



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

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**REGION V**  
ILLINOIS  
INDIANA  
IOWA  
MINNESOTA  
NORTH DAKOTA  
WISCONSIN

November 19, 2013

Mr. Geoff Deigan  
Executive Director  
Prairie Crossing Charter School  
1531 Jones Point Road  
Grayslake, Illinois 60030

Re: OCR Docket #05-13-1276

Dear Mr. Deigan:

This is to advise you of the disposition of the above-referenced complaint filed with the U.S. Department of Education, Office for Civil Rights (OCR) on May 7, 2013, against the Prairie Crossing Charter School (School) alleging discrimination on the basis of disability. Specifically, the Complainant alleged that due to the presence of stairs, the slope and/or length of the route, or surface composition, there is no accessible path of travel:

1. Between the beginning of the path from the west parking lot to the common area known as "Market Square" and the Kennicott building;
2. Between Market Square and the Colby Barn and Wright School House;
3. Between the Colby Barn and the gymnasium;
4. Between the beginning of the path from the east parking lot to the playground;
5. In the pathways in and around the garden plots; and
6. Between the Comstock building and the playground and garden plots.

The Complainant also alleged that:

7. The Comstock washroom used by students in the primary grades lacks an accessible entrance, toilet, sink, and handrails;
8. The entrances to each building on campus are inaccessible; and
9. The playground is inaccessible in its entirety.

OCR established jurisdiction under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504), and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132 (Title II), and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities and in educational programs or activities that receive Federal financial assistance. As a recipient of Federal financial assistance and a public entity, the District is subject to Section 504 and Title II.

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

### **Applicable Legal Standards**

The regulation implementing Section 504 at 34 C.F.R. § 104.4(a) provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a recipient of Federal financial assistance, or be subjected to discrimination by a recipient. The Title II implementing regulation at 28 C.F.R. § 35.130(a), provides that no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

#### *General Accessibility*

The Section 504 regulation at 34 C.F.R. § 104.21 states that no qualified person with a disability shall, because a recipient's facilities are inaccessible to or unusable by persons with a disability, be denied the benefits of, excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which the regulation applies. The Title II regulation at 28 C.F.R. § 35.149 states that no qualified person with a disability shall, because a recipient's facilities are inaccessible to or unusable by persons with a disability, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity.

#### *Accessibility -- New construction*

The Section 504 regulation at 34 C.F.R. § 104.23 applies to any facility or part of a facility where construction was commenced on or after June 3, 1977. The regulation implementing Title II at 28 C.F.R. § 35.151 applies to any facility or part of a facility where construction was commenced after January 26, 1992. These facilities are termed "new construction" and the altered portions of existing facilities are termed "alterations." The regulations require that each such facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such a manner that the facility or part of the facility is readily accessible to and usable by persons with disabilities.

The Section 504 and Title II implementing regulations, respectively at 34 C.F.R. § 104.23(b) and 28 C.F.R. § 35.151(b), provide that when an existing facility or part thereof is altered in a manner that affects or could affect the usability of the facility or part of the facility, it 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 regulation at 34 C.F.R. § 104.23(c), designates the American National Standards Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped [ANSI 117.1-1961 (1971)(ANSI)] as a minimum standard for

determining accessibility for facilities constructed or altered on or after June 3, 1977, and before January 18, 1991, and the Uniform Federal Accessibility Standards (UFAS) for facilities constructed or altered on or after January 18, 1991. The Title II regulation at 28 C.F.R. §35.151(c), designates UFAS or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) as a minimum standard for determining accessibility for facilities constructed, or altered on or after January 26, 1992.

