



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

REGION IX  
CALIFORNIA

50 UNITED NATIONS PLAZA  
MAIL BOX 1200; ROOM 1545  
SAN FRANCISCO, CA 94102

January 26, 2018

**VIA ELECTRONIC MAIL**

Joseph I. Castro, Ph.D., M.P.P.  
President  
California State University - Fresno  
5200 North Barton Avenue, M/S ML48  
Fresno, CA 93740

(In reply, please refer to OCR case number 09-16-2066.)

Dear Dr. Castro:

This letter is to inform you that the U.S. Department of Education (the Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against the California State University-Fresno (University). On December 16, 2015, OCR notified the University of a complaint alleging that the University discriminates against individuals with disabilities because Bulldog Stadium (Stadium) is not accessible. Specifically, OCR investigated the following issue: whether the University's Stadium is inaccessible to individuals with physical disabilities, because the Stadium parking lots do not have adequate disabled parking, and the Stadium's aisles for seating are not accessible to individuals with physical disabilities.

OCR is responsible for enforcing 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. Section 504 prohibits discrimination on the basis of disability in programs and activities operated by recipients of federal financial assistance. OCR is also responsible for enforcing 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. Title II prohibits discrimination on the basis of disability by public entities. As a recipient of federal financial assistance and as a public university, the University is subject to Section 504, Title II, and their implementing regulations.

In its investigation, OCR reviewed documents provided by the University and visited and surveyed the Stadium. OCR's investigation found that there was sufficient evidence to support a noncompliance finding on the issues investigated. On January 25, 2018, the University agreed to implement the enclosed Resolution Agreement (Agreement) to remedy the violations found by OCR. This letter summarizes the applicable facts, legal standards, and OCR's analysis and conclusion.

*Issue: Whether the University's Stadium is inaccessible to individuals with physical disabilities, because the Stadium parking lots do not have adequate disabled parking and the Stadium's aisles for seating are not accessible to individuals with physical disabilities.*

## Background

The Stadium was originally constructed in 1979-1980. The current seating capacity is 41,031. The University informed OCR that the only public events which the Stadium is used for are football games. The designated accessible wheelchair seating is located on the lowest level on the east side and the uppermost levels on both the east and west sides. The Stadium is a “bowl” design, with broad asphalt paths encircling it. The paths are for the use of pedestrians and courtesy shuttles, not other motor vehicles to reach the top levels of seating, and from there, patrons may walk down the stairs from the top to their seats. The Stadium also has multiple entrances at the lower level of the Stadium. In 1990, the University made several alterations to the Stadium, including alterations to the upper level east side wheelchair seating, and alterations to the upper level west side wheelchair seating. In 2012, the parking lot on the south end of the Stadium (the Blue Lot) was altered to its current layout and design. In addition, the University altered a ramp near the south end zone which leads to the lower level wheelchair seating in 2012.

## Legal Standards: Facility and Program Access

The regulations implementing Section 504 and Title II provide that no qualified person with a disability shall, because a recipient/public entity's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, excluded from participation in, or otherwise be subjected to discrimination under any program, service, or activity of the recipient. 34 C.F.R. § 104.21; 28 C.F.R. § 35.149. The regulations contain two standards for determining whether a recipient/public entity's programs, activities, and services are accessible to individuals with disabilities. One standard applies to “new construction” and “alterations” while the other applies to “existing facilities.” The applicable standard of compliance depends upon the date of construction and/or the date of any alterations to the facility.

### *New construction and alterations*

The Section 504 regulations, at 34 C.F.R. § 104.23, apply to “new construction or alterations,” defined as any facility or part of a facility where construction was commenced after June 3, 1977. For the purposes of Title II, “new construction or alterations” is defined as any construction of or alterations to a facility or a part of a facility on or after January 26, 1992. The regulations for each law provide that each facility or part of a facility constructed by, on behalf of, or for the use of the recipient/public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by persons with disabilities. The regulations further provide that each facility or part of a facility altered by, on behalf of, or for the use of the recipient/public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by persons with disabilities.

