



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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May 12, 2023

Dr. Tammy Evetovich
Interim Chancellor
1 University Plaza Stop 1
University of Wisconsin- Platteville
Platteville, Wisconsin 53818

Sent by email only to: evetovicht@uwplatt.edu

OCR Case No. 05-23-2041

Dear Dr. Evetovich:

This letter is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against the University of Wisconsin Platteville (the University) alleging discrimination on the basis of disability.

Specifically, the complaint alleges that the University discriminates against individuals with certain physical disabilities who visit the University's Ralph E. Davis Pioneer Stadium (Stadium) because:

1. The temporary parking spaces designated for handicap parking during Stadium events on Southwest Road are not handicap accessible; and
2. There is no accessible route between the temporary handicap spaces on Southwest Street and accessible seating in the Stadium.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibits 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 at 28 C.F.R. Part 35, which prohibits discrimination on the basis of disability by public entities. These laws also prohibit retaliation. 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 provided by the Complainant and the University and conducted a physical review of temporary parking outside the Ralph E. Davis Pioneer Stadium (Stadium) as well as the route to, and from, handicap accessible spaces at the Stadium located in Lots 10 and 24.

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

Prior to the completion of OCR's investigation of this complaint, the University expressed interest in resolving those allegations in accordance with Section 302 of OCR's *Case Processing Manual* (CPM).

Legal Standards

Accessibility, general:

The regulation implementing Section 504, at 34 C.F.R. § 104.21, states 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, excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which the regulation applies. The regulation implementing Title II, at 28 C.F.R. § 35.149, states that 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.

Accessibility, existing facilities:

Under Section 504, an "existing facility" is a building, or part thereof, where construction was commenced on or before June 2, 1977. The Section 504 regulation, at 34 C.F.R. § 104.22(b), requires institutions to operate programs and activities offered in "existing facilities" so that, when viewed in their entirety, are readily accessible to persons with disabilities.

Under Title II, an "existing facility" is a building, or part thereof, where construction was commenced on or before January 25, 1992. The Title II regulation, at 28 C.F.R. § 35.120, requires public entities to 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.

In general, an "existing facility" may comply with the "program access" requirement through the redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, or any other method that results in making each of its programs, services, or activities accessible to persons with disabilities. The institution is not required to make structural changes to existing facilities where other methods are effective in achieving compliance with this section. In choosing among available methods for providing program access, the institution or public entity shall give priority to those methods that offer programs, services and activities to disabled persons in the most integrated setting appropriate.

Accessibility, new construction:

Under Section 504, any facility or part of a facility for which construction commenced on or after June 3, 1977 is considered "new construction." The Section 504 regulation, at 34 C.F.R. § 104.23, requires each such facility or part of a facility constructed by, on behalf of, or for the use

of an institution to 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. Any portion of an existing facility that was altered on or after June 3, 1977 is an “alteration.” Under Section 504, each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient, in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by persons with disabilities.

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 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.

Under Title II, any facility or part of a facility for which construction commenced on or after January 26, 1992 is considered “new construction.” The Title II regulation, at 28 C.F.R. § 35.151, requires each facility or part of a facility constructed by, on behalf of, or for the use of a public entity to be designed and constructed in such a manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. Any portion of an existing facility that was altered on or after January 26, 1992 is an “alteration.” Under Title II, each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient, in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by persons with disabilities.

The Title II regulation, at 28 C.F.R. § 35.151(c) and the corresponding Appendix, state that new construction and alterations that commenced on or after July 26, 1992 and prior to September 15, 2010 must comply with either the Uniform Federal Accessibility Standards (UFAS) or the 1991 ADA Standards for Accessible Design (1991 Standards). In September 2010, the regulations implementing Title II were amended and new accessibility guidelines were adopted. The 2010 ADA Standards for Accessible Design (2010 Standards) apply to physical construction or alterations that commence on or after March 15, 2012. Facilities constructed or altered on or after September 15, 2010 and before March 15, 2012 are in compliance with Title II if they meet the 1991 Standards, UFAS, or the 2010 Standards. OCR Notice of Interpretation, Federal Register, Vol. 77, No. 50, pages 14972-76 (March 14, 2012) allows use of the ADA Standards to meet the compliance requirements under Section 504.

