



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

230 SOUTH DEARBORN ST, 37th FLOOR
CHICAGO, IL 60604

REGION V

ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

October 13, 2021

Dr. Mark A. Nook
President
University of Northern Iowa

Sent via email only to: president@uni.edu

Re: OCR Complaint # 05-21-2172

Dear Dr. Nook:

This letter is to advise you of the resolution of the above-referenced complaint filed with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against the University of Northern Iowa (University).

Specifically, the complaint alleged that the University discriminates against individuals with disabilities by:

- 1) failing to designate a responsible employee to coordinate its efforts to comply with Section 504 of the Rehabilitation Act of 1973;
- 2) failing to provide accessible restrooms in Schindler Education Center (SEC) individuals with disabilities; and
- 3) failing to provide an accessible route to the meditation room in the Union to individuals with disabilities.

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, and Title II of the Americans with Disabilities Act of 1990 (Title II) 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, which prohibit 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 documents the Complainant and the University provided and interviewed the Complainant and the University's Section 504/ADA Coordinator. Prior to the completion of the investigation, the University executed the enclosed Resolution Agreement (Agreement), which, when fully implemented, will resolve Allegation #2. Regarding Allegations #1 and #3, OCR has determined that the evidence is insufficient to establish that the University

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

discriminates against individuals with disabilities as alleged. The bases for OCR's determinations are explained below.

Legal Standards

Section 504/ADA Coordinator

The Section 504 implementing regulation, at 34 C.F.R. §104.7(a), requires recipients to designate at least one employee responsible for coordinating the recipient's compliance with Section 504.

The Title II implementing regulation, at 28 C.F.R. §35.107(a), requires a public entity to designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II and to make available to all interested individuals the name, office address, and telephone number of the designated employee(s).

Accessibility

The implementing regulations of Section 504, at 34 C.F.R. § 104.21, and Title II, at 28 C.F.R. § 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 denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity.

The implementing regulations of Section 504, at 34 C.F.R. § 104.22, and Title II, at 28 C.F.R. § 35.150, are applicable to any facility or part of a facility where construction commenced prior to June 3, 1977 (Section 504) or January 26, 1992 (Title II), respectively. 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.

The implementing regulations of Section 504, at 34 C.F.R. § 104.23(b), and Title II, at 28 C.F.R. § 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). 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 or public entity in a manner that affects or could affect the usability of the facility must, 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. Alterations include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, historic restoration, resurfacing of circulation paths or vehicular ways, changes or rearrangement of the structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions. Normal maintenance, reroofing, painting or wallpapering, or changes to mechanical and electrical systems are not alterations unless they affect the usability of the building or facility.

The phrase “to the maximum extent feasible,” as used in this section, applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible. If providing accessibility in conformance with this section to individuals with certain disabilities (e.g., those who use wheelchairs) would not be feasible, the facility shall be made accessible to persons with other types of disabilities (e.g., those who use crutches, those who have impaired vision or hearing, or those who have other impairments).

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 and the ADAAG standards were amended in September 2010. Title II adopted new accessibility guidelines, 2010 ADA Standards for Accessible Design (2010 ADA Standards). The regulation, 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.”

University Policies

The University’s Non-Discrimination Statement states in pertinent part that, “[n]o person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in

employment, any educational program, or any activity of the University, on the basis of...disability.”¹ The Non-Discrimination Statement provides the name and contact information for the University’s Section 504/ADA Coordinator.

The University’s Accommodations of Disabilities Policy (Accommodations Policy) directs students with disabilities who need assistance with requests for accommodations to contact Student Accessibility Services and employees and visitors with disabilities to contact the Leave & Accommodations Coordinator in Human Resources.² The Accommodations Policy provides that employees or students who feel their rights under Section 504 or the ADA have been violated are encouraged to seek assistance from the Office of Compliance and Equity Management and states the Assistant to the President for Compliance and Equity Management is the designated ADA Compliance Officer. The Accommodations Policy does not provide the name and contact information for the University’s Section 504/ADA Coordinator.

