



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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April 7, 2016

Dr. Shouan Pan
President
Mesa Community College
1833 W Southern Ave
Mesa, AZ 85202

Re: Mesa Community College
OCR Case Number: 08-16-2012

Dear Dr. Pan:

On November 16, 2015, we opened for investigation a complaint to determine whether the College does not maintain the accessible door openers at the Art Building and does not provide an accessible entrance at the Ceramics Studio.

We initiated an investigation under the authority of Section 504 and its implementing regulation, at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability, in programs or activities that receive Federal financial assistance from the Department and, respectively, public entities. As a recipient of Federal financial assistance and a public entity, the College is subject to these laws and regulations.

During the investigation, we carefully reviewed documentation provided by the College and Complainant. We conducted a site visit on January 13, 2016.

Factual Findings – Maintenance of Accessible Features Allegation

The Art Building was originally constructed in 1981/1982 and has not undergone any alterations since its construction in relation to the doors. The Ceramics Studio was added to the building in 1986/1987 and has not been renovated since its construction. Both the Art Building doors and Ceramic Studio entrance must comply with 2010 Standards for Accessible Design because the doors must be accessible to provide program accessibility.

The College identified three doors in the Art Building with electronic door openers. AC4 West (south entrance); AC3 East, and AC1 South. AC4 West (south entrance) and AC3 East are exterior doors and AC1 South is an interior door. All of the doors are recessed when accessed from outside the classroom and therefore, must comply with 2010 Standards § 404.2.4.4. The outside of each door is recessed more than 8 inches and none provide the minimum 12 inch clearance next to the latch (door handle). The doors all utilize a closer mechanism. The inside of each door is flush with the walls.

The AC4 West (south entrance) outside electronic opener button did not function during the site visit. Additionally, inside the door are a paper towel dispenser within 22.5" of the door and a sink within 35.5" to the door that do not allow for the required 48" of maneuvering clearance. 2010 Standards § 404.2.4.1 fig. k. The AC3 East did not have functioning electronic opener buttons outside or inside the classroom. The AC1 South outside electronic opener button functioned during the site visit, but the interior electronic door opener button did not function properly. The doors comply with the remaining standards in 2010 Standards § 404 regarding opening width, threshold, and hardware.

Analysis – Maintenance of Accessible Features Allegation

The regulation for Title II of the ADA requires that a place of public accommodation shall 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. 28 C.F.R. § 35.133. Although electronic door openers are not typically required, the electronic door openers were installed to overcome the lack of maneuvering clearance at the recessed doors and therefore, the electronic door openers are needed to provide access and must be maintained in good working order. Since each of the three doors are recessed and do not provide a minimum of 12 inches next to the door latch as required in § 404.2.4.3 fig (a), an electronic door opener is needed to allow access to the classrooms. The inside side of each door is not recessed, so the electronic door openers do not need to be operational to provide accessibility. Therefore, AC4 West (south entrance) and AC3 East are not in compliance since the outside electronic door openers were not operational at the time of site visit. AC1 South is in compliance since the outside electronic door opener was operational.

Additionally, AC4 West (south entrance) is not in compliance regarding maneuvering clearance inside the door because of the paper towel dispenser and the sink. According to 2010 Standards § 404.2.4.1 fig k, there must be 48 inches of maneuvering clearance inside the door when the interior electronic door opener is not functioning properly. Since the paper towel dispenser is 22.5" inside the door and the sink is 35.5" inside the door, the maneuvering clearance is not provided. AC4 West (south entrance) is not in compliance regarding maneuvering clearance inside the door.

The College entered into an agreement to resolve these compliance concerns.

Factual Findings – Ceramic Studio Accessible Entrance Allegation

The Ceramic Studio has two doors to access the classroom, AC4 EW and AC4 EE. There are two accessible routes to access door AC4 EW and one route from AC4 EE. The three routes provide firm, stable, and slip resistant surfaces.

Route one from AC4 EW has a width greater than 120" and a width greater than 60" passing area; a slope of .2 degrees and one curb cut the width of the side walk (greater than 120" width) a slope of 4 degrees and cross slope less than 1 degree. Route two from AC4 EW to TC 50 has a width greater than 120"; greater than 60" passing width; slope of .3 degrees; two curb cuts with the first curb cut is 120" wide, slope 3 degrees, and flare slope 5 degrees and the second curb cut

has a width of 116", 48" deep, slope of 3.3 degrees, and flared sides of 3.3 degrees; and a small street between the two curb cuts.

The accessible route from Door AC4 EE is used to access other art building classes. The route is greater than 120" width, 60" passing width, and no slope. There is one curb cut that is 79" wide, slope of 3.1 degree; and flared sides of .5 degree.

The doors comply with the remaining standards in 2010 Standards §§ 404 *et seq.* regarding opening width, threshold, hardware, and maneuvering clearance.

Analysis – Ceramic Studio Accessible Entrance Allegation

The Ceramic Studio has two entrances. We took measurements of the accessible routes from each of the entrances (AC4 EE and AC4 EW). There are two routes to access AC4EW. Both have level surfaces with a slope less than .2% and are wider than 120 inches with one wide curb cut in compliance with 2010 Standards section 403. The first route outside AC4West has one curb cut. Measurements demonstrate that is in compliance with 2010 Standards section 406. The second route from AC4 EE has two curb cuts to cross a street. The curb cuts on each side meet the requirements of the 2010 Standards section 406. Both doors meet the 2010 Standards section 404 for doors and maneuvering clearance.

Conclusion

For the reasons explained, we determined that the evidence is sufficient to conclude that the College must provide operable electronic door openers on the identified doors in the Art Building and clear maneuvering space inside door AC4W South Entrance. We found the College provides accessible entrances and routes to the Ceramic Studios. The College agreed to voluntarily resolve the violations found in this investigation and entered into a Resolution Agreement, signed April 6, 2016. OCR will closely monitor the College's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively and that the College's policies and practices are administered in a nondiscriminatory manner. Once fully implemented, the Resolution Agreement will ensure the College's compliance with the regulations as addressed in this complaint.

This letter addresses only the issues raised in this complaint and should not be interpreted as a determination of the College's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. The Complainant may have the right to file a private suit in federal court regardless of whether OCR finds a violation.

Please be advised that the College 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 another 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.

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.

We are committed to prompt and effective service. If you have any questions, please contact Ms. Heidi Kutcher at 303-844-4572 or by email at heidi.kutcher@ed.gov.

Sincerely,

/s/

Angela Martinez-Gonzalez
Supervisory General Attorney

cc: Rebecca Currey, Legal Counsel via email