The regulations implementing Title II and the ADAAG standards were amended in September 2010. Title II adopted new accessibility guidelines, 2010 ADA Standards for Accessible Design (ADA Standards), which became effective March 15, 2011. 28 C.F.R. § 35.151(c)(3) now provides, “If physical construction or alterations commence on or after March 15, 2012, then new construction and alterations subject to this section shall comply with the 2010 Standards.” OCR Notice of Interpretation, Federal Register, Vol. 77, No. 50, pages 14972-14976 (March 14, 2012) allows use of the ADA Standards under Section 504.

For new construction facilities, OCR determines if the facility meets the specific accessibility standard for the facility based on the date of construction of the facility.

### **Background Information**

The School is located in Grayslake, Illinois. According to the School’s mission statement, “Prairie Crossing Charter School is a public school that transforms our children through academic discovery and interaction with our unique natural, ecological, and community resources.” The School opened in 1999.

All buildings on the School’s campus were constructed or renovated from 1996 to 2006 and are considered new construction facilities. The School has selected compliance with ADAAG. Since the playground underwent significant renovation in the summer of 2012, OCR applied the ADA Standards. The route to each building on the School’s campus was built on or after 1996. As such, the buildings and routes are new construction facilities, subject to the ADAAG standard. Except where noted below, the paths at issue in this complaint are all concrete, and at their narrowest, measure 37 inches wide. For the most part, however, the campus sidewalks and paths are at least five feet wide. The School does not lease or rent space in any of the buildings to which these complaint allegations pertain.

### **Wright Schoolhouse**

Wright is an early 1900’s one room school house that was originally located in Libertyville, Illinois. Wright was moved to the School grounds in 1996 and the interior was significantly renovated. The lower level abuts a common, outdoor space called Market Square. The lower level is used to host Individualized Education Program (IEP) meetings and other miscellaneous functions; the space is not used for instruction and students do not access the upper level of the building from the lower level. The upper level of the building is accessed by the main entrance. The upper level houses a computer lab and the School’s library.

### Kennicott Building

Kennicott is a 6,292 square foot, two-level building that houses the School's administrative, special education and business offices, as well several classrooms. Upon the School's inception, in approximately 1996, the interior was significantly renovated. The building has an elevator.

### Colby Barn

Colby Barn was built in 1885 and underwent significant interior renovation in 1996. It is used primarily as a space rented out for non-School related events. The School uses the Colby Barn to hold middle school band practice and an event called "Farm-to-Table," which is held several times per year.

### Comstock Building

Comstock is a 13,977 square foot, one-level building, which opened in January 2005. This building houses ten classrooms, six restrooms, and a common area that serves as a meeting space.

### Gymnasium

The gym's construction was completed in 2006. It is 9,310 square feet and houses an open-spaced basketball court, a physical therapy room, a stage, and offices.

### Garden Plots

Garden plots are dispersed around the campus. The plots typically measure no more than 100 square feet, and each class is assigned one plot. Weather permitting, individual classes may receive instruction at the class' designated garden plot. The Director of Student Services, Curriculum, and Professional Development advised OCR that classrooms regularly visit their own plot and noted that the garden plots are an integral part of the curriculum.

### Playground

The School's designated playground area is surfaced with 100% "Wood Fiber" wood chips.<sup>1</sup> There are nine distinct play elements, including a beam, a slide, a swing set, and climbing apparatuses dispersed around the playground.

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<sup>1</sup> The School provided OCR with documentation from the manufacturer confirming that the "Wood Fiber" wood chips used on the playground conform to the requirements of ASTM F1951-09b, Standard Specification for Determination of Accessibility of Surface Systems Under and Around Playground Equipment, for playground surface material.

