



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

ONE PETTICOAT LANE
1010 WALNUT STREET, SUITE 320
KANSAS CITY, MO 64106

REGION VII
ARKANSAS
KANSAS
MISSOURI
NEBRASKA
OKLAHOMA
SOUTH DAKOTA

April 18, 2023

Sent via email only, to: XXXXX

XXXXX XXXXX XXXXX XXXXX
XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX
XXXXX XXXXX XXXXX XXXXX XXXXX
XXXXX XXXXX XXXXX

Re: University of Oklahoma
OCR Complaint No. 07222170

Dear XXXXX XXXXX:

On September 15, 2022, the U.S. Department of Education, Office for Civil Rights (OCR), received a copy of a complaint filed with the U.S. Department of Justice (DOJ) against the University of Oklahoma (the University), located in Norman, Oklahoma, alleging the University discriminated against a student based on disability. Specifically, the Complainant alleged the University prevented a student with XXXXX XXXXX (the Student) from using accessible parking spaces near XXXXX XXXXX during football games in the Fall 2022 semester. The DOJ referred the complaint to OCR for evaluation and processing.

In response to the complaint, OCR investigated whether the University discriminated against individuals with disabilities in the Fall 2022, by temporarily closing or restricting the use of accessible parking spaces and /or routes in preparation for and during University football games and/or events at the Gaylord Family–Oklahoma Memorial Stadium, in violation of Section 504, including 34 C.F.R. §§ 104.4 and/or 104.21; and/or Title II including 28 C.F.R. §§ 35.130, 35.149, 35.150, and/or 35.151.

This letter is to acknowledge that the University has voluntarily entered a Resolution Agreement (Agreement) resolving the complaint. This decision is explained below.

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 prohibit discrimination based on disability in programs and activities that receive federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive federal financial assistance.

Because the University receives federal financial assistance from the Department of Education and is a public educational institution, the University is subject to Section 504, Title II, and

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

OCR’s jurisdiction. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

During OCR’s investigation, OCR interviewed the Complainant, the Student, the XXXXX XXXXX XXXXX XXXXX, and the XXXXX XXXXX XXXXX XXXXX. OCR also reviewed publicly available information and documentation provided by the University, including policies and procedures regarding campus parking and the changes made during football games.

Legal Standards

The program accessibility and architectural accessibility requirements of the Section 504 implementing regulation are found at 34 C.F.R. §§ 104.21 – 104.22. Comparable sections of the Title II implementing regulation are found at 28 C.F.R. §§ 35.149 – 35.150. Both 34 C.F.R. § 104.21 and 28 C.F.R. § 35.149 generally provide that no qualified individual with a disability shall, because a school’s facilities are inaccessible to or unusable by disabled individuals, be: (1) excluded from participation in, or denied the benefits of services, programs, or activities; or (2) otherwise be subjected to discrimination by the school.

28 C.F.R. § 35.151(c)(3) requires any construction commenced after March 15, 2012, to comply with the 2010 ADA Standards. Section 208.3.1 of the 2010 ADA Standards requires that parking spaces which serve a particular building or facility be located on the shortest accessible route from parking to an accessible entrance. Section 208.3.1 does allow for one applicable exception: accessible parking spaces may be located in different parking facilities only if doing so provides for substantially equal or greater accessibility in terms of distance from an accessible entrance.

Preliminary Investigative Findings and Findings of Fact

The University provides housing for students in Headington College and Dunham College (the Residential Colleges).¹ Accessible parking spaces are located immediately south of the Residential Colleges, in an area referred to as the Residential College Service Drive (RCSD). Typically, these spaces are available on a first-come, first-served basis.

The Residential Colleges and the RCSD are adjacent to the University’s football stadium, the Gaylord Family–Oklahoma Memorial Stadium (the Stadium). The University’s XXXXX XXXXX XXXXX XXXXX XXXXX told OCR that the University built the Residential Colleges, as well as the nearby Jenkins Parking Garage, in 2017.

