



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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October 28, 2020

Mr. Michael M. Crow
President
Arizona State University
PO Box 877705
Tempe, Arizona 85287-7705

Sent via email only to XXXX@XXXX

Re: Arizona State University
OCR Case Number: 08-20-2235

Dear President Crow:

This letter is to inform you of the disposition of the above-referenced complaint, filed on April 24, 2020, alleging that Arizona State University (University) discriminates against individuals with disabilities. Specifically, the Complainant alleged that the University does not have a plan to evacuate individuals with disabilities in the event of an emergency at the Frank Kush Field/Sun Devil Football Stadium (Stadium).

The U.S. Department of Education (Department), Office for Civil Rights (OCR) initiated an investigation of this complaint under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. Section 794, and its implementing regulation at 34 Code of Federal Regulations Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the U.S. Department of Education; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Section 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and a public entity, the University is subject to these laws and regulations.

On July 14, 2020, we notified the University that OCR was opening an investigation of the allegation and sent a data request. Prior to the deadline for responding to the data request in full, the University expressed an interest in taking voluntary action to resolve the Complainant's allegation. We determined that it was appropriate, pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), to resolve the allegation with a resolution agreement (Agreement) without conducting a full investigation.

OCR's investigation to date included reviewing a partial data response provided by the University. Specifically, OCR reviewed three records that the University reported comprise 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.

Stadium's emergency evacuation protocols: an entry/exit map; a staff assignment document; and an emergency exit video.¹ The information indicates that the Stadium's entry/exit map shows accessible paths of travel and entry/exit points for individuals with disabilities, and that the University has developed a plan for suite attendants, supervisors, and ticket staff to fulfill particular duties in the event of a Stadium evacuation.

Section 302 of OCR's CPM states that a complaint may be resolved at any time when, prior to the point when OCR issues a draft letter of findings under CPM Section 303(b), a recipient expresses an interest in resolving the allegation(s) and OCR determines that it is appropriate to resolve the allegation(s) because OCR's investigation has identified concerns that can be addressed through a resolution agreement. After reviewing the University's partial data response, OCR identified potential compliance concerns related to whether the University has an emergency evacuation plan that addresses the needs of individuals with a variety of disabilities (*e.g.*, visual, hearing, mobility, sensory-related, intellectual, and respiratory disabilities). At this time, the University again expressed interest in voluntarily resolving the complaint and OCR determined that it was appropriate to enter into an agreement that addresses the issue raised in the complaint. The University sent OCR a fully executed Agreement on October 27, 2020.

When the Agreement is fully implemented, the allegation will be resolved consistent with the requirements of Section 504, Title II, and their implementing regulations. OCR will monitor the implementation of the Agreement through periodic reports from the University, as required by the Agreement, demonstrating that the terms of the Agreement have been fulfilled. We will provide written notice of any deficiencies with respect to the implementation of the terms of the Agreement and will require actions to address such deficiencies. The Complainant will be copied on our monitoring letters. If the University fails to implement the Agreement, we will take appropriate action, which may include enforcement actions. When OCR determines that the University has fulfilled the terms of the Agreement, we will close this case.

This concludes OCR's investigation of the allegation and should not be interpreted to address the University's compliance with any law or regulatory provision, or to address any issues other than those addressed in this letter. 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.

Please be advised that the University 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 occurs, the individual may file a complaint alleging such treatment.

Additionally, please note that the Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

¹ The University reported that it shows the video to staff and guests prior to every event at the Stadium and uses it for training purposes with University staff and contractors at the beginning of each season.

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, OCR 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.

Thank you for your attention to this matter and the University's cooperation. If you have any questions or concerns, you may contact Rachel Phillips-Cox, the Equal Opportunity Specialist assigned to this case, at (XXX) XXX-XXXX or XXXX.

Sincerely,

/s/

Angela Martinez-Gonzalez
Supervisory General Attorney

Attachment: Resolution Agreement

cc: Mr. Michael Chismar, Senior Athletic Director of Facilities and Operations
XXXX

Ms. Chelsea Sage Gaberdiel, University Legal Counsel
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