The Section 504 regulations, at 34 C.F.R. § 104.23(c), specify the *American National Standards Specifications for Making Buildings and Facilities Accessible to and Usable by the Physical Handicapped* (ANSI 117.1 – 1961 (1971)) as the minimum standard for determining accessibility for facilities constructed or altered on or after June 3, 1977 and before January 18,

1991. Facilities constructed or altered on or after January 18, 1991 are required to comply with the *Uniform Federal Accessibility Guidelines* (UFAS) (Appendix A to 41 C.F.R. subpart 101-19.6). Recipients may choose between applying the *2010 Standards for Accessible Design* (2010 Standards) (28 C.F.R. § 35.151 and 28 C.F.R. part 36, subpart D) or UFAS for any new construction or alteration commenced on or after March 15, 2012. 77 F.R. 14972, 14975 (Mar. 14, 2012).

With respect to Title II, public facilities constructed or altered on or after January 26, 1992 through September 14, 2010 are required to choose application of UFAS or the 1991 *ADA Standards for Accessible Design* (1991 Standards) (28 C.F.R. Part 36, App. A). Public facilities constructed or altered on after September 15, 2010 through March 14, 2012 are able to comply through the application of UFAS, the 1991 Standards, or the 2010 Standards. Effective March 15, 2012, new construction and alterations pursuant to Title II are required to comply with the 2010 Standards. New construction and alterations completed before March 15, 2012 that did not comply with the 1991 Standards or UFAS (i.e., noncompliant new construction and alterations) were also subject to the 2010 Standards. 28 C.F.R. § 35.151(c)(5).

### *Existing facilities*

The Section 504 regulations, at 34 C.F.R. § 104.22, and the Title II regulations, at 28 C.F.R. § 35.150, also apply to “existing facilities.” Section 504 defines existing facilities as any facility or part of a facility where construction was commenced prior to June 3, 1977. Existing facilities for the purposes of Title II are any facility or part of a facility where construction was commenced prior to January 26, 1992. The regulations provide that, with respect to existing facilities, the recipient shall operate its programs, services, and activities so that, when viewed in their entirety, they are readily accessible to and usable by persons with disabilities (hereinafter “the program accessibility standard”).

Accessibility of existing facilities is determined not by compliance with a particular architectural accessibility standard, but by considering whether a recipient program, service, or activity offered within an existing facility, when viewed in its entirety, is accessible to and usable by individuals with disabilities. The recipient may comply with the existing facility standard through the reassignment of programs, services, and activities to accessible buildings, alteration of existing facilities, or any other methods that result in making each of its programs, services, and activities, when viewed in their entirety, accessible to individuals with disabilities. In choosing among available methods for redressing program inaccessibility, the recipient must give priority to those methods that offer programs, services, and activities to individuals with disabilities in the most integrated setting appropriate as well as methods that entail achieving access independently and safely.

The concepts of program access and facilities access are related, because it may be necessary to remove an architectural barrier in order to create program access. For example, a program offered exclusively in a particular building on a campus may not be accessible and usable to individuals with disabilities absent the provision of physically accessible features. Under such circumstances, facility accessibility standards may be used to guide or inform an understanding of whether persons with disabilities face barriers to participating in the program, service, or

activity provided in a particular facility. In reviewing program accessibility for an existing facility subject to Section 504, UFAS or the 2010 Standards may be used as a guide to understanding whether individuals with disabilities can participate in or benefit from the program, activity, or service. The 2010 Standards may be used as a guide to understanding whether individuals with disabilities can participate in or benefit from the program, activity, or service of a public entity subject to Title II.<sup>1</sup> Specific details of the architectural standards are described below as needed.

## **Stadium parking**

### Findings of fact

The Stadium is served primarily by three parking lots: the Blue Lot (south end of stadium); the Red Lot (east side of stadium); and the White Lot (west side of stadium).

