

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921



Jackie Thompson, Chair
Wilmot Public Library
Board of Trustees
11 North Wilmot Rd.
Wilmot, NH 03287

Re: Complaint No. 01-13-4017
Wilmot Public Library

Dear Ms. Thompson:

The U.S. Department of Education's Office for Civil Rights (OCR) is closing its investigation of the above-referenced complaint filed against the Wilmot Public Library (Library) on September 3, 2013, alleging that the Library is not accessible to individuals with mobility impairments. During this investigation, OCR identified some accessibility concerns, which the Library has agreed to address as described in the enclosed Voluntary Resolution Agreement (Agreement). Below is the legal basis for OCR's determination.

OCR enforces Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 (Title II), which prohibit discrimination on the basis of disability. The Library is subject to Title II because it is a public entity. OCR investigated whether the Library provides persons with disabilities sufficient access to its programs, activities, and services, in accordance with 28 C.F.R. Sections 35.149, 35.150, and 35.151.

Under Title II, a public entity may not, because of inaccessible or unusable facilities, exclude persons with disabilities from or deny them the benefits of its programs, activities, or services, or subject them to discrimination. The applicable accessibility standards for determining whether a facility is accessible are based on the facility's construction date. A facility constructed before January 26, 1992, is an "existing facility," which means that the programs, activities, and services provided in that facility, when taken as a whole, must be readily accessible. Accessibility can be achieved through both non-structural and structural means. The Library is an existing facility because it was built in 1861, and the only renovations to the building occurred in the 1980s. OCR and the Library agreed to use Americans with Disabilities Act Standards for Accessible Design (ADAAG) accessibility standards to assess barriers to access (available at <http://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/background/adaag>).

The Library consists of a one-room building. All programs, activities, and services (e.g., story hour, book groups, use of computers, stacks access, study carrels, online catalog, checkout) take

place in this room. OCR conducted an onsite review on December 3, 2013, and assessed the parking, routes and paths, entrances and doors, ramps, bathroom, and Library space to determine whether the programs, activities, and services are accessible to persons with disabilities in compliance with Title II. Overall, OCR found the Library to be largely accessible through both structural and non-structural means.¹ The elements that bring the Library out of compliance with ADAAG and thus render the Library's programs inaccessible are detailed in the Agreement's appendix. By fulfilling the terms of this Agreement and removing the barriers to access identified in the appendix to the Agreement, the Library's program will be rendered accessible to persons with disabilities in compliance with Title II. Accordingly, OCR is closing the investigative phase of this complaint effective the date of this letter. Consistent with OCR's practice, we will monitor the Library's implementation of the Agreement.

OCR's findings only address the specific allegation and legal issue identified in this complaint and do not pertain to the Library's compliance with other aspects of Title II or any of the other laws enforced by OCR. Please be advised that the Complainant may have the right to file a private suit in Federal court regardless of OCR's findings.

This letter of findings is issued by OCR to address an individual OCR case. Letters of findings contain fact-specific investigative findings and dispositions of individual cases. Letters of findings are not formal statements 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.

We would like to thank the Board, MX. XXXXXXXXXXXXX, MX. XXXXXXXXXXXX, and especially MX. XXXXXXXXXXXX, for the patience and cooperation expressed during this investigation. If you have any questions, please contact attorney Kate Upatham at (617) 289-0051 or kate.upatham@ed.gov or attorney Sandy Lin at (617) 289-0095 or sandy.lin@ed.gov. You should also feel free to contact Anthony Cruthird, Compliance Team Leader, at (617) 289-0037, or you may contact me at (617) 289-0111.

Sincerely,

/s/

Joel J. Berner
Regional Director

Enclosure

¹ The Complainant expressed specific concern about the Library's accessible entrance, which requires visitors to ring a doorbell to summon Library staff for assistance. OCR tested this system and found that the Library displays a clear sign on the door instructing visitors in need of assistance to ring the doorbell, the doorbell is at an accessible height, the doorbell sound is loud and can be heard from anywhere in the Library, there is always Library staff present and available to assist when the Library is open, and Library staff test the doorbell every few months. Based on this assessment, OCR determined that this non-structural method provides persons with disabilities with an accessible entrance.