Facts

Allegation #1

The Complainant, the Assistant Dean of Students for Student Accessibility Services (SAS), alleges that the University does not have a Section 504/ADA Coordinator (504 Coordinator) who is properly trained and responsive to disability-related issues on campus. The Complainant said the 504 Coordinator is not involved with the accessibility of facilities; is not involved in systemic policymaking regarding disability; and only becomes involved when an individual makes a disability complaint to the Office of Compliance and Equity Management (OCEM).

The Complainant provided OCR two examples she alleges demonstrate that the 504 Coordinator is not fulfilling her duties. First, the Complainant told OCR she sent an email to the 504 Coordinator indicating the University should have a policy on captioning, but the 504 Coordinator forwarded the email to the Complainant’s boss, who asked the Complainant to resolve the issue. Second, the Complainant told OCR the 504 Coordinator intervened in the approval of an IT accessibility policy put forth by the Board of Regents because she was upset the policy named the 504 Coordinator as the contact for any issues related to the policy.

The University provided OCR documentation showing that it designated the Assistant to the President for Compliance and Equity Management as the 504 Coordinator. The 504 Coordinator’s name, address, telephone number, and email are listed on the University’s website.³ The University provided OCR a list of five trainings the 504 Coordinator has completed related to her role, including a full-day 504 Coordinator Training and Certification Course by the American Association of Title IX Administrators that she completed in 2018. The 504 Coordinator told OCR that she takes webinars from professional organizations when they

¹ [13.03 Equal Opportunity & Non-Discrimination Statement | Policies and Procedures](#)

² [13.15 Accommodations of Disabilities | Policies and Procedures \(uni.edu\)](#)

³ <https://equity.uni.edu/discrimination-harassment/americans-disabilities-act-amendments-act-adaaa>

are available and refresher courses related to her role every few years but does not keep track of all the trainings she has attended.⁴

The 504 Coordinator told OCR she oversees disability-related policy development at the University. She said she drafted the Accommodations Policy. She said that, pursuant to the Accommodations Policy, employees and students are directed to her if the employee or student is (1) seeking accommodations through SAS or HR and allege that University staff did not provide the accommodations; or (2) alleging they are being discriminated against based on his or her disability.⁵ The 504 Coordinator said that the SAS and HR departments are best suited as “front line” staff to handle student and employee requests for accommodations.

The 504 Coordinator said she does not believe the University has a policy on captioning and does not recall any communications on this issue. Regarding the draft IT accessibility policy, the 504 Coordinator said she did have issues with the draft policy, including the fact that the policy had not come through OCEM for review prior to being vetted, and the policy directed individuals to her office that she believes were more appropriately handled by “front line” staff in SAS or HR before being escalated to the 504 Coordinator. The 504 Coordinator told OCR that she provided comments on the draft IT accessibility policy, which OCR confirmed in emails the Complainant provided.⁶

Allegation #2

The Complainant alleges that the SEC does not have accessible restrooms on every level. She said she believes the restrooms located on the basement level and ground floor of SEC are accessible, but the restrooms above the ground floor (second floor and above) are not accessible. In particular, she said the restrooms in these floors have stalls that are not wide enough for a wheelchair to turn around in, the height of the hand dryers does not meet accessible standards, and the corridors to enter some stalls are too narrow. The Complainant said there are 6 floors in SEC.

According to the University and publicly available information, the SEC, which was constructed in 1973 and houses the University’s College of Education, is a building with two distinct sections—the south lower portion with two stories and the north tower portion with seven stories. During summer 2015 to approximately January 2017, the University extensively renovated the SEC, including renovations to all 23 restrooms in the SEC. The University informed OCR that, in response to the OCR complaint, it asked its Facilities Management Team to conduct an accessibility audit of every restroom in the SEC and the University provided OCR a copy of the audit report with photographs. The University did not specify which ADA Standards the Facilities Management Team used during the audit.

⁴ The 504 Coordinator told OCR that the five training courses provided in the University’s data response represent the trainings for which she has documentation of attending.