## **Analysis**

### **Allegations #1-6 and 8**

#### ***Accessible paths of travel***

ADAAG, at 4.3, sets forth the requirements for an accessible route. ADAAG, at 4.3.2, requires that at least one accessible route within the boundary of the site shall be provided from the accessible parking to accessible buildings. Additionally, ADAAG Section 4.3.2 (2) requires that “At least one accessible route shall connect accessible buildings, facilities, elements, and spaces that are on the same route.” The accessible route, to the maximum extent feasible, shall coincide with the route for the general public. ADAAG, at 4.3.3, provides, an accessible route must be at least 36 inches wide and ADAAG, at 4.3.6 and 4.5.1, requires the surface be firm, stable, and slip resistant. ADAAG, at 4.3.7, requires the slope along the accessible route must not be steeper than 1:20 (2.86 degrees) unless it is a ramp. ADAAG Section 4.3.8 restricts a “change in level” on a route to no more than ½”.

ADAAG, at 4.8, provides if any portion of the accessible route is steeper than 1:20, then it must be treated as a ramp. ADAAG, at 4.8.3, provides a ramp must be at least 36 inches wide with, at ADAAG 4.8.6, a stable, firm, and slip resistant surface. ADAAG, at 4.8.2, provides the maximum slope must not be greater than 1:12 (4.76 degrees). ADAAG, at 4.8.3, provides the ramp shall be 36 inches wide. ADAAG, at 4.8.4, provides ramps have level landings at the bottom and top and at any change of direction. ADAAG, at 4.8.4 (1) and (2), provides landing shall be as wide as the ramp run and the landing length be 60 inches clear. ADAAG, at 4.8.4 (3), provides, at a change in direction, landings must be at least 60 inches long and 60 inches wide. ADAAG, at 4.8.5, provides, if the ramp has a rise higher than 6 inches, there must be handrails on both sides. ADAAG, at 4.8.5 (5), provides the top of the handrail gripping surface must be no less than 34 inches and no greater than 38 inches above the ramp surface. ADAAG Section 4.26.2 requires that the diameter or width of the gripping surfaces of a hand rail or grab bar shall be 1 ¼” to 1 ½”, or the shape shall provide an equivalent gripping surface.

#### ***Accessible entrances***

ADAAG Section 4.1.2(7)(c) requires that accessible entrances when not all are accessible shall be identified by the International Symbol of Accessibility. ADAAG Section 4.13.5 requires a minimum clear opening of 32 inches for doorways and ADAAG Section 4.13.8 requires that thresholds at doorways shall not exceed ½” in height. Each door measures 33” wide when opened and the threshold measures 1½” in height. ADAAG Section 4.13.9 requires that “Handles, pulls, latches, locks and other operating devices on accessible doors shall have a shape that is easy to grasp with one hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate.” They further require that hardware shall be mounted no higher than 48 inches above the floor. ADAAG Section 4.13.11(b) requires

that the maximum force for pushing or pulling open an interior hinged door shall be 5 pound-force (lbf).

#### West Parking Lot to Market Square

There are two sets of stairs between the beginning of the path from the West parking lot and Market Square. An alternative path of travel (Path A) leads around the gym from West parking lot to Market Square. The route is at least 36 inches wide and the surface is firm, stable, and slip resistant. Path A is approximately seven times longer than the route the general public takes from the West parking lot to Market Square, and is not the route the general public would normally traverse. One section of Path A on the north side of the gym has a slope that is too steep, measuring between six and seven degrees. This section is not a ramp and the slope exceeds the slope allowed for either a ramp or a walkway. At the very end of Path A is a second slope that measures between three and four degrees on the south side of Wright School House, which is also too steep.

OCR determined that the route between the beginning of the path from the west parking lot and the common area known as Market Square is inaccessible to individuals with mobility impairments because of the presence of stairs, the excessive length of the alternative route, and the steepness of the route.

#### West Parking Lot to Kennicott

There is a direct route from the beginning of the path from the West Parking lot to Kennicott that is approximately fifteen yards long. The route is at least 36 inches wide and the surface is firm, stable, and slip resistant.

The main entrance to Kennicott is marked with the International Symbol of Accessibility. The entrance has a double set of unobstructed doors. Each door measures 33” wide when opened and the threshold measures 1½” in height. The handle on the exterior side of the door is a grasping pull handle measuring between 31” and 36” from the ground. The handle on the interior side of the door is a push plate handle measuring 39” from the floor.

