



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
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March 16, 2022

Edward S. Inch
President
Minnesota State University - Mankato
309 Wigley Administration Center
Mankato, Minnesota 56001

Re: OCR # 05-21-2312
Minnesota State University - Mankato

Dear President Inch:

This is to notify you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), has processed the referenced complaint, which OCR received on September 24, 2021, against Minnesota State University – Mankato (University). The complaint alleges that the University discriminates against students and staff on the basis of disability by failing to provide study pods, identified as MavPODs, that are accessible to and usable by individuals with mobility impairments.

OCR enforces 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. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance. OCR also enforces 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. Title II prohibits discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance and a public entity, the University is subject to the requirements of Section 504 and Title II. OCR therefore has jurisdiction over this complaint. Additional information about the laws OCR enforce are available at <http://www.ed.gov/ocr>.

During its investigation, OCR reviewed information provided by the Complainant and the University and interviewed the Complainant.

Prior to the completion of the investigation, the University executed the enclosed Resolution Agreement (Agreement), which, when fully implemented, will resolve the complaint.

Legal Standards

Disability Discrimination

The Section 504 implementing regulation, at 34 C.F.R. § 104.4(a), states that no qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

The Title II implementing regulation provides, at 28 C.F.R. § 35.130(a), that no qualified individual with a disability may, 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 subjected to discrimination by any public entity. Section 504 and Title II protect all persons with disabilities from discrimination, including parents, guardians, students, and employees.

Factual Summary

The Complainant reported to OCR that in August 2021, the University installed approximately 100 MavPODs in 13 buildings around campus. The Complainant said that in late September or early October 2021, the University placed four larger MavPODs in two buildings on campus. The Complainant indicated that the University asserted that the four larger MavPODs are accessible to individual with mobility impairments.

The University's website describes a MavPOD as, "a semi-private, comfortable, and convenient place to study, make a call, recharge, and more between classes or meetings."¹ The University reported that it installed a total of 100 MavPODs, four of which are accessible. The University reported that the four accessible MavPODs meet Title II's standards for accessibility, including adjustable tabletops and provided the specifications to OCR.

During its investigation and prior to OCR issuing a final determination, the University expressed an interest in resolving the complaint under Section 302 of OCR's *Case Processing Manual* (CPM). OCR has determined that it is appropriate to resolve this complaint with an Agreement. On March 15, 2022, the University signed the enclosed Agreement, which, when fully implemented will address the compliance concerns raised in the complaint. The Agreement is aligned with the allegation and evidence obtained to date and is consistent with the applicable regulations. OCR will monitor the implementation of the Agreement until the University has fulfilled the terms of the Agreement. Upon completion of the obligations under the Agreement, OCR will close the case.

¹ <https://mankato.mnsu.edu/it-solutions/help-support/mavpods/>

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

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 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. 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.

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 wishes to thank Kevin Finnerty, Minnesota Assistant Attorney General, for the courtesy and cooperation he extended to OCR during the investigation. If you have any questions about this letter, please contact Emily Martin, Senior Investigator, at 312-730-1505 or by email at emily.martin@ed.gov.

Sincerely,

Ann Cook-Graver
Supervisory Attorney

Enclosure

cc: Kevin Finnerty
Assistant Attorney General
Office of the Minnesota Attorney General
kevin.finnerty@ag.state.mn.us