



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS -- REGION VII

February 6, 2014

XXXXXX, XXXXXX  
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XXXXXX XXXXXX  
XXXXXX, XXXXXX XXXXXX

Re: OCR Docket No. 07095002

Dear XXXXXX XXXXXX:

This letter is to notify you of the determination made by the U.S. Department of Education (Department), Office for Civil Rights (OCR), regarding OCR Docket No. 07095002. In this compliance review, which OCR opened on April 20, 2009, OCR assessed whether the Cape Girardeau #63 School District (District), Cape Girardeau, Missouri, provides facilities that are accessible to and usable by persons with disabilities and whether the District provides adequate notice to interested persons, including persons with impaired vision or hearing, of the existence and location of services, activities and facilities that accessible to and usable by disabled persons. This letter confirms the voluntary resolution of the compliance review.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation, 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance, and Title II prohibits discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and a public entity, the District is subject to Section 504 and Title II.

OCR inspected District buildings to determine compliance with the accessibility requirements of Section 504, found at 34 C.F.R. §§ 104.21-104.23, and Title II, found at 28 C.F.R. §§ 35.149-35.151. Both 34 C.F.R. § 104.21 and 28 C.F.R. § 35.149 provide generally that no qualified individual with a disability shall, because a school district's facilities are inaccessible to or unusable by persons with disabilities, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination by that school district. Additionally, 34 C.F.R. § 104.22(f) and 28 C.F.R. § 35.163 require recipients to adopt and implement procedures to ensure that interested persons, including persons with impaired

ONE PETTICOAT LANE, 1010 WALNUT STREET, SUITE 320, KANSAS CITY, MO 64106  
[www.ed.gov](http://www.ed.gov)

vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by disabled persons.

OCR inspected nine (9) District buildings, including the high school, junior high school, middle school, five elementary schools, and the administrative building. OCR primarily utilized the Uniform Federal Accessibility Standards (UFAS) for its accessibility survey of the District. OCR cited to the UFAS standards in Compliance Concerns Charts outlining compliance issues with District buildings.

Prior to the completion of OCR's investigation, the District submitted a signed agreement (copy enclosed) on February 5, 2014, that when fully implemented, will address the issues assessed in this compliance review. The agreement requires the District to complete the remedial measures identified in the Compliance Charts, which are incorporated by reference to the agreement. For the architectural barriers identified by colors yellow, pink, blue and brown, the District will remedy the barriers within the following timeline: yellow – 45 days; pink – 45-90 days; blue – 90-180 days; and brown – within 180-270 days from the date of the agreement (January 29, 2014). For the architectural barriers identified in the Compliance Charts as red, the District will submit a remedial plan by May 4, 2014, which includes a description of the specific architectural changes or actions to be performed by the District to achieve compliance with the facility, area, space, or element identified in the Compliance Chart; the expected start and completion dates; and the District employee or official responsible for implementation of the plan(s). The District will complete the action steps as set out in the remedial plan according to the timelines identified in the remedial plan. The District will provide OCR with periodic status updates on progress implementing the agreement. Each status update will identify the action steps which were completed and include a description of the alteration. The status update will also identify action steps which were not completed within the timelines established in the remedial plan, provide the reason for the delay, and the new projected completion date. The agreement also requires the District to adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities, in accordance with 34 C.F.R. § 104.22(f) and 28 C.F.R. § 35.163.

OCR will monitor the implementation of the agreement and the District's actions to ensure the District's compliance with Section 504 and Title II. The District has agreed to provide data and other information in a timely manner in accordance with the reporting requirements of the agreement. OCR will conduct additional visits and request additional information as necessary to determine whether the District has fulfilled the terms of the agreement and is in compliance with Section 504 and Title II with regard to the issues in the review. Should the District fail to fully implement the agreement, OCR will take appropriate action to ensure the District's compliance with Section 504 and Title II, including possibly initiating administrative enforcement or judicial proceedings to enforce the specific terms

and obligations of the agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this agreement, OCR shall give the District written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

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.

Under the Freedom of Information Act, it may be necessary to release this document and related records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personal information which, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

OCR is committed to prompt and effective service. If you have any questions regarding this letter, please contact XXXXX XXXXX, Supervisory Attorney, at (816) 268-XXXX (voice) or (877) 521-XXXX (telecommunications device for the deaf), or by e-mail at [XXXXX.XXXXX@ed.gov](mailto:XXXXX.XXXXX@ed.gov).

Sincerely,

/s/

Angela M. Bennett  
Director

Enclosure

cc: Honorable Chris L. Nicastro  
Chief State School Officer