The School explained that no visitor or parent is permitted to go to any building without first registering at Kennicott. Regardless of whether the guest has a mobility impairment, he/she is escorted to the destination. However, at Kennicott's main entrance there is no doorbell, intercom, or camera that alerts the front office that someone wants to enter the building. The Kennicott building is staffed from 7:30am until 6:00pm.

OCR determined that the route between the beginning of the path from the west parking lot to Kennicott is inaccessible to individuals with mobility impairments as the threshold height is too high.

#### Market Square to Colby Barn

Students congregate at Market Square prior to the beginning of the school day, and then depart to their assigned classroom to start the academic day. The School explained that students do not leave Market Square to go directly to either to the Colby Barn or Wright School House as no classes are held in either building at the start of the school day. Rather, students access Colby Barn from Comstock, where classes are held. The Colby Barn's main floor can be accessed from Comstock via Path A, which was previously described as too steep. At the main floor level, the Barn is used by the School only for middle school band practice and the School's "Farm-to-Table" event. The entrance door on the main floor level is 35" wide with a threshold that measures 3" high.

Although the Colby Barn building is inaccessible at the Market Square level, it is undisputed that the Colby Barn is not used by the School at that level. Instead, it is a fitness center used exclusively by members of the local homeowners' association.

OCR determined that the route leading to and into Colby Barn is inaccessible to individuals with mobility impairments because of the previously noted problems with Path A (specifically, the slope of Path A), and the entrance door threshold height.

#### Market Square to Wright School House

As noted above, the School confirmed that no students, including students with mobility impairments, access the upper level of Wright School House directly from Market Square. Rather, students access the upper level of the Wright School House from Comstock, where classes are held. The Wright School House's main floor can be accessed from Comstock via Path A, which was previously described as too steep.

A set of stairs exists adjacent to an exterior ramp at the main entrance to the Wright School House upper level. No elevator exists between levels. The ramp is 27' long and has a slope between five and six degrees. The wooden rail measures 42" above the ramp surface and the top is 4" wide. Wright's entrance door is 35" wide. The entrance lip has a flat surface with no change in height.

The lower level of the Wright School House has three exterior doors that serve as entry points to the Wright School House at that level. Each door measures 35" wide, had a lever instead of a door knob, and each lever was positioned approximately 40" high.

None of the Wright School House's exterior doors are marked to designate them as the accessible entrance for the upper level of the building, and none are currently accessible as a path of travel to that floor.

OCR determined that the route leading to and into the upper level of the Wright School House is inaccessible to individuals with mobility impairments because of the previously noted problems with Path A (specifically, the slope of Path A), the excessively steep slope of

the exterior ramp, wooden handrails on the ramp that are too high and too wide, and the lack of symbol designating the upper level door as the accessible entrance.

#### Colby Barn to Gym

The gym is accessed from the Colby Barn via Path A, which is described above.

None of the Gym's exterior doors is marked to designate it as the accessible entrance. One of the two exterior doors is not accessible to persons with mobility impairments.

The Gym's main entrance has two sets of doors. The exterior and interior doors are each 35" wide. The interior doors have a pulling tension of 18 lbf.

OCR determined that the route from Colby Barn to and into the Gym is inaccessible to individuals with mobility impairments because of the excessively steep slope on a portion of Path A, the lack of symbol designating the accessible front door as the accessible entrance, and the excessive interior door weight.

#### East Parking Lot to Playground

A path, Path B, exists from the east parking lot to the Playground that wraps around the east parking lot. Although not concrete, Path B is a hard, smooth, slip-resistant walkway, which at the narrowest point is 37" wide. At one point the slope measures between four and eight degrees. A lip of 1"-1 1/2" exists between the path and the playground.