*Blue Lot:* The Blue Lot was altered to its current layout in 2012. On days when the parking is not configured for football games, the Blue Lot has available approximately 250 total parking spaces, with ten designated as accessible. It is directly south of the main gate to the stadium, and also serves the Bulldog Ticket Office (Ticket Office) and the Duncan Athletic Building (Athletic Building). Eight spaces near the Ticket Office and two spaces next to the Athletic Building are designated as accessible.

There are eight designated accessible parking spaces near the Ticket Office numbered 40, 41, 42, 44, 69, 71, 72, and 73. Each of the designated accessible parking spaces near the Ticket Office is 100-108 inches in width. The access aisles between parking spaces #40 and 41 and #72 and 73 are each 61 inches wide. The access aisles between parking spaces #42 and 44 and #69 and are each 103 inches wide. Each of the spaces has a vertical sign with the International Symbol of Accessibility, with the bottom of each sign more than 60 inches above the finished ground surface. Space #69 has an additional sign designating it as van accessible. These parking spaces adjoin an accessible route to the Ticket Office. In addition, there are two designated accessible parking spaces directly next to the Athletic Center next to the Stadium entrance gate. The two parking spaces exceed 96 inches in width, and share a 108 inch wide access aisle.

On days when the Stadium is being used for football games, the Blue Lot is reconfigured. The parking spaces adjacent to the Ticket Office are not available for patrons; they are blocked off with fences, and patron parking is available on the other side of the access road. This reduces the total number of parking spaces in the Blue Lot to approximately 147. The University provides 31 designated parking spaces for individuals with disabilities in the Blue Lot near the access road. These parking spaces are indicated by low signs attached to the fence. None of these parking spots have designated access aisles. When asked where a van with a wheelchair ramp or lift would park, the University's staff member stated that they would park parallel to the car routes through the parking lot.

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<sup>1</sup> Specific details of the architectural standards regarding accessible parking, routes, and seating are described below as needed.

*Red Lot:* The Red Lot is an existing parking area. It is a mowed grass field on the east side of the stadium with a capacity for 385 parked vehicles. Along the fence closest to the Stadium, there are signs stating that seven of the 385 parking spaces are designated accessible, and the spaces are indicated by white chalk lines, but without an access aisle indicated.

*White Lot:* The White Lot is an existing parking area. It is a mowed grass field on the west side of the stadium with a capacity for 475 parked vehicles. The parking area has no lines to designate accessible parking spaces or access aisles, and no vertical signs.

### Applicable Architectural Standards

Pursuant to § 208.2.4 of the 2010 Standards, at least one accessible parking space shall be a van parking space for every six or fraction of six parking spaces required by § 208.2.<sup>2</sup> Accessible parking spaces shall be a minimum of 96 inches wide. § 502.2. Van accessible parking spaces shall be a minimum of 132 inches wide; however, if the adjacent access aisle is a minimum of 96 inches wide, the van accessible space may be a minimum of 96 inches wide. *Id.* Access aisles serving car and van parking spaces shall be a minimum of 60 inches wide, extend the full length of the parking spaces they serve, and be marked so as to discourage parking in them. §§ 502.3.1, 502.3.2, 502.3.3. Each accessible space shall have an adjacent access aisle, and two parking spaces may share a common access aisle. § 502.3. The access aisle shall adjoin an accessible route.<sup>3</sup> Parking spaces and the access aisles serving them shall comply with § 302, and shall not exceed a maximum slope of 1 inch of rise to 48 inches run (i.e., 1:48) in any direction.<sup>4</sup> Designated accessible parking spaces shall be identified with signs that include the International Symbol of Accessibility, and shall be a minimum of 60 inches above the finish floor or ground surface measured to the bottom of the sign. § 502.6. For van accessible parking spaces, the signs must include a designation of the parking space as van accessible. *Id.*<sup>5</sup>

### Analysis and conclusions of law

During non-game times, the Blue Lot has a total of ten designated accessible parking spaces, including one designated as van accessible. The parking lot is required under Title II to provide a minimum of seven designated accessible parking spaces, including two designated as van accessible. Each of the ten designated accessible parking spaces meets the requirements of the 2010 Standards, but the University needs to designate one more of the current accessible parking spaces as van accessible in order to comply with Title II. For football games, the University is required to provide a minimum of five designated accessible parking spaces, including one designated as van accessible. The University designates 31 spaces near the access road as

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<sup>2</sup> UFAS does not require van accessible parking spaces, but provides guidance where van accessible parking spaces are provided. UFAS, § 4.6.3, Exception.

