needs in support of a request for "stop the clock testing." However, there was no evidence that the Complainant requested an extension of the light timers in the toilet room once enrolled at the Law School. OCR notes that based on the statements by University staff during this investigation, if the Complainant returns to the Law School can easily make the necessary adjustments.

Parking

During her interview with OCR, the Complainant alleged that despite requesting a permit for accessible parking on June 2, 2014, she was only offered parking services after an August 22, 2014 incident where the Disability Services Van caused her to be late for class. Further, the Complainant alleged that thereafter no one contacted her about parking until October 13, 2014.

OCR interviewed staff from the University's Parking Services department and reviewed email communications, and file notes. The evidence showed that as early as June 2014, Law School staff had been in contact with the Parking Services department in an effort to obtain parking permits for lots N02 and North Deck for the Complainant. Thereafter, the Complainant was directed to contact a designated member of Parking Services staff after July 15, 2014, which was the date new permits are made available. There was no documentary evidence to establish that the Complainant contacted the designated Parking Services employee.

Written statements from Parking Services staff and file notations showed that arrangements were made to secure accessible parking for the Complainant in the lots of her choosing at a discounted rate. The Complainant communicated within at least one staff member in Parking Services with respect to these arrangements and gave the Parking Services Department a handicapped parking permit. However, there was no evidence that the Complainant paid the required fees to obtain permits for these parking lots.

The evidence showed that the issue of accessible parking for the Complainant arose a second time, when the Director of the DRC called Parking Services to assist the Complainant with

⁷ The Complainant did not allege that the toilet room facilities (i.e. doors, toilets, stalls, sinks etc.) were not accessible.

parking. Staff from Parking Services offered to meet with the Complainant on at least two occasions to establish accessible parking. However, the Complainant never met with anyone from Parking Services. The Complainant told OCR that as of October 2014, she was less concerned with parking and more focused on staying in school.

Conclusion

OCR finds that the evidence is insufficient to establish that the University failed to make its facilities accessible to the Complainant following notice of her concerns. With respect to her concerns regarding doorstops, accessible desks and routes into her classrooms, automated doors, and accessible parking, the evidence showed that within a reasonable time following notice, the University took steps to remove barriers the Complainant identified. With respect to the Complainant's allegations regarding the entryways being obscured and the toilet room timers not being long enough, the evidence did not establish that the University had notice of these issues. Therefore, there is insufficient evidence that the University is not in compliance with Section 504 and Title II with respect to these allegations.

Whether the Complainant was subjected to different treatment because the University's Disability Van hours of operation were not comparable to the hours of operation of vans/busses for students without disabilities, in noncompliance with Section 504, and its implementing regulations at 34 C.F.R. § 104.4(a) and 28 C.F.R. § 35.149.

The Complainant alleged that the University's accessible transportation service ("Handi-Van") did not operate outside of class hours (on weekends) and thus did not allow her equal access to the University's facilities. She clarified this allegation on July 9, 2015, by stating that the Handi-Van services were offered outside of class hours, but not until 6:00pm on Sundays and only to and from football games on Saturday. In addition, in a September 21, 2015 conference call with OCR staff, the Complainant stated that she registered with Athens Transit, but was told they could not pick her up because of traffic caused by football game crowds.

Documentation provided by the Complainant showed that University staff provided the Complainant with the telephone contact number and website for Campus Transit on August 18, 2014. In addition, OCR reviewed Campus Transit information, which explained its "Handi-Van" services. The documentation showed that the University provides an "accessible van service" to eligible persons with mobility, visual, and other health-related impairments. "Handi-Van" services are available from 7:00am to 2:00am on class days as well as Sunday evenings (6:00pm-2:00am).⁸ The University's buses (most of which are accessible, according to the EEO Director) operate daily from 10:00am -10:00pm and on Saturdays except on home game days.

In addition, the University stated that during hours where there is no Handi-Van service, it has an arrangement with the Athens transit system ("Athens Transit") to provide accessible transportation to and from campus. In a follow-up interview, the Complainant acknowledged her awareness of access to Athens Transit. She also told OCR that she registered with Athens Transit. However, the Complainant contended that there were Saturdays when she called for

⁸ <http://www.transit.uga.edu/Handivan>

service, but they could not get to her because of football game traffic. There was no allegation (or supporting evidence) that this service issue was unique to the Complainant as a student with a disability.

