

August 14, 2017

Dr. Ronald G. Taylor  
Superintendent  
Willingboro Township Public Schools  
Country Club Administration Building  
440 Beverly-Rancocas Road  
Willingboro, New Jersey 08046

Re: Case No. 02-17-1202  
Willingboro Township Public Schools

Dear Dr. Taylor:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), with respect to the above-referenced complaint filed against the Willingboro Township Public Schools (the District). The complainant alleged that the parking lots serving the Twin Hills Elementary School (the school) are not accessible to individuals with disabilities because they do not provide a sufficient number of designated accessible parking spaces that are near the accessible entrance to the school.<sup>1</sup>

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities receiving financial assistance from the U.S. Department of Education (the Department). OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35. Under the ADA, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities, including public libraries. The District is a recipient of financial assistance from the Department, and is a public elementary and secondary education system. Therefore, OCR has jurisdictional authority to investigate this complaint under both Section 504 and the ADA.

The regulation implementing Section 504, at 34 C.F.R. § 104.21, provides that no qualified individual with a disability shall, because a recipient's facilities are inaccessible to or unusable by individuals with disabilities, be denied the benefits of, be excluded from participation in, or

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<sup>1</sup> The complainant alleged that the school is served by one parking lot; however, as discussed in greater detail below, OCR determined that the school is served by two separate parking facilities.

otherwise be subjected to discrimination under any program or activity to which this part applies. The ADA includes a similar requirement for public entities, at 28 C.F.R. § 35.149.

In its investigation, OCR reviewed documentation that the complainant and District provided. Additionally, OCR conducted an on-site inspection of the school's parking facilities on June 1, 2017. OCR made the following determinations.

The complainant alleged that the parking lots serving the school are not accessible to individuals with disabilities because they do not provide a sufficient number of designated accessible parking spaces that are near the accessible entrance to the school. Specifically, the complainant asserted that there is only one parking space at the school that is designated as accessible to individuals with mobility impairments.

OCR determined that the school has two parking lots, one that is half-arch shaped, which is located at the north end of the school building, and leads to the rear entrance of the school (Lot 1); and a second lot that is larger and square-shaped, and located on the south side of the school (Lot 2).<sup>2</sup> The District has designated the rear entrance to the school, near Lot 1, as the accessible entrance.

OCR determined that the school and its parking facilities were constructed in 1971. According to the District, the only alterations completed at the school were made to the interior of the building and the school's designated accessible exterior entrance doors from 2010-2012. The District stated that it was unable to locate any records relating to any alterations made to the parking areas since the original construction, including any record of resurfacing or restriping. However, the District asserted, and it seemed apparent during OCR's on-site inspection, that alterations have been made to the parking lot surfaces since the school's construction in 1971.

The Section 504 regulations, at 34 C.F.R. §104.22, and the ADA regulations, at 28 CFR §35.150, apply to "existing facilities", defined as any facility or part of a facility where construction was commenced prior to June 3, 1977 (Section 504) or January 26, 1992 (ADA), respectively. The regulations provide that, with respect to existing facilities, a school district shall operate its programs and activities so that, when viewed in their entirety, they are readily accessible to and usable by persons with disabilities. Accessibility of existing facilities is determined not by compliance with a particular architectural accessibility standard, but by considering whether the program or activity, when viewed in its entirety, is accessible to and usable by individuals with disabilities.

The regulations implementing Section 504, at 34 C.F.R. §104.23, and the ADA, at 34 C.F.R. §35.151, respectively, are applicable to "new construction or alterations", defined as any facility or part of a facility where construction was commenced after June 3, 1977 (Section 504) or January 26, 1992 (ADA), respectively. The regulations provide that each newly constructed facility or part of a facility shall be designed and constructed in such manner that it is readily accessible to and usable by persons with disabilities. The regulations further provide that each

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<sup>2</sup> The District asserted that the school only has one parking lot, which it acknowledges "is separated, to some extent, by the school building itself." However, based upon OCR's on-site inspection of the school's parking areas, and its review of a map of the school's campus, OCR determined that the school has two separate parking lots.

newly altered facility or part of a facility affecting accessibility shall, to the maximum extent feasible, be altered in such manner that the altered portion is readily accessible to and usable by persons with disabilities.

The regulations specify the federal standard to be used in determining the accessibility of new construction and alterations. The regulation implementing Section 504, at 34 C.F.R. §104.23(c), delineates 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 18, 1991. UFAS sets forth the designated standard for facilities constructed or altered on or after January 18, 1991.

The regulation implementing the ADA, at 28 C.F.R. §35.151(c), delineates UFAS or the ADA Standards for Accessible Design, 1991 (1991 Standards) as a minimum standard for determining accessibility for facilities constructed or altered on or after January 26, 1992, but prior to September 15, 2010. The ADA Standards for Accessible Design were amended in 2010 (2010 Standards). If construction or alterations commenced on or after September 15, 2010, and before March 15, 2012, then a school district may comply with UFAS, the 1991 Standards, or the 2010 Standards. Beginning March 15, 2012, all new construction or alterations of existing facilities must conform to the 2010 ADA Standards for Accessible Design (the 2010 ADA Standards).

