

RESOLUTION AGREEMENT

Oklahoma State University
OCR Docket Number 07-18-2130

Oklahoma State University (University), Stillwater, Oklahoma, submits this Resolution Agreement (Agreement) to the U.S. Department of Education (Department), Office for Civil Rights (OCR), to resolve the allegations of discrimination based on disability against the University in the above-referenced complaint, and to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and the implementing regulations of these federal laws.

The complaint alleged the University discriminates on the basis of disability by not providing adequate accessible seating for students and patrons with disabilities in the theater in the Seretean Center for Performing Arts in violation of 34 C.F.R. §§ 104.21, 104.22, and/or 104.23 and 28 C.F.R. §§ 35.149, 35.150, and/or 35.151.

The Section 504 accessibility regulations are found at 34 C.F.R. §§ 104.21-104.23. The Title II accessibility regulations are found at 28 C.F.R. §§ 35.149-35.151. Both federal regulations at 34 C.F.R. § 104.21 and 28 C.F.R. § 35.149 provide generally that no qualified individual with a disability shall, because an educational institution's facilities are inaccessible to or unusable by persons with disabilities, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination by that educational institution.

Before OCR completed its investigation the University asked to resolve this matter pursuant to OCR's Section 110 Rapid Resolution Process and Section 302 of OCR's *Case Processing Manual*.¹ The University agrees to take the following actions, but nothing contained in this Agreement shall be construed to constitute an admission on the part of the University with regard to any of the allegations in this complaint.

1. The University agrees to make alterations necessary to ensure the theater in the Seretean Center for the Performing Arts is on an accessible route with a lift of other device to assist mobility impaired individuals to access accessible seating for disabled students and patrons with disabilities that conform to the 2010 Standards². The applicable 2010 Standards include, but are not limited to, standards 4.1, 4.3, 202, 206, 216, 308, 309, 402, 404, 411, and 703, which are set forth in the attached Accessibility Standard Chart and incorporated by reference into this Agreement.
2. The University shall develop a remedial plan (Plan) for OCR's review and approval that ensures the compliance required in item 1. The remedial plan will include, at a

¹ The *Case Processing Manual* is available on OCR's website at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

² If the University cannot make the seating in the theater meet 2010 standards because alterations are not feasible to the existing structure or the costs prohibits making the alterations as evidenced by documentation provided by a structural engineer or other acceptable expert, the University will provide OCR with a plan to provide alternative methods for disabled individuals to access any program or activity held in the fourth floor rooms by reassigning those programs or activities to accessible areas of the building until the new performing arts center is open to the public.

minimum, the following:

- a) A description of the specific architectural changes or actions to be performed by the University to achieve compliance for accessible seating in the theater;
- b) A copy of any architectural bid(s) obtained by the University to effectuate the Plan;
- c) Pending completion of the modifications, renovations, and /or repairs the University will develop interim measures to ensure that all programs and activities held in the theater are readily accessible to any individual with a physical disability. These measures will include a detailed plan for providing access to activities and events and providing assistance and information regarding accessibility when the facility is used for evening and weekend events, and any other measures the University deems necessary to ensure program accessibility.
- d) The start and completion dates for each architectural change or action; and
- e) The date the new performing arts center will open.
- f) The University employee or official responsible for implementation of the Plan.

REPORTING REQUIREMENT: Within thirty (30) days of the date of this Agreement, the University shall submit the Plan to OCR for its review and approval.

3. OCR will notify the University in writing when OCR has approved the Plan.

REPORTING REQUIREMENT: Within sixty days (60) following OCR's approval of the Plan, and every sixty (60) days thereafter until the Plan is complete, the University will submit a status report detailing the progress in completing the Plan, including an explanation and supporting documentation where the activities set out in the Plan for OCR's review.

The University understands that OCR will not close the monitoring of this Agreement until OCR determines that the University has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II, which were at issue in this case.

The University understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the University understands that during the monitoring of this Agreement, if necessary, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 and Title II, which were at issue in this case.