<sup>3</sup> UFAS, like the 2010 Standards, requires that accessible parking spaces have an adjacent access aisle, which may be shared, requires the same minimum width for accessible parking spaces and access aisles as the 2010 Standards, and requires that the access aisles adjoin an accessible route. § 4.6.3.

<sup>4</sup> Section 4.6.3 of UFAS requires that accessible parking spaces and access aisles to be level with surface slopes not exceeding 1:50.

<sup>5</sup> UFAS, at § 4.6.4, requires that accessible parking be designated as reserved for people with disabilities by a sign showing the symbol of accessibility which cannot be obstructed by a vehicle parked in the space. It does not have requirements for designating a van accessible space.

accessible parking for games, but none of those spaces meet the requirements of Title II or Section 504. None of the parking spaces have access aisles that are marked so as to discourage parking in them, the vertical signs designating the spaces are significantly lower than 60 inches above the lot surface (and can be obstructed by a parked vehicle), and there are no parking spaces designated as van accessible.

With respect to the Red Lot and the White Lot, OCR analyzed these existing parking areas under the program accessibility standard. OCR applied the 2010 Standards to inform whether persons with disabilities faced barriers to participating in the Stadium activities. Both the Red Lot and White Lot are surfaced with mowed grass, which is not firm, slip-resistant, and stable, and does not provide parking that is readily accessible to and usable by persons with disabilities. The seven parking spaces that are designated as accessible in the Red Lot nearest the east side of the Stadium do not have access aisles and do not connect to an accessible route. There is no accessible route from the White Lot to a courtesy shuttle bench or Stadium entrance. In addition, the Red Lot and the White Lot provide the majority of the parking spaces on game days (860 of the total 1007 parking spaces in the Blue, Red, and White lots).

In summary, OCR found that the parking in the Blue Lot on non-game days is not compliant with Section 504 and Title II and their implementing regulations because the University did not designate two parking spaces as van accessible. On game days, the Blue Lot is not compliant because the parking spaces designated as accessible do not meet the 2010 Standards. OCR found that the Red Lot and White Lot do not provide program accessibility, as required by Section 504 and Title II. Viewing the Stadium activities in their entirety, OCR concluded that the lack of compliant accessible parking in the Red Lot and White Lot impedes the ability of persons with disabilities to access the Stadium independently and in the most integrated setting appropriate and, as such, does not provide program accessibility, as required by Section 504 and Title II and their implementing regulations.

### **Accessible Routes and Seating**

#### **Findings of fact**

*Blue Lot to Stadium:* The public entrance closet to the Blue Lot during games is next to the Athletic Center (south public entrance). Persons with disabilities use the same route to reach the south public entrance. This route is firm, stable, and slip-resistant and the path of travel is unrestricted for games. Once inside the south public entrance, patrons may walk or may take a courtesy shuttle to their seating section. At least one the courtesy shuttles is wheelchair accessible. A bench is provided on the accessible route for patrons to use while they await the courtesy shuttle.

*South end ramp:* Persons with disabilities holding tickets for the lower level wheelchair seating proceed down a ramp with four changes of direction. The ramp is original to the Stadium, but was altered in 2012. The ramp width exceeds 36 inches and is consistent for all ramp runs and landings. It has edge protection where required. The ramp generally provides a continuous handrail on the inside where required, but the handrail on the outside is not continuous. There are several landings where the handrail does not extend 12 inches beyond the top and bottom of

the ramp runs. The handrails are a minimum of 34 inches height, with some variation above 34 inches, and the distance between the handrail and the adjacent surfaces is 1½ - 2 inches. In some areas, the paint is peeling off the handrails, resulting in an abrasive surface.