Notice, existing facilities:

For “existing facilities,” the implementing regulation of Section 504, at 34 C.F.R. § 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 location of services, activities, and facilities that are accessible to and usable by persons with disabilities.” If a recipient utilizes the relocation option of program accessibility, it

must provide reasonable notice to students, parents and others who may have a disability and require relocation of programs, activities or services.

Maintenance of Accessible Facilities:

A public entity must maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. This requirement does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs. This standard is codified in the regulation implementing Title II, at 28 C.F.R. § 35.133, and is also generally applicable to recipients of Federal financial assistance.

Background

Stadium & Lot 10

The Stadium was built between 1970 and 1972. Lights and a ticket booth were added in 1972. In 2014, the Stadium underwent renovations after it was damaged by a tornado. The University replaced the structural concrete, turf, lighting, visitor bleachers, ticket booth, video booth, video scoreboard, and fencing (perimeter and ornamental). During the 2014 renovations, the University also repaired the speaker tower and Lot 10. In 2019, the University rebuilt the Stadium's concrete accessible seating platform (Platform).

Southwest Road & Lot 24

Southwest Road runs along the northwest corner of the Stadium. According to the University, Southwest Road is owned and maintained by the City of Platteville, Wisconsin. Parallel parking is provided along the east section of road, including one handicap accessible space located closest to the crosswalk leading to the Stadium's northwest entrance.

Lot 24 is located on the west side of Southwest Road. The University maintains that the surfaces of the lot are resealed and repainted regularly.

University Anti-discrimination Policies

University Regent Policy Document 14-10 states that "discrimination on the basis of disability is prohibited" and no "individual with a disability shall be denied access to or participation in any program, service, [or] activity" offered by the University. This policy requires that the University must "ensure that its facilities, including new and existing facilities, are accessible in a manner that is consistent with this policy and compliant with state and federal law." Additionally, the policy states that the University must "ensure that any University program, activity or event that occurs off-campus is readily accessible to all participants in accordance with state and federal law." The Chancellor of the University is responsible for creating and implementing policies and

procedures that are consistent with Regent Policy Document 14-10. A copy of this policy is available online.¹

The University's Diversity, Equity, and Inclusion Office website² states that, "No qualified person will be denied access to, participation in, or benefits of, any program or activity operated by the university because of disability." The University's website also includes a notice that all individuals who need accommodations accessing the Stadium should contact the Athletic Office.³

I. Stadium information and specifications

The Stadium

The Stadium has two main entrances that have been designated for public use. The first entrance is located on the west side of the Stadium and is adjacent to the east side of Southwest Road. There is a ticket booth outside the entrance to the Stadium. The second entrance is located on the southwest side of the Stadium and connects to Lot 10. Both entrances contain a large, swinging gate located in the chain link fence.

There are two designated areas for handicap accessible seating. The Platform, which is the primary area for handicap accessible seating, is located on the north side of the bleachers closest to the ticket booth. It is a flat, concrete area surrounded on three sides by guard rails. It is accessible by a blacktop walkway. The secondary area for handicap accessible seating is located on the east side of the stadium. This area is accessible by a long, curved blacktop walkway that begins where it connects next to the Platform and ends with a gravel surface where the seating is located. The blacktop path has numerous cracks and divots.

Lot 10

Lot 10 is the parking lot located at the southwest corner of the Stadium, and includes three handicap accessible parking spaces, one of which is designated as van accessible. The spaces are located on the eastern part of Lot 10, directly next to the Stadium's southwest entrance. The spot closest to the Stadium entrance is designated as van accessible and runs north south, with an access aisle located on the east side of the space. This spot is 102 inches wide while the access aisle is 96 inches wide. Both the space and the access aisle are 216 inches long. The other two accessible spaces run east west and are separated by an access aisle. The first space, which is adjacent to the van accessible space, is 124 inches wide and 215 inches long, and the second space is 124 inches wide and 127 inches long. The access aisle is 66 inches wide.

