



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

September 18, 2019

**Sent via email**

Marc Tessier-Lavigne, Ph.D.  
President  
Stanford University  
Lasuen Mall, Building 10  
Stanford, California 94305  
[president@stanford.edu](mailto:president@stanford.edu)

(In reply, please refer to OCR case number 09-19-2317.)

Dear Dr. Tessier-Lavigne:

This letter is to inform you that the U.S. Department of Education (the Department), Office for Civil Rights (OCR), has resolved its investigation of the above-referenced complaint against Stanford University (University). OCR received a complaint on June 5, 2019 alleging that the University discriminated on the basis of disability by failing to provide sufficient accessible parking at a May 2019 on-campus event.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulations, 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. As a recipient of federal financial assistance, the District is subject to Section 504 and its implementing regulations.

OCR investigated this complaint by requesting and reviewing information and documents from the University and interviewing the Complainant. Prior to OCR reaching a final determination in this matter, the University expressed an interest in voluntarily resolving the allegations. OCR determined it was appropriate to resolve the allegations and the compliance issues it identified without further investigation pursuant to Section 302 of OCR's Case Processing Manual (CPM).<sup>1</sup> On September 17, 2019, the University agreed to implement the enclosed resolution agreement to resolve the allegations and OCR's concerns. This letter summarizes the legal standards, applicable facts, and the basis for the resolution agreement.

**Legal Standards**

The regulations implementing Section 504 provides that no qualified person with a disability shall, because a recipient's facilities are inaccessible to or unusable by disabled persons, 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.

The regulations contain two standards for determining whether a recipient's programs, activities, and services are accessible to individuals with disabilities. One standard applies to "existing facilities" while the other applies

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<sup>1</sup> The CPM is available at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

to “new construction” and “alterations.” The applicable standard of compliance depends upon the date of construction and/or the date of any alterations to the facility.

### *Existing Facilities*

The Section 504 regulations, at 34 C.F.R. § 104.22, apply to “existing facilities,” and define them as any facility or part of a facility where construction was commenced prior to June 3, 1977. 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.

It may be necessary to remove an architectural barrier to create program access. For example, a program offered exclusively in a particular building on a campus may not be accessible absent a ramp or accessible washroom to the particular building. Under such circumstances, in evaluating existing facilities, facility accessibility standards (described below) 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.

### *New Construction/Alterations*

The Section 504 regulations, at 34 C.F.R. § 104.23, also apply to “new construction or alterations,” defined as any facility or part of a facility where construction was commenced after June 3, 1977. The regulations provide that each facility or part of a facility constructed by, on behalf of, or for the use of the recipient 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 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 regulations specify the standard to be used in determining the accessibility of new construction and alterations. The Section 504 regulations, at 34 C.F.R. § 104.23(c), delineate 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 17, 1991. For facilities constructed or altered on or after January 18, 1991 and January 25, 1992, the Uniform Federal Accessibility Standards (UFAS) (Appendix (Appendix A to 41 C.F.R. subpart 101-19.6) applies. New construction and alterations which commenced between January 26, 1992 to September 14, 2010 may comply with 34 C.F.R. § 104.23(c) by applying UFAS or the ADA Standards for Accessible Design (1991 Standards) (Appendix D to 28 C.F.R. part 36) without the elevator exemption. (see Notice of Interpretation, Discrimination on the Basis of Disability in Federally Assisted Programs and Activities,

77 FR 14972 (March 14, 2012)) New construction and alterations which commenced between September 15, 2010 and March 14, 2012 may comply with 34 C.F.R. § 104.23(c) by applying UFAS, the 1991 Standards (Appendix D to 28 C.F.R. part 36) without the elevator exemption, or the 2010 ADA Standards for Accessible Design at 36 C.F.R. § 1191.1 (2010 Standards) (except that exception 1 to Section 206.2.3 does not apply).

The Section 504 regulations provide that recipients may depart from the particular technical and scoping requirements of these architectural standards, if substantially equivalent or greater access and usability of the facility is provided. 34 C.F.R. § 104.23(c).

### Findings of fact

The Stanford Powwow (Powwow) is an annual event organized by university entities including the Stanford American Indian Organization and the Native American Cultural Center (NACC). The event is held in an outdoor natural space on the University's campus. Powwow and NACC staff work with the Department of Public Safety, the Office of Diversity & Access, and other University partners to plan the event.