*Lower level wheelchair seating:* The east side lower level designated accessible seating is located at the bottom of seating areas 27, 28, 29, 30, 31, 32, and 33. These wheelchair seating areas are original to the construction of the stadium in 1979-1980 and provide a total of 86 wheelchair spaces. The spaces can be entered by a wheelchair from the rear, and are 48-50 inches deep. The spaces are provided adjacent to each other and are 30 inches wide.

*Upper level east wheelchair seating:* The upper level east side designated accessible seating was added in 1990 in sections 28 and 34. The seating is located at the top of a paved access road. As noted above, patrons who are not able to ascend the access road may use a courtesy shuttle driven by the University. Once patrons exit the courtesy shuttle, the wheelchair accessible seating in sections 28 and 34 is reached by identical ramps (also added in 1990) with maximum running slopes of 1:15, and maximum cross-slopes of 1:20. The ramps have continuous railings on both sides with a height of 34-36 inches high above the finished surface. On the wall sides, there is a space of 1½ inches between the handrails and the wall. The wheelchair seating spaces in sections 28 and 34 can all be entered by a wheelchair from the rear, are at least 48 inches deep, and have a 60 inch wide path of travel behind them which does not overlap the wheelchair spaces. The wheelchair spaces are a minimum of 33 inches wide.

*Upper level west wheelchair seating:* On the west side of the stadium, the designated accessible seating is located on the upper level in sections 14 and 15 on the north end and sections 7 and 8 on the south end. These wheelchair spaces were altered in 1990. The wheelchair seating areas in sections 14 and 15 are not level, with running slopes of up to 1:19. The wheelchair spaces may be entered from the rear, although there are removal metal barricades at the rear of the spaces to separate the circulation route to the restrooms from the wheelchair spaces. The wheelchair spaces in sections 7 and 8 are not level, and have running slopes of 1:33 to 1:16.

### Applicable Architectural Standards

Pursuant to the 2010 Standards, the clear width of accessible routes shall be a minimum of 36 inches wide, not exceed a maximum running slope of 1:20, and not exceed a maximum cross-slope of 1:48.<sup>6</sup> §§ 403.5.1, 403.3. The clear width shall be stable, firm and slip-resistant. § 302.1.<sup>7</sup>

Where the running slope of an accessible route exceeds 1:20, it must comply with the requirements for a ramp. A ramp shall not have a running slope exceeding 1:12 and the cross-slope shall not exceed 1:48. §§ 405.2, 405.3.<sup>8</sup> The clear width of a ramp run shall be a

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<sup>6</sup> Section 4.3.3 of UFAS requires the same minimum width of an accessible route. UFAS requires that the cross-slope of an accessible route may not exceed 1:50, and a running slope greater than 1:20 is a ramp and subject to additional requirements. §§ 4.3.7, 4.8.1.

<sup>7</sup> UFAS provides the same. See § 4.5.1.

<sup>8</sup> See fn. 6, *infra*.