OCR determined that the route from the east parking lot to the playground is inaccessible to individuals with mobility impairments because of the excessively steep slope on a portion of Path B and the excessive change in level.

#### Garden Plots

Garden plots are located around the School's campus.<sup>2</sup>

Although concrete sidewalks that are at least 36 inches wide and that are firm, stable, and slip resistant, are present throughout the School's campus, to access the garden plots students must leave the sidewalk and enter grass areas or areas covered with wood chips, neither of which are considered smooth, firm or slip resistant.

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<sup>2</sup> Garden plots exist throughout the campus at the ground level. ADAAG Section 4.2.6 requires that, if the clear floor space allows a parallel approach by a person in a wheelchair, the maximum high side reach shall be 54" and the low side reach shall be no less than 9" above the floor. OCR provided technical assistance to the School explaining that in the event a mobility impaired student in a wheelchair enrolls in the School, the School has an obligation to provide accessible garden plots, including the height of the plot.

OCR determined that due to the lack of a smooth, firm, and slip resistant path leading to the garden plots, they are inaccessible to individuals with mobility impairments.

### Comstock to Playground

Comstock was constructed in 2005 and is a new construction facility subject to the ADAAG standard. The Playground is accessed from Comstock via Path B, and garden plots are accessed from Comstock via Path A.

Comstock has exterior entrances on the east and west sides of the building. Both entrances have an exterior and interior set of double doors. The exterior and interior east doors measure 35” wide, the exterior west doors measure 35 ½” wide, and the interior west doors measure 35” wide. The threshold at the east and west entrance exterior doors measure ½” high, and there is no threshold at any interior door. The door handles on all exterior and interior doors in Comstock have a shape that is easy to grasp with one hand and do not require tight grasping, tight pinching, or twisting of the wrist to operate. All handles on the exterior and interior doors measure between 36” to 44 ½” above the floor. The push force is 17 lbf and the pull force is 10 lbf at the interior east and west doors. There is no obstructed path of travel between the exterior and interior doors.

As described above, OCR determined that Path A is inaccessibly steep in two places, and Path B is inaccessibly steep and has a significant change in level. Additionally, OCR determined that the doors to Comstock are inaccessible to individuals with mobility impairments because the push and pull weights for the interior doors are too high.

### **Allegation #7**

#### *Accessible washrooms*

ADAAG Section 4.23.4 requires that if water closets (or washrooms) are not located in stalls, then at least one shall comply with the requirements of ADAAG Section 4.16. ADAAG Section 4.16.2 and Figure 28 require that the clear floor space for water closets not in stalls be a minimum of 60 inches wide and 56 inches deep. ADAAG Section 4.16.3 requires that the height of water closets be 17 to 19 inches, measured to the top of the toilet seat; the ADA Standards, at 604.9 provide, Advisory Specifications for younger children, including that toilet seat height range from 11 to 17 inches dependent on the child’s age. ADAAG Section 4.16.5 requires that flush controls shall be hand operated or automatic mounted no more than 44” above the floor. These sections also require that the grab bar shall be mounted a minimum of 33” and a maximum of 36” above the floor; the ADA Standards, at 604.9 provide, Advisory Specifications for younger children, including that grab bar height range from 18 to 27 inches dependent on the child’s age. ADAAG Section 4.16.4, Figure 29 and 4.26.2 require that the diameter of the grab bars shall be 1¼” to 1½”, and the space between the wall and the grab bar shall be 1½”. ADAAG Section 4.16.6 and Figure 29(b) require that the height of toilet paper dispensers be a minimum of 19” above the floor; the ADA

Standards, at 604.9 provide, Advisory Specifications for younger children, including that toilet paper dispenser height range from 14 to 19 inches dependent on the child's age. ADAAG Section 4.19.4 requires that hot water and drain pipes under lavatories shall be insulated. ADAAG Section 4.19.2 requires that lavatories shall be mounted with the rim no higher than 34" above the floor.

