



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

500 WEST MADISON ST., SUITE 1475
CHICAGO, IL 60661-4544

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March 26, 2018

Dr. Wendy Wintersteen
President
Iowa State University
1750 Beardshear Hall
515 Morrill Road
Ames, Iowa 50011-2103

Re: OCR Docket #05-17-2415

Dear Dr. Wintersteen:

This letter is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), completed its case resolution processing for the complaint filed against Iowa State University (University), alleging discrimination on the basis of disability.

Specifically, the complaint alleged that the University discriminates against persons with visual impairments on the basis of disability because portions of Carver Hall lack complete and correct Braille signage.

OCR is responsible for enforcing 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, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132 -12134, and its implementing regulation, 28 C.F.R. Part 35. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance from the Department, and 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 these laws.

During its investigation, OCR reviewed information provided by the Complainant and the University. Prior to the conclusion of OCR's investigation, the University expressed interest in resolving the complaint. Discussions between OCR and the University resulted in the University's signing the enclosed Resolution Agreement (Agreement), which, when fully implemented, will resolve the issues raised in the complaint.

Legal Standards

Accessibility, general: The implementing regulations of Section 504, at 34 CFR § 104.21, and Title II, at 28 CFR § 35.149, provide that no qualified person with a disability shall, because a recipient's facilities are inaccessible to or unusable by persons with a disability, be

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

denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity.

Accessibility, existing facilities: The implementing regulations of Section 504, at 34 CFR § 104.22, are applicable to any facility or part of a facility where construction commenced prior to June 3, 1977. The implementing regulations of Title II, at 28 CFR § 35.150, are applicable to any facility or part of a facility where construction commenced prior to January 26, 1992. The regulations provide that with regard to such facilities, termed “existing facilities,” the University will operate the programs, activities and (as to Title II) services so that, when viewed in their entirety, the programs, activities, and services are readily accessible to and usable by persons with disabilities. The University may comply with this requirement through the reassignment of programs, activities, and services to accessible buildings, alterations of existing facilities or any other methods that result in making each of its programs, activities, and services accessible to disabled persons. The University is not required to make structural changes in existing facilities where other methods are effective in achieving compliance. In choosing among available methods for meeting the requirements of the statute, the University must give priority to methods that offer the programs, activities, and services to disabled persons in the most integrated setting appropriate.

The implementing regulation of Section 504, at 34 CFR § 104.22(f), provides that 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 locations of services, activities, and facilities that are accessible to and usable by persons with disabilities. The implementing regulation of Title II, at 28 C.F.R. § 35.163(a), provides that public entities must also ensure that interested persons, including persons with impaired vision or hearing, can obtain information about the existence and location of accessible services, activities and facilities.

Accessibility, new construction: The implementing regulations of Section 504, at 34 CFR § 104.23(b), and Title II, at 28 CFR § 35.151, are applicable to any facility or part of a facility where construction was commenced after June 3, 1977 (Section 504) or January 26, 1992 (Title II), respectively. These facilities are termed “new construction or alterations.” The regulations provide that each facility or part of a facility which is altered by or for the use of a recipient in a manner that affects or could affect the usability of the facility shall, to the maximum extent feasible, be altered such that the altered portion is readily accessible to and usable by persons with disabilities. The regulations specify the accessibility standard to be used in determining the accessibility of the alterations based on the date of construction or renovation.

The Section 504 regulation, at 34 C.F.R. § 104.23(c), delineated 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), delineated UFAS or *the Americans with Disabilities Accessibility*

Guidelines for Buildings and Facilities (ADAAG) as a minimum standard for determining accessibility for facilities constructed, or altered on or after January 26, 1992.

The regulation implementing Title II was amended in September 2010. Title II adopted new accessibility guidelines, *2010 ADA Standards for Accessible Design* (the 2010 ADA Standards), which became effective March 15, 2011. The ADA Standards provide, “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 Standards.” OCR policy provides that a recipient may elect to utilize the 2010 ADA Standards under Section 504.

Relevant University Policies

The University’s Non-discrimination and Harassment policy prohibits discrimination and harassment based on physical or mental disability.¹ The policy further provides that any person who believes that she or he has been subjected to discrimination may file a formal written complaint with the University’s Office of Equal Opportunity (OEO) and, if an investigation is warranted, the complaint will be investigated expeditiously, consistent with the complexity and severity of the matter and availability of witnesses, within forty-five days of initiation of the formal complaint if possible. The OEO will notify the complainant in writing of the result of the investigation. The University Non-discrimination and Harassment policy is restated in the University Faculty Handbook and the Academic Year Catalog (Catalog).²

The University’s Student Disability Resources Office (SDR) supports students with disabilities and coordinates services and programs that enable access to education and university life, including providing information and assistance regarding reasonable accommodations for qualified students with disabilities and ensuring that environments are accessible and inclusive. The SDR webpage includes a link to an interactive campus map that identifies important campus accessibility features by clicking on the “accessibility” button on the left-hand side of the online map.³ The map links to detailed information, including floor plans and room lists for Carver Hall.⁴ The SDR webpage also includes regular campus accessibility updates.⁵ Students may contact the SDR office, the Facilities Planning and Management Office (FPM), or the University’s ADA/Section 504 Coordinator to request individualized assistance in accessing programs, services and activities.