The University understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this Agreement, OCR shall give the University written notice of the alleged breach and 60 (sixty) calendar days to cure the alleged breach.

The person signing for the University represents that he/she is authorized to bind the University to this Agreement.

Representative for
Oklahoma State University

Date

Relevant Accessibility Standards
 Oklahoma State University, Stillwater, Oklahoma
 OCR Docket #07-18-2130

Applicable 2010 ADA Accessibility Standards³	
Scope	<p>202.1 General. Additions and alterations to existing buildings or facilities shall comply with 202.</p> <p>202.3 Alterations. Where existing elements or spaces are altered, each altered element or space shall comply with the applicable requirements of Chapter 2.</p>
Doors, Doorways and Gate	<p>404.1 General. Doors, doorways, and gates that are part of an accessible route shall comply with 404.</p> <p>404.2 Manual Doors, Doorways, and Manual Gates. Manual doors and doorways and manual gates intended for user passage shall comply with 404.2.</p> <p>404.2.3 Clear Width. Door openings shall provide a clear width of 32 inches (815 mm) minimum. Clear openings of doorways with swinging doors shall be measured between the face of the door and the stop, with the door open 90 degrees. Openings more than 24 inches (610 mm) deep shall provide a clear opening of 36 inches (915 mm) minimum.</p> <p>There shall be no projections into the required clear opening width lower than 34 inches (865 mm) above the finish floor or ground. Projections into the clear opening width between 34 inches (865 mm) and 80 inches (2030 mm) above the finish floor or ground shall not exceed 4 inches (100 mm).</p> <p>EXCEPTIONS:</p> <ol style="list-style-type: none"> 1. In alterations, a projection of 5/8 inch (16 mm) maximum into the required clear width shall be permitted for the latch side stop. 2. Door closers and door stops shall be permitted to be 78 inches (1980 mm) minimum above the finish floor or ground. <div style="text-align: center;"> <p>(a) hinged door (b) sliding door (c) folding door</p> </div> <p>404.2.4 Maneuvering Clearances. Minimum maneuvering clearances at doors and gates shall comply with 404.2.4. Maneuvering clearances shall extend the full width of the doorway and the required latch side or hinge side clearance.</p> <p>404.2.4.1 Swinging Doors and Gates. Swinging doors and gates shall have maneuvering clearances complying with Table 404.2.4.1. See Table.</p>

³ Any internal reference to a standard that is not reproduced in this chart may be accessed on [the ADA website](#).

