



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

230 SOUTH DEARBORN STREET, FLOOR 37  
CHICAGO, IL 60604

**REGION V**  
ILLINOIS  
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MINNESOTA  
NORTH DAKOTA  
WISCONSIN

September 27, 2019

Ms. ReBecca Koenig Roloff  
President  
Saint Catherine University  
2004 Randolph Avenue  
St. Paul, Minnesota 55105

Re: OCR # 05-19-2249

Dear Ms. Koenig Roloff:

This is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the complaint filed against Saint Catherine University (University) alleging discrimination on the basis of disability. OCR received the complaint on May 6, 2019 and assigned docket number 05-19-2249 to the complaint.

Specifically, the complaint alleged that the University discriminates on the basis of disability because the University's Minneapolis campus restrooms and parking lots are not accessible to or usable by persons with mobility impairments.

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, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance from the Department. As a recipient of Federal financial assistance from the Department and a public entity, the University is subject to Section 504. Therefore, OCR has jurisdiction to investigate this complaint. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

During its investigation and prior to OCR issuing a final determination, the University expressed an interest in resolving the allegation under Section 302 of OCR's *Case Processing Manual* (CPM). OCR determined that it was appropriate to resolve the allegation with a resolution agreement. On September 19, 2019, the University signed the enclosed Voluntary Resolution Agreement (VRA), which, when fully implemented, will address the allegation in the complaint. OCR will monitor the implementation of the VRA.

**Applicable Legal Standards**

*General Accessibility Standards*

The Section 504 regulation, at 34 C.F.R. § 104.21, provides that no qualified person with a disability shall, because a recipient's facilities are inaccessible to or unusable by persons with

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

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disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504 applies. The Section 504 regulation, at 104.22(a), provides that a recipient shall operate its program or activity so that when each part is viewed in its entirety, it is readily accessible to handicapped persons. 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.

### *Existing Facilities and New Construction*

The regulation implementing Section 504 contains two standards for determining whether the recipient's programs, activities, and services are accessible to individuals with disabilities. One standard applies to existing facilities; the other covers new construction and alterations. Section 504 defines a "facility" to include all portions of buildings, structures, equipment, walks and other real and personal property. 34 C.F.R. § 104.3(i).

Under Section 504, any facility or part of a facility for which construction or alteration commenced on or after June 3, 1977 is considered "new construction." For "new construction," each part of the facility must be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by persons with disabilities. 34 C.F.R. § 104.23.

Under Section 504, an "existing facility" is one constructed or altered before June 3, 1977. For existing facilities, each facility need not be readily accessible and usable. 34 C.F.R. § 104.22. Instead, each program or activity is to be operated so that the program or activity, when viewed in its entirety, is readily accessible and usable. For purposes of determining accessibility,

The Section 504 regulation, at 34 C.F.R. § 104.23(c), designates 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 between June 3, 1977 and January 18, 1991, and the *Uniform Federal Accessibility Standards* (UFAS) for facilities constructed or altered between January 18, 1991 and January 25, 1992. New construction and alterations commencing between January 26, 1992 and March 15, 2012 must conform to UFAS or the 1991 Americans with Disabilities Act Standards for Accessible Design (the 1991 ADA Standards) or equivalent standards. New construction and alterations commencing between March 15, 2012, and today must conform to the 2010 ADA Standards for Accessible Design (the 2010 ADA Standards). OCR Notice of Interpretation, Federal Register, Vol. 77, No. 50, pages 14972-76 (March 14, 2012) indicated that the 2010 ADA Standards to meet the new construction requirements of Section 504.

### **Factual Summary**

The University is a private Catholic liberal arts university with an enrollment of 5,000 students. Since 1986 the University has held classes at two campuses, one located in St. Paul and one in Minneapolis. There are two buildings on the Minneapolis Campus; Old Main Building built in 1924 and the Education Building built in 1972. The restrooms have not been altered since June 3, 1977. Therefore, the buildings on the Minneapolis campus are existing facilities for determining the degree of required accessibility of the built environment.

