



**UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION IV**

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**REGION IV**  
ALABAMA  
FLORIDA  
GEORGIA  
TENNESSEE

July 14, 2016

**Via U.S. & Electronic Mail**

XXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXX

Tuskegee University  
1200 W. Montgomery Rd  
Tuskegee, AL 36088

Re: OCR Complaint # 04-16-2082

Dear XXXXXXXXXXXX:

On January 12, 2016, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received the above-referenced complaint filed against Tuskegee University (University), alleging discrimination on the basis of disability. Specifically, the Complainant alleged that the University does not have enough accessible parking spaces throughout its campus, and the University does not restrict individuals without disabilities from parking in the accessible parking spaces that do exist. Further, for some buildings, the accessible parking spaces are on the opposite side of the accessible entrance to the building.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance. As a recipient of Federal financial assistance from the Department, the University is subject to Section 504. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

OCR initiated an investigation of the of the issue of whether the University failed to provide adequate accessible parking spaces on its campus and enforce the use of these spaces, in noncompliance with the Section 504 implementing regulation at 34 C.F.R. §§104.21-104.23.

Prior to OCR's completion of its investigation of this complaint, the University offered to voluntarily resolve the allegations of this complaint. Set forth below is a summary of the evidence obtained thus far that supports resolution of this complaint through the proposed resolution agreement.

**Legal Standards**

The Section 504 implementing regulation states that no qualified person with a disability shall, because a recipient's facilities are inaccessible to or unusable by persons with disabilities, be

denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504 applies. 34 C.F.R. § 104.21. The Section 504 regulations contain standards for determining whether a University's programs, activities, and services are accessible to individuals with disabilities, depending upon whether the facilities are determined to be existing, new construction or alterations. The applicable standard depends upon the date of construction or alteration of the facility.

For existing facilities, the regulations require an educational institution to operate each service, program, or activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. This standard does not necessarily require that the institution make each of its existing facilities or every part of a facility accessible if alternative methods are effective in providing overall access to the service, program, or activity. 34 C.F.R. §104.22(a). Under the Section 504 regulation, existing facilities are those for which construction began before June 3, 1977. In choosing among available methods for meeting the program access requirement for existing facilities, the institution is required to give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate. 34 C.F.R. § 104.22(b). The Section 504 regulation also requires a recipient to adopt and implement procedures to ensure that interested persons can obtain information as to the existence and location of services, activities, and facilities in existing construction that are accessible to and usable by persons with disabilities. 34 C.F.R. § 104.22(f).

For new construction, the facility (or newly constructed part of the facility) must itself be readily accessible to and usable by persons with disabilities. 34 C.F.R. §104.23(a); 28 C.F.R. §35.151(a). With regard to alterations, each facility or part of a facility that is altered by, on behalf of, or for the use of an institution after the effective dates of the Section 504 and/or Title II regulation in a manner that affects or could affect the usability of the facility or part of the facility must, 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. 34 C.F.R. §104.23(b); 28 C.F.R. §35.151(b).

For an entity covered by Section 504, new construction and alterations after June 3, 1977, but prior to January 18, 1991, must conform to the American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped (ANSI). New construction and alterations between January 18, 1991, and January 26, 1992, must conform to the Uniform Federal Accessibility Standards (UFAS). New construction and alterations after January 26, 1992, must conform to UFAS or the Americans with Disabilities Act Accessibility Guidelines (1991 ADAAG or 1991 ADA Standards) or equivalent standards. New construction and alterations after March 15, 2012, must conform to the 2010 ADA Standards for Accessible Design (2010 ADA Standards). Public entities have a choice of which standard to follow. However, once an entity selects a standard for a facility, the same standard must be used for the entire facility. In reviewing program access for an existing facility, the ADA Standards or UFAS may also be used as a guide to understanding whether individuals with disabilities can participate in the program, activity, or service.

The University's data response dated May 20, 2016, stated that the University uses the "ADAAG guidelines" and has retained the services of an outside vendor to complete an "ADA compliance audit" of the University's facilities. OCR, therefore, applied the ADAAG standard in analyzing the information obtained to date and to ensure compliance in design and construction of the University's parking facilities.

### **ADAAG Standards**

**Minimum Number of Accessible Parking Spaces.** According to ADAAG 4.1.2(5)(a), if parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces complying with 4.6 shall be provided in each such parking area in conformance with the table below.

<b>Total Parking in Lot</b>	<b>Required Minimum Number of Accessible Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

ADAAG 4.1.2(5)(b), requires that one in every eight (8) accessible spaces, but not less than one (1), shall be designated "van accessible" as required by 4.6.4.

