

September 12, 2018

Priscilla Weaver-Gardner  
Library Director  
Jersey City Main Library  
472 Jersey Avenue  
Jersey City, New Jersey 07302

Re: Case No. 02-18-4030  
Jersey City Main Library

Dear Ms. Weaver-Gardner:

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 Jersey City Main Library (the Library). The complainant alleged that the Library discriminates on the basis of disability, because the entrance to the Library is inaccessible to individuals with mobility impairments.

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 a public library. Therefore, OCR has jurisdictional authority to investigate this complaint under the ADA.

The regulation implementing the ADA, at 28 C.F.R. § 35.149, provides that no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, 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.

During its investigation, OCR interviewed the complainant. OCR also reviewed information that the complainant and the Library submitted, and conducted an on-site inspection. OCR made the following determinations.

The complainant alleged that the Library discriminates on the basis of disability, because the entrance to the Library is inaccessible to individuals with mobility impairments. Specifically, the complainant asserted that the lift at the entrance from the street is inoperative, and individuals with mobility impairments cannot get into the Library.

OCR determined that the Library has a basement and first, second, third and fourth floors. On the first, third and fourth floors, the Library holds the following programs, activities and services: children's movies, Lego club, parenting workshop, Spanish conversation group, arts and crafts, story hour, puzzle club, mom and tots program, poetry open mic and a literacy program. The Library also houses the circulation desk, gift shop and a used book store, which are located on the second floor, and the New Jersey Room which is located on the third floor.<sup>1</sup> OCR determined that the Library was originally constructed in 1899. OCR further determined that in 2013, a new building entrance to the Library was created for access from the street and was fitted with a wheelchair lift for access to the first floor, where the Library's lobby is located.<sup>2</sup>

The regulation implementing the ADA, at 28 C.F.R. § 35.150, states that “[a] public entity shall operate each service, program, or activity, so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities....” Under the regulation implementing the ADA, at 34 C.F.R. § 35.151, construction or alterations commenced after January 26, 1992, is considered “new construction.” Accordingly, OCR determined that the designated accessible entrance to the Library is new construction, as defined by the ADA. The regulation implementing the ADA, at 28 C.F.R. § 35.151 requires that each facility or part of a facility constructed or altered by, on behalf of, or for the use of a public entity, after January 26, 1992, shall be designed and constructed in such a manner that the facility, or part of the facility, or the altered portion of the facility is readily accessible to and usable by individuals with disabilities. Beginning March 15, 2012, all new construction or alterations of existing facilities must conform to the 2010 ADA Standards for Accessible Design (2010 ADA Standards).

OCR determined that the Library has two entrances: the main entrance and a designated accessible entrance. The main entrance is intended for use by any individual wishing to enter the Library; however, the main entrance is inaccessible to the mobility impaired due to two sets of stairs. As an alternative, a disabled individual who is unable to access the main entrance, may use the designated accessible entrance, which is located approximately 25 feet from the main entrance, along the façade of the building.

OCR inspected the designated accessible entrance. OCR determined that the street-level entrance conformed to the 2010 ADA Standards with regard to the surface (i.e., the route was stable, firm and slip resistant, and did not contain cracks and potholes) and slope (the slope did not exceed 1:20).

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<sup>1</sup> The Library also houses the Reference Department and Federal Documents Department, which are located on the second and fourth floors, respectively, and are currently closed due to renovations.

<sup>2</sup> The Library informed OCR that these renovations were part of a \$5 million construction project entitled “Alterations for Barrier-Free Access to Main Library” (the project). The Library informed OCR that the project included major renovations for barrier-free access to the Library and within the building.

OCR determined that the exterior door at the designated accessible entrance (door 1) remains locked at all times and can only be opened by contacting security via an intercom button. The Library informed OCR that its architectural plan for door 1 was that an individual with a disability who could not access the main entrance could press the intercom button so that security personnel could open door 1 automatically and remotely. The 2010 ADA Standards, Section 404, Advisory 404.1, General Exception, states that it would not be acceptable for security personnel to operate the doors for people with disabilities while allowing others to have independent access. Further, the Library advised OCR that its contractor did not install the automatic door opener properly, so that security must open door 1 manually from the inside after an individual presses the intercom button alerting security personnel.

OCR determined that once door 1 is open, an individual has unrestricted access to the interior platform lift at the designated accessible entrance from street to lobby level. OCR determined that the lift is operative and accessible.

OCR identified additional compliance issues with respect to the designated accessible entrance lacking signage bearing the international symbol of accessibility, and the lack of directional signage at the inaccessible entrance indicating the location of the accessible entrance. The 2010 ADA Standards, Section 216.6, states that where not all entrances comply with Section 404 (Doors, Doorways, and Gates), entrances complying with Section 404 shall be identified by the International Symbol of Accessibility complying with Section 703.7.2.1. Further, the 2010 ADA Standards, Section 216.6, states that directional signs complying with Section 703.5 that indicate the location of the nearest entrance complying with Section 404 shall be provided at entrances that do not comply with 404.

Moreover, the interior door leading from the lift at the accessible entrance to the lobby on the accessible route (door 2) requires ten (10) pounds of force to open. The 2010 ADA Standards, Section 404.2.9, states that the force for pushing or pulling interior hinged doors shall be 5 lbs. maximum.

On September 12, 2018, the Library signed the enclosed resolution agreement to resolve the above-mentioned compliance issues. 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 questions regarding OCR's determinations, please contact Lauren Numeroff, Compliance Team Attorney, at (646) 428-3895 or [lauren.numeroff@ed.gov](mailto:lauren.numeroff@ed.gov); or Tiffany Lyttle, Compliance Team Attorney, at (646) 428-3754 or [tiffany.lyttle@ed.gov](mailto:tiffany.lyttle@ed.gov).

Sincerely,

/s/

Timothy C.J. Blanchard

cc: Ronald Hunt, Esq.

Encl.