Southwest Road

¹ <https://www.wisconsin.edu/regents/policies/discrimination-prohibited/>

² <https://www.uwplatt.edu/departments/diversity-equity-inclusion/policies-statements>

³ <https://www.uwplatt.edu/accessibility>

Southwest Road is located closest to the crosswalk leading to the Stadium's northwest entrance. On game days, the University, in cooperation with the city of Platteville, reserves all parallel parking on Southwest Road directly in front of the Stadium for individuals with physical disabilities. The University informed OCR that the section of Southwest Road can accommodate roughly 12 temporary accessible spaces. Because of traffic concerns, the University provides staff to direct traffic and assist anyone using parking in the temporary accessible spaces. The designated handicap accessible space is roughly 240 inches in length and 94 inches across. There is no access aisle.

Lot 24

Lot 24 contains three handicap accessible spaces along the eastern edge. Two have been designated as van accessible. The southern-most space is 110 inches across, the middle space is 150 inches across, and the northern-most space is 157 inches across. The northern-most space is flanked by one access-aisle that is 150 inches across while the access-aisle adjacent to the southern-most space is 160 inches wide. The spaces and access-aisles are all 168 inches long. There is a curb ramp located on the eastern edge of Lot 24 that is directly adjacent to the southern-most handicap accessible spaces and leads to a cement sidewalk. The curb ramp is made of concrete and has an average slope of 3.5 degrees (1:28). Individuals can either take the sidewalk can walk on the northwest side of Southwest Road or cross the street, which requires using two crosswalks south of Lot 24, and head north along the eastern side of Southwest Road. Lot 24 is approximately 100 yards from the Stadium.

Accessible Routes

The University has three locations where individuals can park when visiting the Stadium. All three locations have designated handicap accessible parking spaces.

The first route is between the handicap accessible spaces in Lot 10 to the Platform and accessible seating on the eastern side of the Stadium. The route consists of a continuous blacktop surface that begins in a wide-open area that is flat. Towards the northern end of this open area, the route continues up a gentle slope and narrows to a blacktop pathway. The path is wider than 36 inches and has an average slope of 4.5 degrees (1:22). The path curves around the northern part of the stadium.

The second route is between the accessible parking space on Southwest Road and the Platform. The route consists of a concrete sidewalk on the western edge of Southwest Road, two curb ramps, and continues along another concrete sidewalk on the eastern side of Southwest Road. The sidewalks have a gentle slope. Once the path reaches the Stadium's ticket booth, the path continues down a steeper blacktop surface that leads through the Stadium's northwest entrance. The western sidewalk is 95 inches wide, including at the curb ramp. The curb ramp itself is 106 inches wide. The curb ramp slope ranges from 5.0 to 7.5 degrees (1:20 to 1:13). The path leading across Southwest Road is designated with white stripes and is 106 inches wide. The curb ramp on the opposite side of Southwest Road is 106 inches wide and slopes that range from 5.5 to 7.5 degrees (1:18 to 1:13). The sidewalk at the top of the curb ramp is 97 inches wide. The sidewalk

leading to the Stadium's ticket booth has a slope ranging from 6.0 to 7.5 degrees (1:17 to 1:13). The blacktop surface running along the north side of the ticket booth has a slope that ranges from 7.0 to 8.5 degrees (1:14 to 1:11.75) and connects to the short path that connects to the Platform and leads to the accessible seating.