¹ See <https://www.policy.iastate.edu/policy/discrimination#Complaint>.

² See <http://catalog.iastate.edu/previouscatalogs/2017-18.pdf> and <https://www.provost.iastate.edu/sites/default/files/uploads/faculty%20resources/policies/Faculty%20Handbook%20-%20August%202017%20-%20FINAL.pdf>.

³ See <https://www.fpm.iastate.edu/maps/>.

⁴ See <https://www.fpm.iastate.edu/maps/buildings/building.asp?id=20>.

⁵ See <https://www.sdr.dso.iastate.edu/resource>.

Relevant Facts

Carver Hall, which is primarily used for general classroom space, was constructed between 1967 and 1969. The building is home to the Mathematics Department and houses the Program for Women in Science and Engineering. In addition to classroom space, the building includes conference rooms, study spaces, administrative offices and faculty offices for several departments, including the Mathematics Department. The building's classrooms and conference rooms are generally located on the ground floor and the first and second floors. The third and fourth floors primarily contain academic offices and graduate student offices.

The complainant informed OCR that portions of Carver Hall lack complete and correct Braille signage. She reported that many areas have no Braille signage, and that some existing signage is too high and/or has worn or missing Braille. She does not allege that the University failed to reassign programs, activities, and services provided in Carver Hall to more accessible locations.

The University maintains that Carver Hall is an “existing facility” that has not undergone any qualifying “additions” that that would require the University to make the entire facility accessible. Moreover, the University, asserts that the majority of rooms and entrances in Carver Hall have not undergone “alterations” that would require the addition of Braille signage where none presently exists. The University reported that it makes program, services and activities accessible to individuals with disabilities through such means as: providing appropriate signage; reassignment of classes, staff, or services to accessible buildings; delivery of advisory and other services at accessible sites; and/or redesign of equipment and facility after individual review.

With respect to Braille signage, the University indicated that classrooms and other rooms in Carver Hall routinely accessed by students have Braille signage. According to the University, all rooms and entrances on the ground floor and first floor of Carver Hall have Braille signage but for floor landing areas of interior exit stairways and four sub-rooms used for administrative and storage purposes, none of which have undergone qualifying alterations. The second floor classrooms and lab spaces, seminar rooms, and study rooms on the third and fourth floors reportedly have Braille signage. The faculty and administrative offices on these floors do not have Braille signage; however, the University maintains that these areas have not undergone qualifying alterations. The University did not report the date(s) when the existing Braille signage was installed, and has not verified that the height of the signs conform to applicable UFAS or ADAAG standards.

The University reported to OCR that, before receiving notice of this complaint, it had already planned to add more Braille signage to Carver Hall. The University plans to place Braille signage in all applicable interior, permanent spaces of Carver Hall, including in rooms and entrances that have not undergone any qualifying alterations. The Braille signage will be permanent and will be installed consistent with the current 2010 ADA Standards.

Conclusion

During the course of OCR's investigation, the University advised OCR that it wished to resolve the complaint pursuant to Section 302 of OCR's CPM. OCR has determined that it is appropriate to resolve this complaint because OCR's investigation has not proceeded to a point where a finding is clear. OCR would need to conduct an onsite investigation to determine whether the existing Braille signs conform to the appropriate UFAS or ADAAG standard, and whether additional Braille signs are required due to a qualifying additions or alterations.

The terms of the resolution agreement (Agreement) are aligned with the complaint allegation. The Agreement requires the University to install Braille signage that conforms to the 2010 ADA Standards at 703, in all interior, permanent spaces in Carver Hall that currently do not have Braille signage. The Agreement also requires the University to review all Braille signage that was installed prior to March 15, 2012, and confirm in writing to OCR that each sign (1) either conforms to the appropriate UFAS or ADAAG standard that was selected at the time the sign was installed; or (2) was modified to conform to the 2010 ADA Standards at 703.

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. OCR will monitor the University's implementation of the Agreement.

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.

Please be advised that the University may not harass, coerce, intimidate or discriminate against any individual because he or she 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. The Complainant may file a private suite in Federal court, whether or not OCR finds a violation.

We appreciate the cooperation you and your staff extended to OCR during the course of the processing of this complaint. We particularly appreciate the cooperation of Mr. Brett W.

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Lohoefener, counsel for the University. If you have any questions regarding this letter, you may contact Melissa Howard, Attorney Advisor, at (312) 730-1527 or Melissa.Howard@ed.gov.

Sincerely,

Marcela Sanchez-Aguilar
Supervisory Attorney

Enclosure

cc: Brett Lohoefener, Esq.