

Rick Bateman Jr., Ph.D., Chancellor
Bossier Parish Community College
6220 East Texas Street
Bossier City, LA 71111

Ref: 06142280

Dear Dr. Bateman:

This letter is to inform complainant that the U.S. Department of Education (Department), Office for Civil Rights (OCR), Dallas Office, has completed its investigation of the above-referenced complaint filed against Bossier Parish Community College (BPCC), Bossier City, LA. In this complaint, which was received in this office on XXXX, the complainant alleged that the BPCC discriminated against her on the basis of disability. Specifically, OCR opened the following issues for investigation:

1. Whether, during the XXXX academic semester, the BPCC discriminated against the complainant, and other persons with disabilities, when it failed to provide the minimum number of accessible parking spaces for Buildings B, E, and G, in violation of Section 504 and Title II.
2. Whether, during the XXXX academic semester, the BPCC discriminated against the complainant on the basis of disability, when it failed to properly maintain the elevator in Building E and failed to provide the complainant with an alternative method for accessing her classroom on an upper level floor; thereby, preventing her from being able to access her classroom and/or assignments, in violation of Section 504 and Title II.

During the investigation, OCR analyzed BPCC's policies and procedures regarding campus parking procedures. OCR interviewed witnesses, examined pertinent documents, and assessed whether the above-listed parking facilities provided the required number of accessible parking spaces. OCR also reviewed documents and assessed the availability of the elevator in Building E.

BPCC reported to OCR that the parking facilities at issue were constructed in 2004 and that the lots have not been altered since they were built. BPCC also reported that the ANSI Standard was used to determine compliance. Based on the date of construction for the identified parking facilities, OCR determined ANSI is not the correct standard to determine compliance with Federal regulations. The correct standard would be the UFAS¹ or the 1991 Standards².

¹ *Uniform Federal Accessibility Standards*

Allegation #1:

Whether, during the XXXX academic semester, the BPCC discriminated against the complainant, and other disabled persons, when it failed to provide the minimum number of accessible parking spaces for Buildings B, E, and G, in violation of 34 C.F.R. §104.21, 34 C.F.R. § 104.23, 28 C.F.R. § 35.149, or 28 C.F.R. § 35.151. The complainant stated BPCC did not provide the minimum number of accessible parking spaces at Buildings B, E, and G.

Based on the documentation provided by BPCC, BPCC chooses to cluster their accessible parking spaces for the above identified facilities to provide greater access to the buildings served by parking lots that serve the buildings. Per UFAS and the 1991 Standards, BPCC must separately determine the number of accessible spaces/van accessible spaces required for each parking lot that serves the facility at issue and then add up the number of required accessible spaces for each of the parking lots that serve the facility to come up with the total number of accessible spaces/van accessible spaces required for each building being served by those parking lots.

For example, building B is served by lots B1 and B2. Based on the total number of parking spaces in lot B1, BPCC must provide five accessible spaces, including one van accessible space. Based on the total number of parking spaces in lot B2, BPCC must provide seven accessible spaces, including one van accessible space. Adding up the number of accessible spaces required for parking lots B1 and B2, BPCC must provide a total of 12 accessible spaces, including 2 van accessible spaces, for building B.

OCR used the analysis above to determine whether BPCC provided the required number of accessible spaces and van accessible spaces for buildings B, E and G. Below is a chart which identifies the required number of accessible spaces for Buildings B, E, and G and the actual number of accessible spaces for those buildings.

Building	Required number of accessible spaces	Total number of accessible spaces, including van accessible spaces	Required number of van accessible spaces	Total number of van accessible spaces
B	12	8	2	4
E	12	18	2	9

² ADA 2010 Standard- § 35.151(c)(1)- If physical construction or alterations commence after July 26, 1992, but prior to September 15, 2010, then new construction and alterations subject to this section must comply with either the UFAS or the 1991 Standards....

Building	Required number of accessible spaces	Total number of accessible spaces, including van accessible spaces	Required number of van accessible spaces	Total number of van accessible spaces
G	13	12	2	4

OCR has determined that BPCC has more van accessible parking spaces than required for lots B, E and G. Also, BPCC has a sufficient number of accessible spaces for lot E. However, OCR's investigation shows that BPCC must add four accessible spaces to serve building B and one accessible space to serve building G. Therefore, OCR finds there is sufficient evidence to support a violation of Section 504/Title II for this allegation.

To address the compliance concerns regarding its compliance with Section 504 and Title II, BPCC submitted the attached Agreement on September 15, 2015, which addresses this issue. OCR has determined that the Agreement submitted by BPCC, when fully implemented, will resolve this issue.

OCR will monitor the implementation of the Agreement by BPCC to determine whether the commitments made by BPCC have been implemented consistent with the terms of the Agreement. Although verification of the remedial actions taken by BPCC can be accomplished by a review of reports and other documentation provided by BPCC, in some instances, a future monitoring onsite visit may be required to verify actions taken by BPCC.