The third route is between the designated accessible parking spaces in Lot 24 and the Stadium. The route consists of a concrete sidewalk on the western edge of Southwest Road, several curb ramps, and continues along another concrete sidewalk on the eastern side of Southwest Road. The sidewalks have a gentle slope. Once the path reaches the Stadium's ticket booth, the path continues down a steeper blacktop surface that leads through the Stadium's northwest entrance. The curb ramp nearest to Lot 24 is 96 inches across with slopes that range from 3.0 to 4.0 degrees (1:33 to 1:25). The first section of sidewalk leads south to Southwest Road and has a gentle slope between 2.5 and 4.5 degrees (1:40 to 1:22). Once the path reaches Southwest Road, there is a curb ramp roughly 10 feet south along the sidewalk. This curb ramp slopes range from 6.5 to 7.5 degrees (1:15 to 1:13) and is 60 inches deep by 136 inches wide. There is a striped walkway that crosses a vehicular way that is 96 inches wide and leads to a second curb ramp. This curb ramp is 100 inches wide and 96 inches deep with slopes that range from 1.0 to 2.0 degrees (1:100 to 1:50). The second curb ramp leads to a striped walkway that crosses Southwest Road where there is another curb ramp. The third curb ramp is 108 inches wide and has slopes that range from 2.0 to 3.0 (1:50 to 1:33). The sidewalk at the top of this curb ramp is 72 inches wide. The path continues north until it crosses another vehicular way with two curb ramps. The southern curb ramp at this location has slopes that range from 3.0 to 8.5 degrees (1:33 to 1:11.75) and the northern curb ramp has slopes that range from 8.0 to 8.5 degrees (1:12.5 to 1:11.75). After crossing the third vehicular way, the sidewalk continues north at a slope of 3.5 degrees (1:28) until it reaches the blacktop surface near the Stadium's ticket booth.

II. Analysis

The complaint alleges that the University does not provide handicap accessible spaces for the Stadium and that there is no accessible route between the handicap accessible spaces and the Stadium's handicap accessible seating.

Accessible Parking

Chapter 2 of the 2010 Standards states that at least one accessible route shall be provided within the site from accessible parking spaces and accessible passenger loading zones; public streets and sidewalks; and public transportation stops to the accessible building or facility entrance they serve. Additionally, parking spaces complying with Section 502 that serve a particular building or facility shall be located on the shortest accessible route from parking to an entrance complying with 206.4. Section 208.3.1 allows for parking spaces to be located in different parking facilities if substantially equivalent or greater accessibility is provided in terms of distance from an accessible entrance or entrances, parking fee, and user convenience.

OCR identified that Lot 10 is the shortest accessible route to the Stadium's handicap accessible seating and that the lot contains designated handicap accessible parking spaces. The University

stated that these spaces are available to all ticket holders. Lot 24 also serves the Stadium and the University uses the section of Southwest Road in front the Stadium as temporary handicap accessible parking during Stadium events. The closest accessible route between Lot 24 and the temporary parking is the northwest entrance to the Stadium.

Chapter 5 of the 2010 Standards identifies the specifications of handicap accessible parking. Section 502.2 requires that car parking spaces shall be 96 inches wide minimum and van parking spaces shall be 132 inches wide minimum, shall be marked to define the width, and shall have an adjacent access aisle complying with 502.3. Van parking spaces shall be permitted to be 96 inches wide minimum where the access aisle is 96 inches wide minimum. Access aisles serving parking spaces shall comply with 502.3. Section 502.3.1 states that an access aisles serving car and van parking spaces shall be 60 inches wide minimum while Section 502.3.2 requires that an access aisle shall extend the full length of the parking spaces they serve. Two parking spaces shall be permitted to share a common access aisle. Section 502.3.4 makes it clear that access aisles shall not overlap the vehicular way.

In Lot 10, the van parking space is wider than 96 inches with an access aisle that is 96 inches wide. The other two handicap accessible spaces in Lot 10 are 124 inches wide and between 127 and 215 inches in length. The shared access aisle between these two parking spaces is 66 inches wide. The lines designating the spaces and access aisle are blue and difficult to see.