As the District was unable to provide the date(s) of the alterations made to the parking facilities, and the specific date that the designated accessible entrance exterior door was replaced at the school, OCR applied the 2010 ADA Standards to determine whether the parking facilities and designated accessible entrance are currently accessible.

OCR determined that Lot 1 contains 23 parking spaces, situated in a single row on the northern edge of the pavement of the lot, perpendicular to the northern end of the school, with access to the designated accessible rear entrance to the school. OCR determined that Lot 2 contains 65 spaces, none of which are designated as accessible. Lot 2 is not located near the designated accessible entrance, nor is there an accessible route to any of the school's entrances from Lot 2. Together, Lots 1 and 2 contain 88 parking spaces.

Pursuant to Section 208.2 of the 2010 ADA Standards, where more than one parking lot is provided at a site, the number of accessible spaces is to be calculated according to the number of spaces required for each parking lot; however, pursuant to Exception 2 of Section 208.3.1, accessible parking spaces may be located in different parking lots if substantially equivalent or greater accessibility is provided in terms of distance from an accessible entrance. The designated accessible parking spaces in Lot 1 are approximately 50 feet from the designated accessible rear entrance to the school. OCR's inspection of the parking facilities serving the school confirmed that the area where the designated accessible parking spaces were located provided greater accessibility in terms of distance from the designated accessible rear entrance to the school. As such, Exception 2 applies; accordingly, the school is permitted to have all accessible parking spaces located next to the rear entrance to the school, i.e., in Lot 1.

The District advised OCR that it has designated Lot 1 as the accessible parking facility for the school. The 2010 ADA Standards require that a parking facility with between 76-100 parking spaces (accounting for the 88 total spaces contained Lots 1 and 2), must designate four accessible parking spaces. OCR determined that the school has designated two of the parking spaces in Lot 1 as accessible. Therefore, the District must designate an additional two accessible parking spaces in Lot 1 to be in compliance with the 2010 ADA Standards.

The 2010 ADA Standards require that accessible parking spaces be at least 96 inches wide, as measured from the centerline of the marked lines. OCR determined that each of the designated accessible spaces in Lot 1 was sufficiently wide. The 2010 ADA Standards also require that access aisles adjacent to accessible spaces be at least 60 inches wide, as measured from the centerline of the marked lines. OCR determined that there were no access aisles adjacent to the accessible spaces in Lot 1, only a “No Parking” designated area next to the spaces for access to trash dumpsters.

The 2010 ADA Standards require that accessible parking spaces contain signage identifying the space as accessible; and that such signage be a minimum of 60 inches above the ground. OCR determined that the accessible spaces had such signage. The 2010 ADA Standards also require that one in every six accessible spaces, or fraction of six accessible spaces, have signage designating the parking space as “van accessible.” Based on the number of spaces available in the lots, OCR determined that one accessible parking space must be designated as “van accessible.” OCR determined that none of the accessible parking spaces in Lot 1 had signage indicating that any of the accessible spaces were “van accessible;” an insufficient number. The 2010 ADA Standards further require that van parking spaces be a minimum of 132 inches wide, as measured from the centerline or a minimum of 96 inches wide where there is an access aisle that is at least 96 inches wide. OCR determined that the designated parking spaces had no access aisles, were not sufficiently wide for vans, and did not meet the 2010 ADA Standards.

The 2010 ADA Standards require that floor and ground surfaces be stable, firm, and slip resistant, and that any changes in level between  $\frac{1}{4}$  and  $\frac{1}{2}$  inch shall be leveled with a slope not steeper than 1:2. OCR determined that the accessible route from the accessible parking spaces located in Lot 1 and leading to the accessible rear entrance to the school, had significant cracking and changes of level measuring 1 to 1.5 inches, specifically, at the curb cut leading to the sidewalk. Additionally, the walking surface immediately outside the designated accessible entrance had a slope of 10.2%; the ADA 2010 Standards require that the running slope of walking surfaces not be steeper than 5.0%.

Additionally, during its on-site inspection, OCR examined the designated accessible entrance at the back of the school, closest to Lot 1. The designated accessible exterior door is a double leaf door that is 28 inches wide, with a vertical bar in the middle. The ADA 2010 Standards, Section 404.2.3 require that door openings provide a clear width of 32 inches.

On August 14, 2017, the District agreed to implement the enclosed resolution agreement, which addresses the compliance issues identified in this letter. OCR will monitor the implementation of the resolution agreement.

This letter should not be interpreted to address the District'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. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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 individual may file a 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, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions about OCR's determination, please contact David Krieger, Compliance Team Attorney, at (646) 428-3893 or [david.krieger@ed.gov](mailto:david.krieger@ed.gov); or Jonathon LeBeau, Compliance Team Investigator, at (646) 428-3790 or [jonathon.lebeau@ed.gov](mailto:jonathon.lebeau@ed.gov).

Sincerely,

/s/

Timothy C. J. Blanchard

Encl.

cc: XXXXXXXXXXX