**Minimum Size of Accessible Parking Spaces.**<sup>1</sup> ADAAG 4.6.3 provides that accessible parking spaces shall be at least 96 inches wide. Parking access aisles shall be part of an accessible route to the building or facility entrance and shall comply with 4.3 (accessible route). Two accessible parking spaces may share a common access. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions. The van accessible space must be 96 inches wide with an aisle that is also 96 inches wide.

2010 ADA Standards 502.2 provide that car parking spaces shall be 96 inches wide minimum and van parking spaces shall be 132 wide; further, they shall have an adjacent access aisle complying with 502.3. However, 2010 ADA Standard 502.2 provides the following exception: van parking spaces shall be permitted to be 96 inches wide minimum where the access aisle is 96 inches wide minimum.

<sup>1</sup> Builders may, however, opt to use the exception described in ADAAG Appendix A4.6.3 by installing parking spaces in conformance with the "Universal Parking Design." Under this design, *all* accessible spaces are 132 inches wide with a 60 inch access aisle. Use of the Universal Parking Design eliminates the need to include additional signage designating spaces as "van accessible."

Access Aisles. According to ADAAG 4.1.2(5)(a), except as provided in ADAAG 4.1.2(5)(b), access aisles adjacent to accessible spaces shall be 60 inches wide. Pursuant to ADAAG 4.1.2(5)(b), one in every eight (8) accessible spaces, but not less than one (1), shall be served by an access aisle 96 inches wide minimum and shall be designated “van accessible” as required by 4.6.4.

Location. Pursuant to ADAAG 4.6.2 accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances.

Accessible Routes. To ensure compliance with ADAAG 4.3.2: (1) At least one accessible route within the boundary of the site shall be provided from public transportation stops, accessible parking, and accessible passenger loading zones, and public streets or sidewalks to the accessible building entrance they serve. The accessible route shall, to the maximum extent feasible, coincide with the route for the general public; and (2) At least one accessible route shall connect accessible buildings, facilities, elements, and spaces that are on the same site. The minimum clear width of an accessible route shall be 36 inches, except at doors (see 4.13.5 and 4.13.6). Any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and shall with 4.8.

Accessible Entrances. Pursuant to ADAAG 4.14.1, entrances required to be accessible by 4.1 shall be part of an accessible route complying with 4.3. Such entrances shall be connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, and to public streets or sidewalks, if available. They shall also be connected by an accessible route to all accessible spaces or elements within the building or facility. Pursuant to ADAAG 4.1.2(7)(c), accessible entrances, when not all are accessible, shall be identified by the International Symbol of Accessibility; inaccessible entrances shall have directional signage to indicate the route to the nearest accessible entrance.

Curb Ramps. Pursuant to ADAAG 4.7.1 and 4.7.7, curb ramps shall be provided wherever an accessible route crosses a curb. Curb ramps shall have a detectable warning complying with 4.29.2. The detectable warning shall extend the full width and depth of the curb ramp.

Slopes. ADAAG 4.7.3 requires that the minimum width of a curb ramp shall be 36 inches, exclusive of the flared sides. ADAAG 4.7.2 requires that the slope of a curb ramp shall comply with 4.8.2 in that the maximum slope of a ramp in new construction shall be 1:12 and the maximum rise for any run shall be 30. For existing buildings where space limitations prohibit the use of 1:12 or less, ADAAG 4.1.6(3)(a) allows a slope between 1:10 and 1:12 with a rise of 6 inches maximum or a slope between 1:9 and 1:10 with a maximum rise of 3 inches. A slope steeper than 1:8 is not allowed.

Signage. Pursuant to ADAAG 4.6.4, each accessible space shall be designated reserved by a sign showing the symbol of accessibility. Spaces designed as van accessible should have an additional “van accessible” sign mounted below the symbol of accessibility. Such signs shall be located so they cannot be obstructed by a vehicle parked in the space. 2010 ADA Standards 502.6 further provides that signs shall be 60 inches minimum above the finish floor or ground surface measured to the bottom of the sign.

Vertical Clearance. Pursuant to ADAAG 4.6.5, accessible passenger loading zones must allow for minimum vertical clearance of 114 inches and the same minimum clearance must be allowed along at least one vehicle access route to such areas from site entrance(s) and exit(s). At parking spaces complying with 4.1.2(5)(b) (van accessible), a minimum vertical clearance of 98 inches must be allowed at the parking space and along at least one vehicle access route to such spaces from site entrance(s) and exit(s).

Ground & Floor Surfaces. Pursuant to ADAAG 4.5.1, ground and floor surfaces along accessible routes and in accessible rooms and spaces including floors, walks, ramps, stairs, and curb ramps, shall be stable, firm, and slip-resistant.

