

May 24, 2018

Arlene L. Pinney-Benjamin
Acting Territorial Director of Libraries, Archives & Museums
The Virgin Islands Public Library System
c/o Florence A. Williams Public Library
1122 King Street, Christiansted
St. Croix, Virgin Islands 00820
arlene.benjamin@dpr.vi.gov

Re: Case No. 02-18-4014
Florence A. Williams Public Library

Dear Ms. Pinney-Benjamin:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), regarding the above-referenced complaint filed against the Florence A. Williams Public Library (the Library). The complainant alleged that the Library discriminated against him, on the basis of his disability, by denying his request to enter the Library with his service animal on December 4, 2017.

OCR is 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 Library is part of the Virgin Islands public library system. Therefore, OCR has jurisdictional authority to investigate this complaint under the ADA.

In reaching a determination regarding this complaint, OCR interviewed the complainant. OCR also reviewed documentation that the complainant and the Library submitted, as well as video evidence that the complainant submitted.

The complainant alleged that he attempted to enter the Library on December 4, 2017, with his dog, which he asserted is a service animal. The complainant stated that when a XXXXXXXX XXXXX and other Library staff saw his dog, they demanded that he show documentation to prove that the dog was a service animal. The complainant asserted that because he did not provide the requested documentation, the Library staff informed him that his dog was not permitted to enter the Library, and that the complainant could only enter the Library without his

dog. The complainant stated that because he does not go anywhere without his service animal, he was denied access to the Library.

The regulation implementing the ADA, 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. The regulation implementing the ADA, at 28 C.F.R. § 35.130(b)(7), also requires public entities to make reasonable modification to policies, practices, or procedures when such modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modification would fundamentally alter the nature of the service, program, or activity.

The regulation implementing the ADA, at 28 C.F.R. § 35.136(g), states that “individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a public entity’s facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go.” The regulation implementing the ADA, at 28 C.F.R. § 35.104, defines a service animal as “any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability including a physical, sensory, psychiatric, intellectual, or other mental disability.” The regulation implementing the ADA, at 28 C.F.R. § 35.136(f), states that “a public entity is prohibited from asking about the nature or extent of a person’s disability, and may only make two inquiries to determine whether an animal qualifies as a service animal: (1) if the animal is required because of a disability, and (2) what work or task the animal has been trained to perform.” Pursuant to the regulation implementing the ADA, at 28 C.F.R. § 35.136(f), a public entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. Further, pursuant to the regulation implementing the ADA, at 28 C.F.R. § 35.136(b), a public entity may properly exclude a service animal if: the service animal is out of control and the animal’s handler does not take effective action to control it; or the service animal is not housebroken.

OCR reviewed the video footage that the complainant submitted as evidence of his interaction with the Library staff on December 4, 2017. OCR determined that the video corroborated the complainant’s version of events. Specifically, the video showed an individual assumed to be the complainant stating that his animal is a “service animal.” The video also showed a XXXXXXXX XXXXX and other individuals informing the complainant that he must show a “card” to support that he is allowed to enter places with his service animal; and, that his dog must wear a “coat” to indicate that it is a service animal. The video also showed the XXXXXXXX XXXXX stating that in the absence of “proof” that the dog was a service animal, the dog was not allowed to enter the Library, though the complainant could enter the Library without the dog.

The Library acknowledged that the XXXXXXXX XXXXX “requested the proper identification for the service animal” and that it denied entry to the complainant’s dog because it was not “tagged and appropriately geared based on the ADA Requirements.” The Library also submitted handwritten notes taken on the day of the complainant’s visit, which state that the complainant was “saying [his dog] is a service dog [but] show[ed] no proof of that”; and, that when the

Library staff “ask[ed] him show me proof,” the complainant responded that he did not have to show any proof.

Based on the foregoing, OCR determined that on December 4, 2017, the Library required that the complainant provide documentation establishing that his dog was a service animal and that his dog wear a coat indicating that it is a service animal; and, denied the complainant’s entry to the Library when he did not comply with these conditions. OCR further determined that the Library’s inquiries and documentation requirements were prohibited by regulation implementing the ADA, at 28 C.F.R. § 35.136(f).

On May 23, 2018, the Library agreed to implement the enclosed resolution agreement, which addresses the compliance issues described above. OCR will monitor the implementation of the resolution agreement.

This letter should not be interpreted to address the Library’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 Library 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, please contact Amy Randhawa, Compliance Team Attorney, at (646) 428-3781 or sandeep.randhawa@ed.gov; Aditi Shah, Compliance Team Attorney, at (646) 428-3897 or aditi.shah@ed.gov; or Félice Bowen, Compliance Team Leader, at (646) 428-3806 or felice.bowen@ed.gov.

Sincerely,

/s/

Timothy C.J. Blanchard

Encl.

cc: XXXX XXXXXX (via email)