The 2019 Powwow was held on May 10<sup>th</sup> to 12<sup>th</sup>. The Complainant is a campus visitor who uses a wheelchair. When arriving by motor vehicle to attend the Powwow, she was directed to an unfinished dirt parking area which was not accessible to her, and therefore parked on the street instead. The Complainant attended the event after locating parking which she could access. The Complainant told OCR that after she attended the Powwow, she spoke with the Associate Director for the Office of Diversity & Access, who told the Complainant that she was not aware of the parking conditions in the dirt and that she would address it.

The University provided information to OCR regarding the parking areas available to Powwow attendees. The University described five different areas which were close to the Powwow location and utilized by attendees:

1. **Street parking on Lasuen Street:** Lasuen Street is the closet parking location to the Powwow, and for the event, both sides were designated as parking for people with disabilities. On the street south of Campus Drive, Lasuen has a total parking capacity of 153 designated spaces including 8 designated accessible parking spaces. On the street north of Campus Drive, there are a total of 6 spaces (4 reserved tour bus spaces and 2 reserved tour van spaces) as well as unmarked parallel parking spaces with a large capacity. The University reported to OCR that the signage for the Powwow directed individuals with disabled parking placards to park along Lasuen Street, and event staff were instructed to direct individuals with disabled placards to park on Lasuen Street. Lasuen Street Parking was completed in its current form in approximately August 2015.
2. **Galvez Lot:** The Galvez Lot is the next closest parking to the Powwow and there is a paved path leading to the location of the event. It is a permanent paved parking lot with a total parking capacity of 423 spaces, including 9 designated as accessible. It was designated on the website for the Powwow as the main parking for the event, and, according to the University, individuals who pre-paid for parking and general visitors were directed to the Galvez Lot. The Galvez Lot was completed in its current form in October 2012.
3. **Track House Lot:** The Track House Lot is a paved lot with a total of 306 parking spaces, 8 of which are designated as accessible. The University did not provide information on when the Track House Lot was built and/or altered.

4. **Varsity Lots:** The Varsity Lots include a total of 378 parking spaces, 25 of which are designated as accessible. The varsity lots are paved. The University did not provide information on when the Varsity Lots were built and/or altered.
5. **Lausen Grove:** Lausen Grove is an outdoor, unpaved area for overflow parking close to the Powwow location.

The University asserts that the parking provided at the 2019 Powwow for attendees was sufficient in number and accessible to people with disabilities, and that individuals assisting with parking at the event directed attendees to the appropriate parking areas. The University also asserts that the 2019 Powwow complied with Section 504 and its implementing regulations and the University remains in compliance.

### **Analysis and conclusion**

The Complainant's allegation demonstrated that she was unclear on where to park for the Powwow as a person who needed accessible parking. She further alleged that she was directed by staff at the event to a dirt parking lot which was not accessible.

The University provided information describing that the Galvez Lot, Lasuen Street parking, Track House Lot, and the Varsity Lots each provide the minimum required number of designated accessible parking spaces. In order to complete its investigation, OCR would need to verify that the designated accessible parking spaces complied with the applicable physical accessibility standards with respect to the required dimensions, ground surfaces, signs, and location on an accessible route. In addition, OCR would need to gather additional information about how designated accessible parking was indicated to attendees during the Powwow.

Prior to OCR reaching a final determination on the allegation, the University expressed an interest in voluntarily resolving the allegations. OCR determined it was appropriate to resolve the allegations and the concerns it identified without further investigation<sup>2</sup> pursuant to Section 302 of the CPM. As such, on September 17, 2019, the University agreed to implement the enclosed Resolution Agreement (Agreement) to resolve the allegations and OCR's concerns.

### **Conclusion**

Based on the commitments made in the enclosed resolution agreement, OCR is closing the investigation of this complaint as of the date of this letter, and notifying the complainant concurrently. When fully implemented, the resolution agreement is intended to address the complaint allegations. OCR will monitor the implementation of the resolution agreement until the University is in compliance with the terms of the resolution agreement. Upon completion of the obligations under the resolution agreement, OCR will close the case.

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. This letter sets forth OCR's determination in an individual OCR case. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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<sup>2</sup> See Section 302 of OCR's Case Processing Manual (CPM), available at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrspm.pdf>.

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, 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-XXXX, or [laura.welp@ed.gov](mailto:laura.welp@ed.gov).

Sincerely,

/s/

Naghmeh Ordikhani  
Team Leader

Cc: Erin Dolly, University counsel  
(by email only)