### Comstock Washrooms

Comstock has six washrooms, each with a water closet (or toilet) not located in a stall – three for boys and three for girls. All six washrooms have only one toilet and one sink. All six washrooms are on an accessible route, and all are designated with the universal accessibility sign. All washrooms have a door measuring 33" wide when opened, and the washroom doors have lever handles that are easy to grasp with one hand and are mounted 40" from the floor.

The washrooms on the west side of the building are designated for use by kindergarteners. The ADAAG standards in effect that govern the washrooms in the Comstock Building do not have requirements for water closets used by small children. The girls' washroom door has a push force of 20 lbf and a pull force of 17 lbf. The room measures 80 x 78". The toilet seat measures 11" from the floor to the top of the toilet seat. OCR observed that the flushing mechanism is mounted 19" from the floor. ADAAG Section 4.16.4, Figure 29 and 4.26.2 require that grab bars in water closets not located in stalls be placed at the back and the side of the water closet. The back and side grab bars are 25½" from the floor. The diameter of the grab bars are 1 ½" and the space between the wall and grab bars is 1 ½". The toilet paper dispenser is 15" from the ground and within reach from the toilet seat. The hot water and drain pipes are insulated. The boys' washroom is the same as the girls' except that the door is broken so pull and push force could not be measured.

The girls' washroom in the center of the building has a door with a push force of 25 lbf and a pull force of 20 lbf. The room measures 76 x 65". The top of the toilet seat is 19" from the floor. The flush control is hand operated and mounted 28" from the floor. Grab bars are located at the back and the side of the water closets in all washrooms. The back and side grab bars are 35¼" from the floor, 1½" from the wall and are 1½" wide. The toilet paper dispenser is 21" from the floor. The lavatory is 30" from the floor, and the hot water and drain pipes are insulated. The boys' washroom is the same with these exceptions – the back and side grab bars are 36" from the floor, the push force for the door is 15 lbf and the pull force is 13 lbf.

The girls' washroom on the east side of the building has a door with a push force of 15 lbf and a pull force of 17 lbf. The room measures 77 x 81 ½". The toilet seat is 18½" from the floor and the flush mechanism is hand operated and mounted 28" from the floor. The back and side hand rails are 35½" from the floor, 1½" from the wall and 1½" wide. The toilet paper dispenser is 21" from the floor. The lavatory is mounted with the rim 30½" from the floor. The hot water and drain pipes are insulated. The boys' washroom is the same with

these exceptions – push force is 20 lbf, pull force is 17 lbf, side grab bar is 36” from floor and back grab bar is 35” from floor, and the lavatory is 30” from the floor.

OCR determined that the Comstock washrooms are inaccessible to individuals with mobility impairments with respect to the push and pull force of the doors. OCR has also determined that the height of the toilet seats and grab bars in the washrooms designated for Kindergarten students exceeds the minimum requirements, however as there are four other washrooms that meet the accessibility standards located in the building and the placement of the items complies with the most recent accessibility standards for children, OCR has determined that once the push and pull force of the restroom doors is corrected, the washrooms as a whole meet the accessibility requirements of ADAAG.

### **Allegation #9**

#### ***Accessible playgrounds***

ADA Standards, at 1008.2.6.1, require that ground surfaces comply with ASTM F 1951 and that ground surfaces be inspected and maintained regularly to ensure continued compliance. ADA Standards, at 1008.2.6.1, requires that ground level play components be located on accessible routes. ADA Standards, at 1008.4 requires a width of at least 60 inches on accessible routes and requires at least 30 inches by 48 inches of clear ground space adjacent to ground level play components. ADA Standards, at 1008.4.4 requires that seats must be mounted no higher than 24” above the ground and not lower than 11” above the ground. The playground has a swing set and pull-up bars. ADA Standards, at 240.2.1.1 requires one of each type of play component be on an accessible route.