minimum of 36 inches. § 405.5.<sup>9</sup> Landings shall be provided at the top and bottom of each ramp run, and shall not exceed 1:48 in any direction. §§ 405.7, 405.7.1.<sup>10</sup> Landings shall be at least as wide as the widest ramp run leading to the landing and a minimum of 60 inches in length. §§ 405.7.2, 405.7.3.<sup>11</sup> Ramps that change directions between runs at landings shall have a clear landing measuring 60 inches by 60 inches minimum. § 405.7.4.<sup>12</sup> Any ramp runs with a rise greater than 6 inches shall have handrails on both sides of the ramp, and be continuous within the full length of each ramp run. §§ 405.8, 505.2, 505.3.<sup>13</sup> The top of the gripping surface of handrails shall be a minimum of 34 inches and a maximum of 38 inches above the walking surface, and shall be at a consistent height. § 505.4.<sup>14</sup> The distance between the handrail and any adjacent surface shall be a minimum of 1½ inches. § 505.5.<sup>15</sup> Handrail gripping surfaces shall be free of sharp or abrasive elements and shall have rounded edges. § 505.8.<sup>16</sup> Ramp handrails shall extend horizontally above the landing for 12 inches minimum beyond the top and bottom of ramp runs, and shall return to a wall, guard, or the landing surface, or shall be continuous to the handrail of an adjacent ramp run. § 505.10.1.<sup>17</sup> However, such extensions are not required for continuous handrails at the inside turn of switchback or dogleg ramps (§ 505.10.1, Exception 1) or in alterations, where extensions would be hazardous due to plan configuration (§ 505.10.1, Exception 3). Ramps shall include edge protection on each side of ramp runs and at each side of ramp landings, unless the sides of the ramp landings have a vertical drop-off a maximum of ½ inch within 10 inches horizontally of the minimum landing area. § 405.9; § 405.9, Exception 3.<sup>18</sup>

With respect to wheelchair accessible seating, the 2010 Standards require that accessible wheelchair spaces shall be provided in assembly areas with fixed seating. § 221.2.<sup>19</sup> Wheelchair spaces shall not exceed a maximum slope of 1:48 in any direction. § 802.1.1. When two wheelchair spaces are provided together in series, each wheelchair space shall be 33 inches wide minimum. § 802.1.2. Wheelchair spaces that can be entered from the front or the rear shall be a minimum of 48 inches deep, while a wheelchair space that can be entered only from the side shall be a minimum of 60 inches deep. § 802.1.3.<sup>20</sup> Wheelchair spaces shall adjoin accessible routes, but neither the accessible routes nor the circulation paths may overlap the wheelchair spaces. §§ 802.1.4, 802.1.5.<sup>21</sup>

Under ANSI, the width and depth of wheelchair seating spaces was not specified. The closest standard is the description in § 3.1, which described the standard model of a collapsible-model

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<sup>9</sup> UFAS provides the same. See § 4.8.3.

<sup>10</sup> UFAS provides the same. See §§ 4.8.4, 4.8.5.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> UFAS requires that the tops of handrail gripping surfaces be mounted between 30-34 inches above the ramp surface. § 4.8.5 (5).

<sup>15</sup> UFAS requires the distance to be 1 ½ inches. § 4.8.5 (3).

<sup>16</sup> UFAS does not specifically address the handrail surface texture.

<sup>17</sup> UFAS requires the same. § 4.8.5 (1), (2).

<sup>18</sup> Section 4.8.7 also requires edge protection for ramps with a drop-off to the side. § 4.8.7.

<sup>19</sup> Section 4.1(17) of UFAS requires the same.

<sup>20</sup> Section 4.33 of UFAS has the same requirements for the width of wheelchair spaces in series, depths for side and rear approach, and requirement that spaces be level as the 2010 Standards.

<sup>21</sup> UFAS requires that wheelchair seating be located on an accessible route. § 4.33.3.

wheelchair of metal construction. Specifically, such a wheelchair when open was 25 inches wide and 42 inches in length. §§ 3.1 (1) and (2).

### Analysis and conclusions of law

The ramp to the lower level seating areas, which is an altered element under both Section 504 and Title II, complies with the exception of several areas: the paint on the handrails on the multi-run ramp is chipping and flaking in some areas, resulting in an abrasive surface; and the landings are missing minimum 12-inch extensions parallel to the landing surface at the top and bottom of each ramp run.

The designated wheelchair seating spaces in the lower level of Section 27-33 are in series and 30 inches wide. Since these wheelchair seating areas are original to the 1979-1980 construction, ANSI is the applicable standard, which did not provide space requirements. OCR did not obtain evidence to indicate that the width of the wheelchair spaces impaired the access of individuals with disabilities. Therefore, OCR concluded that the lower level wheelchair seating spaces met the architectural standards at the time for Section 504, and provided program access for the purposes of Title II.

