



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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October 13, 2017

Dr. Marc Johnson
President
University of Nevada, Reno
Office of the President/001
Reno, Nevada 89557-0016

Re: University of Nevada, Reno
OCR Reference No. 10172221

Dear Dr. Johnson:

This is to inform you that the U.S. Department of Education (Department), Office for Civil Rights (OCR) is ending its investigation of the referenced complaint of disability discrimination against the University of Nevada, Reno (University). The complaint alleged that the University discriminated against a former student, who purchased tickets to the University's 2016-2017 football season (hereinafter, referred to as "Participant"), by failing to resolve his October 2016 complaint of disability discrimination in a prompt manner. As explained below, prior to completing OCR's investigation, the University requested to voluntarily resolve the complaint and signed the enclosed Voluntary Resolution Agreement (agreement) to address the complaint allegation.

OCR initiated its investigation of this complaint under the authority of Section 504 of the Rehabilitation Act of 1973 (Section 504), and its implementing regulations at 34 C.F.R. Part 104, which prohibit disability discrimination in programs and activities that receive federal financial assistance from the Department; and Title II of the Americans with Disabilities Act of 1990 (Title II), and its implementing regulations at 28 C.F.R. Part 35, which prohibit disability discrimination in programs and activities of a public entity. The University is a recipient of federal financial assistance from this Department and is a public entity, and is therefore required to comply with Section 504 and Title II.

The Section 504 and Title II regulations prohibit a university, on the basis of disability, from excluding anyone from participation in, denying anyone the benefits of, or subjecting anyone to discrimination under any university program or activity. See 34 C.F.R. § 104.4(a); 28 C.F.R.

§ 35.130(a). In order to meet these requirements, a university must provide a prompt and equitable grievance process for resolving complaints of disability discrimination, including complaints of inaccessible facilities. See 34 C.F.R. § 104.7(b); 28 C.F.R. § 35.107(b).

OCR's review of the information obtained thus far in OCR's investigation showed that the University conducted a multi-million dollar renovation of its football stadium, MacKay Stadium, which debuted in September 2016. The Participant, an individual who uses a wheelchair, stated that he attended the University's first home game of the 2016-2017 football season, which was held on September 17, 2016. The Participant was assigned one of the new wheelchair spaces on the playing field level of the renovated stadium. The Participant told OCR that he was unable to view the playing field during the game because players stood in front of him and blocked his view.

The Participant also told OCR that about a week after the home game, the Participant met with the University staff to share his accessibility concerns about MacKay Stadium, including his concern that he had no lines of sight from his assigned wheelchair space. In response to the Participant's concerns, the University moved the Participant from the wheelchair space on the playing field level to a different wheelchair space, where his line of sight was not blocked by players.

Dissatisfied with the University's response, the Participant filed an internal complaint of disability discrimination with the University on October 14, 2016. In the internal complaint, the Participant asserted that the University's recent renovations to MacKay Stadium added wheelchair spaces on the playing field level which lacked adequate lines of sight and provided an insufficient number of wheelchair spaces.

The information indicates that the University notified the Participant of the outcome of its investigation into his internal complaint by letter dated May 5, 2017, approximately 203 days after the Participant originally filed his complaint. The University found in favor of the Participant. The University's complaint procedures state that University investigations of discrimination complaints, such as complaints of inaccessible facilities, should be completed within 45 calendar days of the receipt of the complaint.

Before OCR completed its investigation, the University expressed an interest in voluntarily resolving this complaint. In accordance with Section 302 of OCR's *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the institution expresses an interest in resolving the complaint, and OCR determines that it is appropriate to resolve the issues under investigation with a voluntary resolution agreement during the course of an investigation. In light of the University's willingness to address the concern identified by OCR without further investigation, OCR determined entering into a voluntary resolution agreement was appropriate.

The actions the University will take under the agreement include:

- conducting a self-evaluation of its grievance process to assess whether the University's response to the Participant's October 2016 complaint under its grievance procedures was prompt and equitable;
- developing and implementing an action plan to address any deficiencies identified by the University's self-evaluation, including revising its procedures, if needed;
- providing notice to the University community, including season ticketholders, of any new or revised procedures;
- giving training to employees regarding the University's procedures; and
- notifying the Participant of the results of its self-evaluation, providing him a copy of new or revised procedures, if any, and designating a contact person for the Participant who will timely address any accessibility questions or concerns about MacKay Stadium.

OCR will monitor the implementation of the agreement, and will close the complaint when OCR determines that the terms of the agreement have been satisfied.

On October 10, 2017, the University informed OCR that, pursuant to the agreement, the University has decided to designate Ms. Cinda Alfred, a Senior Equal Opportunity Specialist with the University's Equal Opportunity and Title IX office, as the employee who will be responsible for timely addressing any questions or concerns from the Participant about the existence and location of accessible services and facilities at MacKay Stadium. OCR recognizes the University for taking this early step towards fulfilling the terms of the agreement.

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. This concludes OCR's investigation of an individual complaint. The complainant may have the right to file a private suit in federal court regardless of OCR's determination.

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 happens, the individual may file a 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, 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 the cooperation that you and your staff, particularly Bryan Wright, assistant general counsel, extended to OCR staff in resolving this complaint. If you have any questions about this letter, you may contact Jennifer Kuenzli, Equal Opportunity Specialist, by telephone at (206) 607-1675 or by e-mail at jennifer.kuenzli@ed.gov; or you may contact Amy Kim, Attorney, by telephone at (206) 607-1621 or by e-mail at amy.kim@ed.gov.

Sincerely,

Monique M. Malson
Program Manager

Enclosure: Voluntary Resolution Agreement

cc: Assistant General Counsel