#### **Playground Equipment**

The playground is located adjacent to and behind the east parking lot. There are nine total play components and all are ground level. There are swings, a pull up bar, a slide, a balance beam and climbers. As noted above, the playground underwent significant renovation in the summer of 2012 and OCR applied the ADA Standards.

The School provided evidence that the wood fiber ground surface meets the standards in ASTM F 1951 and the School has reported that it regularly inspects and maintains the ground surface.

OCR observed that each piece of playground equipment was a ground level play component, including a balance beam that measures less than one foot above ground level. OCR observed that each component has significantly more than 30”x 48” of clear ground space and 60” wide accessible routes.

There are also six units upon which students climb, including a slide. The swing set is the only apparatus that requires mounting. OCR observed that one swing is 14” above the

playing surface (the other is 7” above the playing surface in order to accommodate the youngest users).

OCR concluded that the playground surface is accessible, the ground level components are on an accessible route, and the play components that require mounting meet the accessibility standards. As such, all of the playground elements and one of each type are accessible.

OCR has, therefore, determined that the School is in compliance with the Section 504 regulations, at 34 C.F.R. 104.23, and Title II, at 28 C.F.R. § 35.151, with respect to the playground.

### **Conclusion**

OCR determined that the beginning of the path from the west parking lot to Market Square is not accessible to persons with mobility impairments due to the existence of stairs. Additionally, Path A, the alternative route, is also not accessible to persons with mobility impairments due to its excessive length and slope.

OCR determined that students do not travel from Market Square to and into Colby Barn, but rather access Colby Barn from Comstock via Path A, which is not accessible to individuals with mobility impairments due to the route’s excessive slope. Additionally, the threshold at Colby Barn is too high.

OCR determined that students do not travel from Market Square to Wright School House, but rather access Wright School house from Comstock via Path A, which is not accessible to persons with mobility impairments due to the route’s excessive slope. Additionally, the upper level entrance to Wright School House is not accessible, due to the excessively steep slope of the exterior ramp and wooden handrails on the ramp that are too high and too wide.

OCR determined that the path from the east parking lot and also from Comstock to the playground is not accessible to persons with mobility impairments with respect to the slope of the sidewalk and the change in level of the pathway.

OCR determined that the garden plots are not accessible to persons with mobility impairments with respect to the lack of a firm, smooth and slip-resistant pathway.

OCR determined that the boys’ and girls’ washrooms in Comstock are not accessible to persons with mobility impairments with respect to the maximum force for pushing or pulling open the interior hinged washroom doors.

OCR determined that exterior doors are inaccessible to persons with disabilities with respect to the following:

- a) the absence of the International Symbol of Accessibility sign at the accessible exterior doors at the Wright School House and the gymnasium;

- b) the maximum force for pushing or pulling open the interior hinged doors at Comstock and the gymnasium; and
- c) the threshold at the exterior doors at the Kennicott Building and Colby Barn.

Based on the above, OCR has determined that the School is not in compliance with Section 504, at 34 C.F.R. § 104.23, and Title II, at 28 C.F.R. § 35.151, with respect to this complaint. On November 12, 2013, the School entered into an agreement which, when implemented, will resolve the compliance problems described above. The agreement contains the steps to be taken and the dates for implementation. OCR looks forward to receiving the School's report on August 30, 2014, confirming implementation of the agreement.

This concludes OCR's investigation of the complaint and should not be interpreted to address the School'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. 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 District 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. 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.

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

OCR would like to thank you and your staff, especially Ms. Amy Dickerson, counsel, for the courtesy and cooperation extended to OCR. If you have any questions regarding this letter, please contact Mark Erickson, at (312) 730-1574, or via email at [mark.erickson@ed.gov](mailto:mark.erickson@ed.gov).

Sincerely,

Adele Rapport  
Acting Director

Enclosure

Page 14 – Mr. Deigan

cc: Ms. Amy Dickerson