The designated wheelchair seating spaces on the upper level east side of the Stadium comply with the 2010 Standards.

The designated wheelchair seating spaces on the west side of the stadium in the upper levels of Sections 7, 8, 14, and 15, which were altered in 1990, are not readily accessible to and usable by individuals with disabilities because they are not level, measuring in a range from 1:33 to 1:16. The seating in these sections is also impeded by the circulation route to the restrooms and the metal barricade behind the seats.

In summary, OCR found that the ramp to the lower level seating areas does not comply with Title II and their implementing regulations because the handrail surfaces are abrasive, and it does not comply with Section 504 and Title II and their implementing regulations because it does not provide for handrail extensions at each landing. Regarding the designated wheelchair seating spaces, OCR found that the spaces on the upper level west side do not comply with Section 504 or Title II and their implementing regulations.

### **Identification of Accessible Seating**

#### Findings of fact

The complaint initiating this investigation alleged that the stairs to seating were not accessible to people with disabilities because they were uneven and did not include handrails on each side. OCR's review of the stadium seating demonstrates that the seating reached by stairs is not intended to be accessible to people with disabilities; rather, the wheelchair seating areas are intended to be located on accessible routes and accessible to individuals with mobility disabilities.

The information provided on the University's website for ticketing events at the stadium includes the location of the seating designated for wheelchair users on a seating map, and the 2017-2018 Fall Fan Guide states that the wheelchair seating areas "are for patrons who use a wheelchair and their guest" and that "no other people can be seated in this area."

### Legal standards

The Title II regulations, at 28 C.F.R. § 35.138, require that when selling tickets for accessible seating, a public entity shall identify and describe the features of available accessible seating in enough detail to reasonably permit an individual with a disability to assess independently whether a given accessible seating location meets his or her accessibility needs.

### Analysis and conclusions of law

Pursuant to 28 C.F.R. § 35.138, the University is required to provide information about the locations and accessibility of its seating, including wheelchair seating and other seating available for individuals with disabilities, upon request. The information provided in the University's "Fall Fan Guide" indicates that only individuals who use wheelchairs and their companions may use the designated accessible seating. However, as demonstrated by the complaint in this investigation, other individuals with mobility disabilities may also require seating on an accessible route (including individuals who use canes, crutches, walkers, or who otherwise have difficulty walking). OCR concluded that the University's identification of accessible seating restricted its use only to wheelchair users and their companions, whereas other individuals whose disability required the features that accessible seating requires, including an accessible route, were excluded. The University also needs to specify any other seating areas which are located on an accessible route which can be used by individuals with disabilities who do not require wheelchair spaces. Based on the foregoing, OCR found that the information provided by the University regarding its accessible seating did not comply with Title II and its implementing regulations.

### Conclusion

The University has entered into the enclosed Agreement to address the violations identified in this case. The Agreement includes but is not limited to:

- Altering the parking spaces in the Blue Lot for non-game days and game days to meet the 2010 Standards, and providing designated accessible parking spaces connected to an accessible route in the Red Lot and White Lot;
- Altering the ramp to the lower level designated accessible seating;
- Engaging an independent licensed architect to assist the University in developing a program access plan for the wheelchair seating currently provided in Sections 7, 8, 14, and 15; and
- Revising of the Stadium's seating maps and ticket information, including its 2018-2019 Fall Fan Guide, to provide accurate information about accessible seating for persons with disabilities.

This concludes OCR's investigation of the complaint and should not be interpreted to address the University's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. OCR is closing the investigation of this complaint as of the date of this letter.

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

Please be advised that the University may not harass, coerce, intimidate, retaliate, 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.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Civil Rights Attorney Laura Welp at the San Francisco OCR office at (415) 486-5577, or [laura.welp@ed.gov](mailto:laura.welp@ed.gov).

Sincerely,

/s/

Kana Yang  
Acting Team Leader

Enclosure

cc: Darryl Hamm  
General Counsel  
(By e-mail only)