

**RESOLUTION AGREEMENT  
LEE COUNTY SCHOOL DISTRICT, FLORIDA  
OCR Docket Number 04-17-1066**

The U.S. Department of Education, Office for Civil Rights (OCR) and the Lee County School District (District) enter into this resolution agreement (Agreement) to resolve the allegation in the above-referenced complaint. The District assures the U. S. Department of Education, Office for Civil Rights, that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. Sections 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively. All modifications necessary to provide such access will be made consistent with the applicable standards in the 2010 ADA Standards for Accessible Design<sup>1</sup> or any accessibility standard that provide equivalent or greater access to individuals with disabilities. Accordingly, to resolve the issues of this investigation, the District agrees to take the following actions.

**PLAYGROUND ACCESSIBILITY PLAN**

1. Within sixty (60) days of the signing of this Agreement, the District will retain a consultant who is knowledgeable about the architectural accessibility requirements of Title II and Section 504.
2. Within ninety (90) days of the signing of this Agreement, the District's consultant will conduct an accessibility survey of the Heights Elementary (School) Playground (Playground), designed for ages 2-5, to ensure that the Playground is in compliance with the 2010 ADA Standards pursuant to 28 C.F.R. § 35.151(c) and the Appendix to 28 C.F.R. § 35.151(c).

The District's consultant will review the Playground facilities and develop a written Playground Accessibility Plan (Plan) identifying the modifications that are necessary to ensure that the Playground facilities are accessible to and usable by persons with mobility disabilities in accordance with Section 504, Title II, and the 2010 ADA Standards.

3. Within one hundred twenty (120) days of the signing of this Agreement, the District will submit the Plan for OCR's review and approval. The Plan must ensure that the Play Areas, Play Components, and Accessible Routes into and through the Play Areas comply with §§ 240 and 1008 of the 2010 ADA Standards. The District will begin to implement the Plan no later than thirty (30) days following OCR's approval and will include a timetable for completion of all identified modifications with a time period not to exceed December 31, 2018. The District's Plan will address the following elements:
  - a. Provide an accessible route from the School to the Play Area, as well as accessible routes that connect and surround accessible activities within the playground settings; *see* 2010 ADA Standards §§ 240; 402; 403; 1008.

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<sup>1</sup> Located at: <http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm#cl>

- b. Provide for ground surfaces along accessible routes, clear floor or ground spaces as well as maneuvering spaces within play areas that are firm, stable, and slip-resistant that meet the American Society for Testing and Materials F 1951-99 Standard (ASTM F 1951-99) for accessibility within play areas; changes in level between ¼" and ½" shall be beveled; *see* 2010 ADA Standards § 1008.
- c. Modification of existing playground equipment, or installation of additional equipment, as necessary, to ensure that an equivalent range of different types of play activities are accessible to children with mobility disabilities; *see* 2010 ADA Standards § 240.
- d. Ensure that children with mobility disabilities can access at least one type of each play experience available to children without disabilities (e.g., climbing, sliding, swinging, and crawling); *see* 2010 ADA Standards § 240.
- e. Explains the specific ground level and elevated play activities which will be made accessible upon implementation. Ground-level play activities included in the Plan will be set at a height useable by children with various disabilities, including those who use wheelchairs. Elevated play activities included in the Plan will be connected to the playground surface through an appropriate ramp or transfer system; *see* 2010 ADA Standards § 240.
- f. Ensures that ground level play components accessed by children with mobility disabilities are dispersed throughout the play area and integrated with other play components; *see* ADA Standards § 240; Advisory 240.2.1;
- g. Provides that ground surfaces shall be inspected and maintained regularly and frequently to ensure continued compliance with applicable accessibility standards; *see* 2010 ADA Standards §§ 240 and 1008; and,
- h. During the planning and implementation period of the OCR-approved Plan, the District will provide individualized assistance, as needed, to students with mobility disabilities who use the School Playground so that they may participate in a range of activities in the existing Playground.

### **Reporting Requirements:**

1. Within one hundred twenty (120) days of the signing of this Agreement, the District will submit the Plan for OCR's review and approval.
2. Following OCR's approval of the Plan, the District will provide progress reports to OCR that provide status updates on the implementation of the Plan to modify the School Playground. The District will submit status reports to OCR every sixty (60) days regarding the implementation of the OCR-approved Plan, including the completion of any renovations or modifications, as applicable. These reports will include a description of the work performed, along with blueprints, photographs (with dimensions, as applicable) and copies of any invoices or work orders (if available). The District will continue to provide OCR with progress reports until the Agreement has been fully implemented and any work to be done under the Agreement has been completed.

3. Following OCR's approval of the Plan, the District will begin to implement the Plan within thirty (30) days of OCR's approval. The District will make the Playground facilities at the School available for OCR to conduct an onsite inspection, if necessary, to ensure that the District is in compliance with this Agreement.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 at 34 C.F.R. §§ 104.21-104.23, and the regulation implementing Title II at 28 C.F.R. §§ 35.149-35.151, which were at issue in this complaint. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this 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 sixty (60) calendar days to cure the alleged breach.

This Resolution Agreement will become effective immediately upon signature of the District's Superintendent or designee below.

/s/

March 2, 2018

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**Superintendent or Designee**  
**Lee County School District**

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**Date**