



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

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September 1, 2022

Via email only to: president@uw.edu

Dr. Ana Mari Cauce
President
University of Washington
301 Gerberding Hall, Box 351230
Seattle, Washington 98195

Re: University of Washington, Seattle
OCR Reference No. 10222022

Dear Dr. Cauce:

The U.S. Department of Education, Office for Civil Rights (OCR) has resolved the referenced complaint against the University of Washington, Seattle (UW). The Complainant alleged that the UW discriminates against him and other football fans with disabilities who ride paratransit vans after football games at Husky Stadium based on disability by preventing them from connecting with their paratransit vans.

OCR investigated this complaint under the authority of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulations, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability under any program or activity receiving federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. The UW receives federal financial assistance from this Department and is a public entity. Therefore, it is required to comply with these laws.

Prior to OCR completing its investigation and making a compliance determination, the UW expressed an interest in voluntarily resolving the complaint and signed the enclosed Voluntary Resolution Agreement (Agreement) to address the complaint allegation.

Legal Standards

The Section 504 and Title II regulations prohibit a covered entity based on disability:

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

- From excluding an individual from participation in, denying him/her the benefits of, or otherwise subjecting him/her to discrimination under any of its services, programs, or activities. 34 C.F.R. § 104.4(a) and 28 C.F.R. § 35.130(a).
- From providing different benefits or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide them with benefits or services that are as effective as those provided to others. 34 C.F.R. § 104.4(b)(1)(iv) and 28 C.F.R. § 35.130(b)(1)(iv).
- From otherwise limiting a qualified individual with a disability in the enjoyment of any right or opportunity enjoyed by others receiving the benefits or services. 34 C.F.R. § 104.4(b)(1)(vii) and 28 C.F.R. § 35.130(b)(1)(vii).
- Directly or through contractual or other arrangements from utilizing criteria or methods of administration (i) that have the effect of subjecting qualified individuals with disabilities to disability discrimination; (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the covered entity's program with respect to individuals with disabilities; or (iii) that perpetuate discrimination of another covered entity if both covered entities are subject to common administrative control or are agencies of the same State. 34 C.F.R. § 104.4(b)(4) and 28 C.F.R. § 35.130(b)(3).
- From subjecting a qualified individual with a disability to discrimination because its facilities are inaccessible to or unusable by individuals with disabilities. 34 C.F.R. § 104.21 and 28 C.F.R. § 35.149.

The Section 504 regulations also require a recipient to operate its postsecondary program or activity in the most integrated setting appropriate. 34 C.F.R. § 104.43(d). Additionally, the Title II regulations require a public entity to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. § 35.130(b)(7).

Summary of Facts Gathered to Date

The Complainant states that he is qualified and approved for paratransit services, which are provided by the King County Metro Access Transportation's ADA Paratransit program (Paratransit). Paratransit provides demand-responsive, origin-to-destination paratransit service in King County for people who cannot get to or cannot ride the regular King County Metro bus or Sound Transit light rail some or all of the time due to a disability.

The Complainant states that he has been a Husky football season ticket holder for several years, including the 2021 season. The Complainant uses the Paratransit van to get to and leave from UW football games held at Husky Stadium. The Complainant states that he

would like the Paratransit van to pick him up after home games at the designated paratransit stop located at Husky Stadium. The Complainant states, however, that the Paratransit vans are not allowed to pick up passengers at the paratransit stop until after the fans have departed on their buses first, and that he must wait up to 75-minutes outside of the Stadium before the Paratransit van is allowed to pick him up.

The UW's home football games are held at Husky Stadium, which is located on the UW's Seattle campus in King County, Washington. The Husky Stadium site is bounded by Montlake Blvd NE on the west and Union Bay on the east, and by the Montlake Bridge and the Montlake Cut on the south.* Football fans who take automobiles, bus transit, or paratransit vans must use either Montlake Blvd NE, NE Pacific St, or the Montlake Bridge to travel to/from Husky Stadium.

The UW Husky Stadium light rail station, which is operated by Sound Transit, is also located by Husky Stadium. The light rail station is situated on the Husky Stadium site, just southwest of the west entrance of Husky Stadium. The light rail station is served by a sub-parking lot of the UW's E-12 parking lot. This E-12 sub-parking lot is located east of the light rail station. At the curb of the driveway serving the E-12 sub-parking lot, there is a designated paratransit stop. The UW owns the property where the Husky Stadium paratransit stop is located, and the UW is responsible for the parking lots around the light rail station, including the E-12 sub-parking lot.

UW Athletics has adopted a variety of football game-day measures related to traffic control and transit improvement at Husky Stadium. These measures include but are not limited to: the UW providing supplemental transit services to football fans, such as contracted and non-contracted buses; closing a section of Montlake Blvd NE between NE Pacific St and NE Pacific Pl, directly in front of Husky Stadium, so that UW Athletics can stage its buses next to the Stadium's west entrance for fans to board immediately after games end; and closing the Husky Stadium driveway next to the Stadium's west entrance to allow football fans to enter and exit the Stadium.

UW Athletics and its game-day partners stage a mix of contracted and non-contracted buses in four lanes facing southbound in the closed section of Montlake Blvd NE. No vehicles, other than buses, are allowed through that section of Montlake Blvd NE after games. These staged buses, once boarded, are required to travel south bound, where they must cross the Montlake Bridge. Buses are also lined up on NE Pacific St, NE Pacific Pl, and Montlake Blvd NE north of NE Pacific Pl. Information from game-day partners indicates that generally buses are lined up in a single lane on each side of the street with a through lane in each direction.

According to the UW's game-day partners, the post-game traffic modifications begin during the third quarter of football games and remain in effect until the buses have

* Please see the satellite image at the end of this letter for a small map of Husky Stadium.

cleared and the vehicles in the parking lots have left, which takes about 60 minutes after games end. Paratransit vans are not part of the post-game bus staging at Husky Stadium.

Analysis and Resolution

Based on the information that OCR has obtained to date, OCR has a concern that the UW may have adopted traffic control and transit improvement measures that have the effect of prioritizing the egress of attendees who ride regular transit over attendees who can only ride Paratransit. OCR also has a concern that the UW may be subjecting football fans with disabilities who ride Paratransit to disability discrimination by preventing them from using the Husky Stadium paratransit stop after football games.

In accordance with § 302 of the *Case Processing Manual*, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint allegation and OCR determines that it is appropriate to resolve the issue under investigation with an agreement during the course of an investigation. In this case, the UW requested to resolve the complaint prior to the conclusion of OCR's investigation. In light of the UW's willingness to address the concerns identified by OCR comprehensively without further investigation, OCR has determined that entering into a voluntary resolution agreement is appropriate. Subsequent discussions with the UW resulted in the UW signing the enclosed 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 the complaint. OCR's determination in this matter should not be interpreted to address the UW'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 OCR's determination.

Please be advised that the UW 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.

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. The next monitoring report under the Agreement is due by September 30, 2022.

Thank you for the cooperation that you and your staff extended to OCR in resolving this complaint. If you have any questions about this letter, you may contact Amy Kim, attorney, by telephone at (206) 607-1621 or by email at amy.kim@ed.gov.

Sincerely,

David Kauffman
Supervisory Attorney

Enclosure: Voluntary Resolution Agreement

cc: XXXXXX, UW Investigation and Resolution Specialist
XXXXXX, ADA/Section 504 Coordinator
XXXXXX, Investigation and Resolution Specialist, Interim Manager

Satellite Image of Husky Stadium