Further, according to its website, Athens Transit provides wheelchair accessible service on all of its routes and on every Athens Transit bus.⁹ With some exceptions, Athens Transit buses operate between 6:00 a.m. and 10:00 p.m. Monday through Friday and between 7:00 a.m. and 9:45 p.m. on Saturdays and Sundays. In addition, Athens Transit offers a program called “The Lift,” which provides door-to-door van transportation for individuals with mobility impairments which prevent them from using bus service.¹⁰ “The Lift” services are available from 6:00 a.m. – 9:45 p.m. Monday through Friday and from 7:00 a.m. to 9:45 p.m. on Saturdays.

Conclusion

The evidence is insufficient to establish that the Complainant was denied equal access to the University’s facilities as compared to her peers without disabilities because of the lack of accessible buses. The University’s Handi-Van provided students with disabilities more expansive weekday hours (from 7:00 a.m. – 2:00 a.m.) than its accessible Campus Transit buses, which only operated from 10:00 a.m. – 10:00 p.m. Further, alternative transportation was available to all students through Athens Transit, which also provided accessible bus services and Lift services to students when the Campus Transit services were unavailable. Although the Complainant contended that there were football game days when she was unable to access both Campus Transit and Athens Transit, there was no evidence that on these occasions, transportation was available to students without disabilities.

Whether the Law School forced the Complainant to withdraw from its program by refusing to provide the Complainant with effective academic adjustments, auxiliary aids and services and accessible facilities, in noncompliance with Section 504, and its implementing regulations at 34 C.F.R. § 104.4; 34 C.F.R. § 104.21 and § 104.22; and, 34 C.F.R. § 104.44(a), (c), and (d) and 28 C.F.R. §§ 35.149; 35.150.

The Complainant alleged that based on the above allegations, the Law School effectively forced her with to withdraw. Specifically, the Complainant told OCR that she made clear to the Law School on various occasions that without the requested modifications, she would not be successful in the law program. The Complainant contended that since the Law School did not provide these modifications, the Law School set her up to fail. The Complainant contends that without the requested modifications, she had no other choice but to withdraw.

The evidence discussed above showed that the University staff spent a considerable amount of time working with the Complainant to address her requests and concerns related to academic adjustments and modifications, assistive technology, and accessibility related accommodations,

⁹ See the Athens Transit website located at <http://athenstransit.com/routes-and-fares/accessibility.html>

¹⁰ “The Lift” policies and procedures can be viewed on the Athens Transit website located at <http://athenstransit.com/our-services/the-lift.html>

and made suggestions for ensuring that the Complainant could access her books and arrive to class on time using its Handi-Van service. The evidence further shows that the University responded to the Complainant's requests concerning accessible parking.

Conclusion

OCR finds that there is insufficient evidence to conclude that the Law School "forced" the Complainant to withdraw from its program by refusing to provide the Complainant with effective academic adjustments or auxiliary aids and services. With respect to OCR's accessibility findings, none preclude the Complainant from re-enrollment.

On Friday July 21, 2017 the University voluntarily agreed to implement the enclosed Resolution Agreement (Agreement) in compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

The University agrees to retain a consultant knowledgeable about the architectural accessibility requirements of Title II and Section 504, who will conduct an accessibility survey of the Law School to ensure that the Law School structures, buildings, facilities, and accessible routes, consisting of Hirsch Hall, the Law Library and Annex, Dean Rusk Center, parking lot N05 (including all of its divisions), and North Deck (collectively the Law School Facilities), are accessible to individuals with disabilities in compliance with the 2010 ADA Standards pursuant to 28 C.F.R. § 35.151(c) and the Appendix to 28 C.F.R. § 35.151(c).

The University's consultant will review the Law School Facilities and develop a written Law School Accessibility Plan (Plan) identifying the modifications that are necessary to ensure that the Law School Facilities are accessible to and usable by persons with disabilities in accordance with Section 504, Title II, and the 2010 ADA Standards. Following OCR's approval of the Plan, the University will provide OCR with documentation showing that it has completed all work and modifications under the OCR approved Plan by July 1, 2019.

When fully implemented, the Agreement will resolve the issues of noncompliance. OCR will monitor the implementation of the Agreement until the University is in compliance with the statutes and regulations at issue in the case.

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.

Intimidation or retaliation against complainants by recipients of Federal financial assistance is prohibited. Please be advised that the University may not harass, coerce, intimidate, or

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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.

OCR will proceed with monitoring the Agreement, effective the date of this letter. OCR will monitor the University's implementation of the aforementioned Agreement to ensure that it is fully implemented. If the University fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504 and Title II.

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.

This concludes OCR's consideration of this complaint, which we are closing effective the date of this letter. If you have any questions regarding this matter, please contact Mrs. Cerrone Lockett at (404) 974-9318.

Sincerely,

Melanie Velez