	Applicable 2010 ADA Accessibility Standards³
	<p>404.2.4.3 Recessed Doors and Gates. Maneuvering clearances for forward approach shall be provided when any obstruction within 18 inches (455 mm) of the latch side of a doorway projects more than 8 inches (205 mm) beyond the face of the door, measured perpendicular to the face of the door or gate.</p> <p>404.2.4.4 Floor or Ground Surface. Floor or ground surface within required maneuvering clearances shall comply with 302. Changes in level are not permitted.</p> <p>EXCEPTIONS:</p> <ol style="list-style-type: none"> 1. Slopes not steeper than 1:48 shall be permitted. 2. Changes in level at thresholds complying with 404.2.5 shall be permitted. <p>404.2.5 Thresholds. Thresholds, if provided at doorways, shall be 1/2 inch (13 mm) high maximum. Raised thresholds and changes in level at doorways shall comply with 302 and 303.</p> <p>EXCEPTION: Existing or altered thresholds 3/4 inch (19 mm) high maximum that have a beveled edge on each side with a slope not steeper than 1:2 shall not be required to comply with 404.2.5.</p> <p>404.2.7 Door and Gate Hardware. Handles, pulls, latches, locks, and other operable parts on doors and gates shall comply with 309.4. Operable parts of such hardware shall be 34 inches (865 mm) minimum and 48 inches (1220 mm) maximum above the finish floor or ground. Where sliding doors are in the fully open position, operating hardware shall be exposed and usable from both sides.</p> <p>EXCEPTIONS:</p> <ol style="list-style-type: none"> 1. Existing locks shall be permitted in any location at existing glazed doors without stiles, existing overhead rolling doors or grilles, and similar existing doors or grilles that are designed with locks that are activated only at the top or bottom rail. <p>404.2.8 Closing Speed. Door and gate closing speed shall comply with 404.2.8.</p> <p>404.2.8.1 Door Closers and Gate Closers. Door closers and gate closers shall be adjusted so that from an open position of 90 degrees, the time required to move the door to a position of 12 degrees from the latch is 5 seconds minimum.</p> <p>404.2.8.2 Spring Hinges. Door and gate spring hinges shall be adjusted so that from the open position of 70 degrees, the door or gate shall move to the closed position in 1.5 seconds minimum.</p> <p>404.2.9 Door and Gate Opening Force. Fire doors shall have a minimum opening force allowable by the appropriate administrative authority. The force for pushing or pulling open a door or gate other than fire doors shall be as follows:</p> <ol style="list-style-type: none"> 1. Interior hinged doors and gates: 5 pounds (22.2 N) maximum. 2. Sliding or folding doors: 5 pounds (22.2 N) maximum. <p>These forces do not apply to the force required to retract latch bolts or disengage other devices that hold the door or gate in a closed position.</p> <p>404.2.10 Door and Gate Surfaces. Swinging door and gate surfaces within 10 inches (255 mm) of the finish floor or ground measured vertically shall have a smooth surface on the push side extending the full width of</p>

	Applicable 2010 ADA Accessibility Standards³
	<p>the door or gate. Parts creating horizontal or vertical joints in these surfaces shall be within 1/16 inch (1.6 mm) of the same plane as the other. Cavities created by added kick plates shall be capped.</p> <p>404.2.11 Vision Lights. Doors, gates, and side lights adjacent to doors or gates, containing one or more glazing panels that permit viewing through the panels shall have the bottom of at least one glazed panel located 43 inches (1090 mm) maximum above the finish floor.</p> <p>404.3 Automatic and Power-Assisted Doors and Gates. Automatic doors and automatic gates shall comply with 404.3. Full-powered automatic doors shall comply with ANSI/BHMA A156.10 (incorporated by reference, see "Referenced Standards" in Chapter 1). Low-energy and power-assisted doors shall comply with ANSI/BHMA A156.19 (1997 or 2002 edition) (incorporated by reference, see "Referenced Standards" in Chapter 1).</p> <p>404.3.1 Clear Width. Doorways shall provide a clear opening of 32 inches (815 mm) minimum in power-on and power-off mode. The minimum clear width for automatic door systems in a doorway shall be based on the clear opening provided by all leaves in the open position.</p> <p>404.3.2 Maneuvering Clearance. Clearances at power-assisted doors and gates shall comply with 404.2.4. Clearances at automatic doors and gates without standby power and serving an accessible means of egress shall comply with 404.2.4.</p> <p>EXCEPTION: Where automatic doors and gates remain open in the power-off condition, compliance with 404.2.4 shall not be required.</p> <p>404.3.3 Thresholds. Thresholds and changes in level at doorways shall comply with 404.2.5.</p> <p>404.3.4 Doors in Series and Gates in Series. Doors in series and gates in series shall comply with 404.2.6.</p> <p>404.3.5 Controls. Manually operated controls shall comply with 309. The clear floor space adjacent to the control shall be located beyond the arc of the door swing.</p> <p>404.3.6 Break Out Opening. Where doors and gates without standby power are a part of a means of egress, the clear break out opening at swinging or sliding doors and gates shall be 32 inches (815 mm) minimum when operated in emergency mode.</p> <p>EXCEPTION: Where manual swinging doors and gates comply with 404.2 and serve the same means of egress compliance with 404.3.6 shall not be required.</p>
<p>Door Hardware Generally</p>	<p>309.4 Operable Parts. Operable parts shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate operable parts shall be 5 pounds (22.2 N) maximum.</p> <p>309.2 Clear Floor Space. A clear floor or ground space complying with 305 shall be provided.</p> <p>309.3 Height. Operable parts shall be placed within one or more of the reach ranges specified in 308.</p> <p>308.1 General. Reach ranges shall comply with 308.</p> <p>308.2.1 Unobstructed. Where a forward reach is unobstructed, the high forward reach shall be 48 inches (1220 mm) maximum and the low forward reach shall be 15 inches (380 mm) minimum above the finish floor or ground.</p>