⁵ The 504 Coordinator told OCR that she follows University Policy 13.02 ([13.02.pdf \(uni.edu\)](#)) for all claims of discrimination based on a protected class.

⁶ University Counsel told OCR the IT accessibility policy has not yet been finalized due to delays because of the COVID-19 pandemic.

The audit finds that of the 23 renovated restrooms, 17 restrooms are accessible and 6 restrooms are not accessible. The audit notes that the 6 restrooms that are not accessible are single occupancy restrooms and were original to the building's floorplan. The audit explains that 4 inaccessible restrooms (158H, 163, 165, and 172) are located on the ground floor of the south portion of the SEC "where the bulk of the masonry walls are loadbearing, supporting the floor above," thereby indicating it was technically infeasible for the University to make these restrooms accessible. As for the other 2 restrooms (147 and 148), which are also single occupancy restrooms on the ground level of the SEC, the audit explains that the fixtures within those restrooms are accessible but the path of travel (corridor) to the entrance of the restrooms is 6 inches too narrow and therefore likely not accessible to individuals in some wheelchairs. The audit does not indicate whether it was technically infeasible for the University to widen the path of travel to these restrooms.

The University told OCR that, because the audit noted that there was not directional signage for each inaccessible restroom in the SEC that indicates the location of the nearest accessible restroom, on June 4, 2021, it installed such signage at the six single occupancy restrooms directing individuals to accessible restrooms within the SEC. The University provided OCR a photo of one sign it installed outside one of the restrooms, which states, "For an ADA Accessible Restroom, See Below Map," and includes a map to the ground floor of the SEC, presumably highlighting the accessible restrooms on that floor.⁷

The University's audit indicates that all the restrooms on the remaining levels—the basement, 2nd, 3rd, 4th, 5th, and 6th floor—are accessible but does not provide any measurements to support that conclusion. OCR notes that a photo of the lavatories (sinks) in a restroom located on the 3rd floor (312) shows the pipes are exposed and not insulated or otherwise configured to protect against contact (i.e., no cover), and in other photos, it is unclear whether the covers allow for sufficient knee and toe clearance. OCR also notes that there are floor radiators in several restrooms next to at least one lavatory that does not have a clear floor space for a forward approach at least 30 inches wide; it is unclear from the photos submitted whether all of the restrooms that have these floor radiators have more than the single lavatory next to the floor radiator without adequate floor space for a forward approach. Finally, it is unclear from the photos whether the height of the toilet paper dispensers, hand dryers and/or paper towel dispensers in the restrooms satisfy the 2010 ADA Standards.

Allegation #3

The Complainant told OCR the University designated a meditation room in Maucker Union (Union) on an upper floor that is only accessible by stairs.

The University told OCR that the Union was constructed in 1969, and various portions of the Union have been renovated over the years. The University told OCR that, during the Covid-19

⁷ The University did not provide a close-up photo of this sign and OCR was unable to confirm that the map identified the location of accessible restrooms.

pandemic in response to requests by the community, it designated a conference room on one of its upper floors in the Union to be used for reflection and meditation for the campus community. The University conceded that there is not an accessible route to that room but stated that designating that particular room for mediation was temporary because the University needed to repurpose its larger rooms for classrooms to provide adequate social distancing between students. The University informed OCR that it has since designated a new room on the first floor of the Union for mediation (Room 114), which is accessible. The University provided OCR a copy of the Union's floor plan and explained that Room 114 is on the ground level on one side of the building and accessible by elevator from the other sides of the building.