Allegation #2:

Whether, during the XXXX academic semester, the BPCC discriminated against the complainant on the basis of disability, when it failed to properly maintain the elevator in Building E and failed to provide the complainant with an alternative method for accessing her classroom on an upper level floor; thereby, preventing her from being able to access her classroom and/or assignments, in violation of 34 C.F.R. §104.21, 34 C.F.R. § 104.23, 28 C.F.R. § 35.149, or 28 C.F.R. § 35.151.

The complainant stated the frequent and extended elevator disruptions impacted her ability to get to her classroom and/or obtain her assignments and lectures while attending courses in Building E. The complainant stated that XXXX to end of paragraph.

During a teleconference on XXXX, OCR asked the complainant if she notified anyone of the alleged elevator outages. She stated XXXX to end of paragraph.

BPCC reported to OCR that Building E was constructed in 2005. Based on the date of construction, OCR determined that Building E qualifies as new construction. Both Section 504 and Title II state that, newly constructed facilities

or parts of facilities must be designed and constructed in such manner that they are readily accessible to and usable by individuals with disabilities.

OCR reviewed the elevator repair log and other supporting documents for the fall 2013 semester that were submitted by the College. The repair logs indicate that the elevator in Building E was out of service on three separate occasions. The repair log showed that the outages were for no more than one day at a time. There was no record of the elevator being out of service for an entire week, as alleged. BPCC reports that the Office of Disability Services only received one complaint (not from the complainant) in September of 2013 about the elevator in Building E being out of service and that the Office of Disability Services offered to assist that student in contacting the student's professors to ensure that the student was able to make up any missed work/assignments.

BPCC's Office of Disability Services has a link on the BPCC's website and has a policy specifically for inoperable elevators. That policy states that if a student notices during regular school hours that an elevator is not working, the student should report the inoperable elevator to an Administrative Assistant or Dean in the building where the inoperable elevator is located who will then contact Plant Maintenance. If the student notices an inoperable elevator during evening hours, the student should call the security office who will contact Plant Maintenance. In both instances, the student is to contact the faculty member for the class that is missed and the instructor is to make reasonable accommodations to provide the necessary instruction and material to the student. This policy also states that the Plant Maintenance department keeps a log of all maintenance performed on elevators and can provide verification of an inoperable elevator to any student's instructor.

When there is a significant conflict in the evidence and OCR is unable to resolve that conflict, for example, due to the lack of corroborating witness statements or additional evidence, OCR generally must conclude that there is insufficient evidence to establish a violation of the law. The information obtained by OCR during its investigation shows that the elevator at issue was out of service for no more than one day at a time for a total of 3 days during the fall 2013 semester. This information conflicts with the information provided by the complainant. Also, BPCC has a specific policy regarding inoperable elevators and the documents submitted to OCR by BPCC appear to be consistent with that policy and XXX to end of paragraph.

Based on the foregoing, OCR finds there is insufficient evidence to support a finding of a violation of Section 504 or Title II for this allegation.

SUMMARY

Issue #1

OCR has determined that the parking facilities located at Buildings B and G do not meet the applicable parking facility standards. As such, the BPCC does not provide an adequate number of accessible parking spaces for use by individuals with disabilities; thereby, it discriminates against such individuals on the basis of

disability. Based on the information reviewed, OCR has determined that there is sufficient evidence to support a conclusion of noncompliance with Section 504 and Title II with respect to issue #1.

Issue #2

OCR has determined that it has insufficient evidence to demonstrate that the elevator located in Building E was out of service for any significant length of time during the fall 2013 semester or that any harm was caused to the complainant as a result of the elevator in building E being out of service.

To address the compliance concerns regarding its parking facilities, BPCC submitted the attached Agreement which addresses this issue. OCR has determined that the Agreement submitted by BPCC, when fully implemented, will resolve this issue.

OCR will monitor the implementation of the Agreement by BPCC to determine whether the commitments made by BPCC have been implemented consistent with the terms of the Agreement. Although verification of the remedial actions taken by BPCC can be accomplished by a review of reports and other documentation provided by BPCC, in some instances, a future monitoring site visit may be required to verify actions taken by BPCC.

This concludes OCR's investigation of the complaint and should not be interpreted to address BPCC'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 formal policy statements are approved by a duly authorized OCR official and made available to the public. Complainant may file a private suit in federal court whether or not OCR finds a violation.

Please be advised that BPCC 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 complainant may file another complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and other related correspondence and records upon request. In the event we receive 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 privacy.

If you have any questions or concerns regarding this letter, you may contact the investigator assigned to this complaint, Ennise Y. Henderson, at 214-661-9681 or via email at ennise.henderson@ed.gov, or her Team Leader, Paul E. Coxe, at 214-661-9608 or via email at paul.coxe@ed.gov.

Sincerely,

Taylor August
Regional Director
Office for Civil Rights
Dallas Office