	Applicable 2010 ADA Accessibility Standards³
<p>Signs</p>	<p>216.1 General. Signs shall be provided in accordance with 216 and shall comply with 703. <i>For section 703, please refer to full-text of 2010 standards.</i></p> <p>216.2 Designations. Interior and exterior signs identifying permanent rooms and spaces shall comply with 703.1, 703.2, and 703.5. Where pictograms are provided as designations of permanent interior rooms and spaces, the pictograms shall comply with 703.6 and shall have text descriptors complying with 703.2 and 703.5.</p> <p>EXCEPTION: Exterior signs that are not located at the door to the space they serve shall not be required to comply with 703.2.</p> <p>216.4 Means of Egress. Signs for means of egress shall comply with 216.4.</p> <p>216.4.1 Exit Doors. Doors at exit passageways, exit discharge, and exit stairways shall be identified by tactile signs complying with 703.1, 703.2, and 703.5.</p> <p>216.6 Entrances. Where not all entrances comply with 404, entrances complying with 404 shall be identified by the International Symbol of Accessibility complying with 703.7.2.1. Directional signs complying with 703.5 that indicate the location of the nearest entrance complying with 404 shall be provided at entrances that do not comply with 404.</p>
<p>Platform Lift</p>	<p>Platform Lifts: 4.11</p> <p>4.11.3: Unassisted entry/exit: If a platform lift is used, the lift should facilitate unassisted entry and exit from the lift.</p> <p>4.5.1: Floor Surfaces: Ground and floor surfaces along accessible routes and in accessible rooms and spaces, including floors, walks, ramps, stairs, and curb ramps, shall be stable, firm, slip-resistant, and shall comply with 4.5.</p> <p>4.27: Controls: Clear floor space complying with 4.2.4 that allows a forward or a parallel approach by a person using a wheelchair shall be provided at controls and other operable equipment. 4.27.2. See also, 4.27.3 (Height) and 4.27.4 (Operation) of controls.</p> <p>Ensure the lift can be used and operated independently by an individual with a disability, including entering and exiting the lift without assistance, or provide OCR with a plan for providing a lift that can be operated independently.</p> <p>Ensure the lift complies with 4.11.2, including 4.2.4, 4.5, 4.27, and repair any torn non-slip material on the lift surface.</p>

	Applicable 2010 ADA Accessibility Standards³
Seating	<p>Existing facility standards (34 C.F.R. §§ 104.21 and 104.22)</p> <p>Anti-discrimination standards (34 C.F.R. § 104.4)</p> <p>Guidance: Assembly Areas: 4.1.2(18) and 4.33:</p> <p>4.1.2(18): Assembly areas: See table with the seating capacity and number of required wheelchair locations: For a seating capacity of 501-1,000 seats, 2% of the total, or 13 accessible wheelchair locations.</p> <p>4.33.2: Size of Wheelchair Locations: Each wheelchair location shall provide minimum clear ground or floor spaces as shown in Fig. 46.</p> <p>4.33.3: Placement of Wheelchair Locations: Wheelchair areas shall be an integral part of any fixed seating area. They shall adjoin an accessible route that also serves as a means of egress in case of emergency and shall be located to provide lines of sight comparable to those for all viewing areas.</p> <p>4.33.4: Surfaces: The ground or floor at wheelchair locations shall be level and shall comply with 4.5.</p>