The Complainant told OCR that she has not been back to the University campus to confirm that the new meditation room is accessible. However, the Complainant told OCR that a co-worker has informed her that Room 114 is accessible.⁸

Analysis and Conclusion

Allegation #1

OCR determined that the University has designated a responsible employee for coordinating its compliance with Section 504 and Title II. Although the Complainant told OCR that the 504 Coordinator is not properly trained and responsive to disability related issues at the University, the evidence established that the 504 Coordinator has completed trainings related to her role, including a full-day 504 Coordinator Training and Certification Course in 2018. In addition, the evidence established that the 504 Coordinator oversees disability policy development at the University; authored the Accommodations Policy; serves as the next level of recourse for students and employees whose accommodations have not been met through SAS and HR; and handles complaints from students who allege they are being discriminated against based on their disability. Based on this information, OCR determined that the evidence is insufficient to establish that the University has failed to designate a responsible employee to coordinate its efforts to comply with Section 504 and Title II, as alleged in Allegation #1.

Allegation #3

Pursuant to Section 108(k) of OCR's *Case Processing Manual* (CPM), OCR will dismiss an allegation when OCR obtains credible information indicating that the allegations raised by the complainant are currently resolved.

During OCR's investigation of this complaint, the University acknowledged that the room it temporarily designated to be used for meditation and reflection was not accessible to individuals with mobility impairments, so it has since designated Room 114 as its space for reflection and

⁸ The Complainant told OCR that people do not know about the new meditation room because the University has not changed it on its website; OCR provided the University technical assistance regarding the importance of updating its website and any other publications informing students of location of the new meditation room.

meditation for the campus community. The Complainant indicated to OCR that she has no reason to believe that Room 114 is not accessible, and a co-worker informed her that it is accessible. Based on this information, OCR concludes that the allegation raised in the complaint has been resolved and is therefore dismissing Allegation #3 under Section 108(k) of the CPM.

Allegation #2

OCR determined that, because the restrooms in the SEC were renovated between summer 2015 and January 2017, they are considered new construction pursuant to Section 504 and Title II and the 2010 ADA Standards are the applicable guidelines. OCR has compliance concerns about the restrooms located in the SEC. In particular, it is unclear whether the restrooms are fully compliant with the 2010 ADA Standards and, for those restrooms that the University concedes are inaccessible, whether making them accessible is technically infeasible under the requirements for alterations under the 2010 ADA Standards. OCR also has concerns with the signage on the single occupancy restrooms that the University concedes are not accessible. In particular, while the University told OCR that new signage was installed for all 6 single occupancy restrooms, the University provided a photo of the signage for only one of the single stall restrooms and OCR was not able to confirm that signage complied with the 2010 ADA Standards.

In accordance with Section 302 of OCR's CPM, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. The University expressed interest in resolving the allegation, and OCR determined that it is appropriate to resolve this allegation under Section 302 of the CPM. On October 12, 2021, the University executed the enclosed Agreement, which when fully implemented, will address the concerns regarding this allegation. The provisions of the Agreement are aligned with this allegation and the information obtained during OCR's investigation and are consistent with the applicable regulations. OCR will monitor the implementation of the Agreement.

Overall Conclusion

This concludes OCR's investigation of the complaint and should not be interpreted to address the University's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in one OCR case. This letter is not a formal statement of OCR policy and should not be relied on, 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 has a right to appeal OCR's determination regarding Allegation #1 within 60 calendar days of the date indicated on this letter. In the appeal, the complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect, or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the complainant appeals OCR's determination, OCR will forward a copy of the appeal form or written statement to the University. The University has the option to submit to OCR a response to the appeal. The

University must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

It is also important for you to understand that the laws OCR enforces also prohibit the University from harassing, coercing, intimidating, or discriminating against any individual because the individual has filed a complaint or participated in the complaint resolution process. If this happens, that individual may file a 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. If 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.

OCR would like to thank the University for the courtesy and cooperation extended to OCR during the investigation. In particular, OCR would like to thank Ms. Leah Gutknecht, Assistant to the President for Compliance and Equity Management. OCR looks forward to working with the University during the monitoring of the Resolution Agreement. If you have any questions regarding this letter, please contact Krenice Ramsey, Attorney, at 312-730-1730, or by email at Krenice.Ramsey@ed.gov.

Sincerely,

Marcela Sanchez-Aguilar
Supervisory Attorney

Enclosure

cc: Ms. Leah Gutknecht