According to documentation provided by the University, the University XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX during home football games. As part of XXXXX XXXXX XXXXX, the University closes the RCSD and prohibits parking in the accessible spaces on the RCSD. The XXXXX XXXXX XXXXX XXXXX informed OCR that the accessible parking spaces in the RCSD are the only accessible spaces affected by the implementation of XXXXX XXXXX XXXXX.

¹ <https://www.ou.edu/housingandfood/housing/halls-and-apartments/residential-colleges>.

The University provided OCR with a copy of an email it sent to students in the Residential Colleges notifying the students that parking spaces in the RCSD are not available during football games. The email instructed the students to move their vehicles to the Jenkins Parking Garage on Fridays of football game weekends by 2:00 pm and to not return until Sunday at 7:00 am. University personnel told OCR that there are accessible spaces on all levels of the Jenkins Garage; however, the nearest accessible spaces were estimated to be 200 to 300 feet away from the accessible spaces in the RCSD. The XXXXX XXXXX XXXXX XXXXX confirmed to OCR that accessible spaces in the garage fill up on game days.

The Student is an individual with a disability XXXXX XXXXX XXXXX XXXXX. The Student told OCR that, on September 2, 2022 (the day before a University football game), XXXXX attempted to park in the accessible parking in the RCSD to gain access to XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX. However, the accessible parking was roped off, and the Student was forced to park in a non-accessible parking space on the top floor of the Jenkins Parking Garage because all accessible spaces within the garage were occupied. On another occasion, the Student parked in a regular space elsewhere on campus because the Jenkins Garage had no spaces available. The Student also informed OCR that, on September 24, 2022 (the date of another University home football game), XXXXX did not plan to XXXXX XXXXX XXXXX XXXXX and left XXXXX vehicle in the accessible parking in the RCSD. However, XXXXX received a call from University Police threatening to tow XXXXX vehicle and was ultimately required to move XXXXX vehicle.

Analysis and Resolution

The evidence obtained during OCR's investigation raised program accessibility concerns. The University's decision to restrict access to accessible parking for students and other individuals with disabilities during University football games and other events at the Stadium may deny individuals with disabilities the ability to access facilities on campus, including denying the use of accessible parking spaces on the shortest accessible route to certain University buildings. Specifically, the evidence indicated that students with disabilities who live in the Residential Colleges were not allowed to use the accessible parking spaces in the RCSD and instead were directed to utilize parking in a garage estimated to be 200 to 300 feet further from accessible entrances to the Residential Colleges, and during the times the accessible parking was restricted, the accessible parking spaces in the alternative parking garage were often occupied by other vehicles leaving no accessible parking options available for such displaced students and other disabled individuals.

Prior to OCR completing the investigation, the University voluntarily entered into the attached Resolution Agreement (Agreement) to address the concerns raised by OCR. The Agreement, signed by the University on April 5, 2023, requires the University to develop a plan to provide accessible parking on its campus for students, staff, and visitors with disabilities in conjunction with University football games and/or events at the Stadium and disseminate the plan to relevant University personnel. The University will also notify the residents of the Residential Colleges the plan for ensuring that accessible parking for the Residential Colleges is available to residents with disabilities during University football games and/or other events at the Stadium and advise the residents of any steps needed to utilize such temporary accessible parking alternatives. The Agreement also requires the University to provide OCR with copies of the plan to maintain

program accessibility during football games and other events, and evidence of communication of that plan to the relevant audiences.

OCR considers the allegations of this complaint resolved and will monitor the University's implementation of the Agreement. When OCR determines the University has fully implemented the terms of the Agreement, OCR will close this complaint. If the University fails to carry out the Agreement, OCR may resume investigating the complaint. OCR will not close the monitoring of the Agreement until OCR determines that the University has demonstrated compliance with all the terms of the Agreement and is in compliance with Section 504, Title II, and their implementing regulations regarding program accessibility.

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 OCR policy. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. Individuals who file complaints with OCR may have the right to file a private suit in federal court regardless of whether OCR finds a violation.

Please be advised that the University may not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. Complaints alleging such retaliation may be filed with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

If you have any questions, please contact XXXXX XXXXX, Attorney, at XXXXX XXXXX - XXXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXX.

Sincerely,

Jennifer Brooks
Supervisory Attorney, Region VII