



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
KANSAS
MISSOURI
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OKLAHOMA
SOUTH DAKOTA

September 28, 2016

XXXX X. XXXX
University Counsel
Washburn University
1700 S.W. College Avenue
Topeka, KS 66621

Re: Docket # 07162068

Dear Mr. XXXXX:

On March 18, 2016, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against the Washburn University (University), Topeka, Kansas, alleging discrimination on the basis of disability. This letter is to confirm the University has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

Specifically, the Complainant alleged that he was denied the benefits of or excluded from participation in programs and activities operated by the University because the Henderson Learning Resources Center (Henderson) was not accessible to individuals who are mobility impaired.

OCR is responsible for enforcing:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation, 34 Code of Federal Regulations (C.F.R.) Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance (FFA).
- Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, 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 FFA from the Department and a public entity, the University is subject to these laws. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

The complainant alleged that he was denied equal access to programs and services at the University because the elevator in the Henderson Learning Resources Center (Henderson) is repeatedly out of order, making classes on the upper floors inaccessible to him. The

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

Complainant uses a power wheelchair. The complainant stated that several times over the past four years he was either been unable to reach an upper floor or been stranded on the upper floor in Henderson because the elevator has not been working. On one occasion the complainant was stranded on the upper level of Henderson because the elevator broke while he was in the building. He crawled down the stairs while five helpful students carried his power wheel chair down the stairs. The Complainant graduated from the University in XXX XXXX; he is considering enrolling in graduate school at the University in the future.

On June 6, 2016, OCR sent notification letters to the complainant and the University, including a data request to the University. On July 7, 2016 and August 8, 2016, the University provided OCR with responses to OCR's data requests. OCR conducted a site visit on August 11, 2016. On August 11, 2016, the District expressed to OCR an interest in engaging in OCR's negotiations process pursuant to Section 302 of OCR's *Case Processing Manual*.¹

Prior to the completion of OCR's investigation, the University submitted a signed Agreement (copy enclosed) on September 20, 2016 that, when fully implemented, will address the allegation[s] of this complaint.

OCR considers the allegation[s] of this complaint resolved effective the date of this letter and will monitor the University's implementation of the Agreement. When OCR concludes the University has fully implemented the terms of the Agreement, OCR will close the complaint. If the University fails to carry out the Agreement, OCR may resume the investigation.

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

OCR is committed to prompt and effective service. If you have any questions, please contact XXXXX XXXXXXXXXXXX, Attorney, at (816) 268-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXX.XXXXXXXXXX@ed.gov.

Sincerely,

J. Earlene Gordon
Supervisory Attorney

Enclosure

¹ OCR's *Case Processing Manual* is online at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.