### **Summary of Investigation**

The University’s campus is comprised of over 200 buildings on 5,000 acres. OCR conducted an onsite visit and inspected all of the accessible parking spaces located throughout the University campus, including the football stadium. OCR staff measured the widths of the parking spaces (including access aisles), ramps, curb ramps, and crosswalks along accessible routes. OCR staff also measured the rise and runs of the ramp slopes, including curb ramps, and the height of handrails, where required. OCR staff attempted to ascertain the accessible route for each accessible space by walking from each accessible parking space along what appeared to be the accessible route. OCR staff measured the entrances, thresholds and push-pull tension for each doorway along the accessible route to a building. OCR staff counted all accessible parking spaces, but did not count the total number of all available parking spaces due to the number of parking spaces.

OCR onsite investigation revealed the following:

1. OCR staff could not determine whether the University had a sufficient number of accessible parking spaces because the University did not provide an accurate count of the number of parking spaces per parking facility or a grand total of parking spaces on campus.
2. Accessible parking spaces and access aisles were found not to be correct width.
3. There were not enough van accessible parking spaces.
4. Several vehicles without a decal or placard designated for persons with disabilities were parked in accessible spots.
5. Vehicles were parked in the access aisles next to the accessible parking spaces.
6. There were no signs discouraging individuals from parking in access aisles.
7. There is no accessible entrance, route or usable accessible parking at the main dining facility.

8. There is no accessible entrance or route to some buildings.
9. There is a lack of accessible routes leading from accessible parking spaces at some parking facilities.
10. There is a lack of a detectable warning at most curb ramps.
11. There is a lack of curb cuts or ramps at some parking facilities.
12. There is a lack of signage indicating the accessible route.
13. Some ramps along accessible routes were too steep.
14. Some accessible parking spaces were not clearly marked due to faded paint.
15. Some accessible parking was not located on the shortest possible accessible route.
16. Accessible routes consisting of abrupt level changes and steeply sloped sidewalks.
17. Accessible routes consisting of large cracks and broken or uneven concrete.
18. Signage for accessible parking spaces not at the proper height.

At the time of the onsite visit, the University had completed its own ADA compliance audit. However, the University did not provide OCR with a copy of this audit or inform OCR what the audit revealed in regards to its accessible parking. University representatives stated that the University had not completed its review of the audit.

Pursuant to Section 302 of OCR's Case Processing Manual, a complaint may be resolved at any time when, before the conclusion of an OCR investigation, the recipient expresses an interest in resolving the complaint and OCR determines that it is appropriate to resolve with a signed Resolution Agreement that addresses the complaint allegations. In such circumstances, the provisions of the Resolution Agreement will be aligned with the complaint allegations or the information obtained during the investigation and will be consistent with applicable regulations.

OCR's onsite investigation measured a percentage of the accessible parking spaces on the University's campus. Accordingly, OCR accepted the University's request to resolve this complaint. The enclosed signed Resolution Agreement (Agreement) which, when fully implemented, will resolve the complaint. OCR will monitor the implementation of this Agreement to ensure that it is fully implemented. If the University fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504.

### **Resolution Agreement**

The University signed the attached Resolution Agreement (Agreement), which once implemented, will fully address the complaint allegation in accordance with the requirements of Section 504. The Agreement requires the University to immediately provide OCR with an accurate count of the total number of parking spaces per parking facility and the total number of accessible parking spaces designated at each parking facility. The University will also provide OCR with the total overall count of parking spaces on the campus. The University will immediately have an ADA Consultant, who has received adequate and proper training on the ADA regulations and standards, to review all of the accessible parking spaces on campus to determine if the parking spaces and access aisles are compliant regarding number, size, appropriate access routes, and signage. The University will provide OCR with a copy of the ADA Consultant's recommendations for OCR's review and approval. Upon OCR's approval,

the University shall begin the process of implementing the recommendations in the report of the ADA Consultant.

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. The Complainant may file a private suit in federal court whether or not OCR finds a violation.

OCR will monitor the University's implementation of the attached Agreement to ensure that it is fully implemented and that the University is in compliance with the statutes and regulations at issue in this complaint.

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 duly authorized OCR officials and made available to the public.

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.

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 Complainant may file another complaint alleging such treatment.

OCR is committed to a high quality resolution of every case. If you have any questions regarding this matter, please contact Valerie L. Acoff, Esq., at (404) 974-9489.

Sincerely,

Virgil Hollis  
Compliance Team Leader

Enclosure

cc: Lisa Atkins, Esq.