In Lot 24, the van parking space is wider than 96 inches with an access aisle that is 96 inches wide. The other two handicap accessible spaces in Lot 24 are wider than 96 inches and are 168 inches in length. The access aisle connecting to the northern most space is over 96 inches. There is no access aisle for the center space. All spaces are marked with clear blue paint and yellow access aisles.

The permanent handicap accessible parking space along Southwest Road is 240 inches in length and 94 inches across. There is no designated access aisle. The space is identified by white lines marking the length and width, with a blue and white handicap symbol painted in the center. The University contends that it provides roughly a dozen similar spaces during game days that are monitored by University staff and volunteers. These spaces are marked by temporary signage.

OCR found concerns with the parking spaces in Lot 10, and identified compliance issues with the spaces in Lot 24 and the temporary parking on Southwest Road. Lot 10 does not have clear lines and the spaces could be difficult to navigate because Lot 24 does not have an access aisle for the middle space. Temporary parking is not addressed by the ADA but these temporary parking spaces have an access aisle that overlaps a vehicular way. The agreement signed by the University will address these concerns.

Accessible Route

Chapter 4 of the 2010 Standards identifies the requirements for an accessible route. Section 402 states that accessible routes consist of one or more components including walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps, elevators, and platform lifts,

which all must comply with Chapter 4. The routes to the Stadium's southwest entrance include a flat walking surface in Lot 10, a flat, open area, an inclined blacktop path on the north side of the Stadium, and a gravel surface by the stands on the east side of the Stadium.

Section 403 (referring to Section 302) requires the walking surface on the accessible route to be stable, firm, and slip resistant with openings in the ground floor of no more than ½ inch diameter, with changes in level greater than ½ inch to be ramped consistent with Section 405 or 406. Section 106 defines a ramp as a walking surface that has a running slope steeper than 1:20. All sections of the walking area along the route between Lot 10 and the handicap accessible seating were not greater than 1:20 and are therefore not considered ramps. The walking surfaces of the flat surface in Lot 10, the open area on the west side of the stadium, and the blacktop path near the northwest side of the Stadium are stable, firm, and slip resistant with no openings of more than ½ inch. Section 403 also sets out clear width and passing space requirements for the walking surfaces. The walking surface on the accessible route to Lot 10 is open and provides more than sufficient space as identified in Section 403. Because the walking surface is flat, handrails are not necessary. However, the path leading from the Platform to the handicap accessible spaces on the east side of the stadium has major cracks and divots and consists of a gravel surface at the end.

OCR found concerns about University compliance regarding the route between the accessible parking spaces in Lot 10 and the Stadium's handicap accessible seating. Similarly, the accessible route between the Stadium's northwest entrance and the temporary parking along Southwest Road and in Lot 24 are not accessible due to the slope outside the ticket booth. The agreement signed by the University will address these concerns.

Conclusion

The University executed a resolution agreement (Agreement) that, when fully implemented, will address the identified violations and compliance concerns. The Agreement requires the University to: 1) ensure that the parking spaces in Lot 10 comply with the 2010 ADA Standards; 2) ensure that temporary handicap accessible parking spaces will be offered in Lot 10 when the Stadium is being used for large events; 3) ensure that the path between the University's handicap accessible parking and the Stadium's handicap accessible seating complies with the 2010 ADA Standards; and 4) will ensure that the handicap accessible seating provided on the east side of the Stadium complies with the 2010 ADA Standards. OCR will monitor the implementation of the agreement until the University is in compliance with its terms and the statutes and regulations at issue in the case. A copy of the Agreement is enclosed with this letter.

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 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

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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.

Please be advised that the University may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the 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.

OCR appreciates the University's cooperation throughout the investigation, especially the assistance of Noah Brisbin. If you have any questions about this letter, you may contact, Mr. Eugene Sowa, Attorney, at Eugene.Sowa@ed.gov or (312) 730-1718.

Sincerely,

Dawn R. Matthias
Team Leader

Enclosure

Cc: Noah Brisbin, *Senior System Legal Council*
Sent via email to nbrisbin@uwsa.edu