The Minneapolis Campus does not have parking for students. Instead, the University requires students accessing the Minneapolis Campus to park in one of two parking garages on the neighboring Fairview University Campus property. For faculty and staff, the University provides 20 parking spaces in one long row running the perimeter of the Old Main Building, with 11 spaces on the east side of the building and 9 spaces along the north side of the building. The area had been designated as a parking area prior to 1970, and the north side of the building was striped in 2004. The lot has three designated accessible parking spaces on the east side. Of the three, two have access to a loading zone 240 inches long and 84 inches wide. The single disabled parking space without access to a loading zone is 108 inches wide and adjacent to another disabled parking space. The two spaces with access to a loading zone are each 144 inches wide. The spaces are marked in yellow with a designated accessibility symbol in the spot. The loading zone is marked with yellow diagonal stripes. The building has signage designating the spots as accessible parking.

On the north side of the building, the University has designated three of the nine parking spaces as “designated disability parking.” Other than yellow markings on the ground, there are no other features to designate them as disabled parking. Each of the three designated disability parking spaces is 108 inches wide. None have access to a loading zone and are lined up adjacent to each other.

According to the University, although the lot is designated for faculty and staff, persons with disabilities can request a reasonable modification of the lot’s status through University Disability Services or University Human Resources. Persons with University Permit and Handicapped permit or license plates can access the three designated disabled parking spaces on the east side of the building. The University uses the “designated disability parking” spaces to accommodate persons with short term or other impairment issues and have no handicapped permit or license plate.

The University reported to OCR that in July 2019 it began integrating the two campuses into one central location in St. Paul. The University sold the Minneapolis campus on June 28, 2019 and is currently leasing the buildings from its new owner. The University is required to

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completely vacate the buildings no later than December 31, 2020 and will share the campus with the new owner until that date. At the beginning of 2017, the University began the process of migrating all programs, courses, and supporting services currently housed in Minneapolis to the St. Paul campus. The University reported that as of July 2019 it has invested in excess of \$1.1 million in ADA improvements on the St. Paul campus.

The University has a Disability Resources Office (DRO) located on the St. Paul campus and the Minneapolis campus, which is responsible for working with students to plan appropriate accommodations and identify campus and community resources that may be beneficial to students with an academic or mobility disability. The DRO works with students to provide appropriate accommodations and identify campus and community resources that may benefit students with disabilities. The University considers an accommodation to be a modification or adjustment to a course, program, service, job, activity, or facility that enables a qualified student with a disability to have an equal opportunity to participate in the University's programs.

The University reported that in order to address a physical access issue it is critical that the student register with the DRO and identify the issues; the DRO then assigns the student an Access Consultant. The Access Consultant will coordinate with Facilities if the issue is related to physical access and DRO will work with the student and campus resources to develop a plan to ensure the University is providing physical access. In cases where a student has mobility concerns and registers for a class located in a building that is not physically accessible a DRO Access Consultant will coordinate with the Registrar to move the class to an accessible location.

### **Analysis**

Prior to the conclusion of OCR's investigation, the University agreed to resolve the allegation by entering into a VRA on September 19, 2019. The VRA requires the University to develop a plan and procedures for providing students with disabilities who are enrolled in classes on the Minneapolis campus with program access and to provide OCR with a report that indicates how the University provided the Complainant with access to the University's program. When fully implemented, the VRA will address the allegation and OCR will monitor the implementation of the VRA. OCR will monitor the University's implementation of the VRA. Please note that the first monitoring deadline is **October 28, 2019**. Because the University agreed to resolve the allegation during the pendency of OCR's investigation, OCR has not determined whether the University discriminates on the basis of disability as alleged.

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 file a private suit in federal court whether or not OCR finds a violation.

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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 individual 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.

If you have any questions, please do not hesitate to contact Michael Figueras, Attorney, by phone at (312) 730-1578 or by email at [miguel.figueras@ed.gov](mailto:miguel.figueras@ed.gov).

Sincerely,

Ann Cook-Graver  
Supervisory Attorney

Enclosure