



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION IV

61 FORSYTH ST., SOUTHWEST, SUITE 19T10  
ATLANTA, GA 30303-8927

REGION IV

ALABAMA  
FLORIDA  
GEORGIA  
TENNESSEE

November 13, 2019

**Via email only**

Dr. Jeff Moorhouse  
Superintendent of Schools  
Kingsport City Schools  
400 Clinchfield Street, Suite 200  
Kingsport, TN 37660

Re: OCR Complaint #04-19-1371

Dear Dr. Moorhouse:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has concluded its investigation of a complaint received by this office on April 26, 2019 alleging discrimination on the basis of disability by the Kingsport City School District (District). Specifically, the Complainants allege that Dobyns-Bennett High School (School) has no accessible parking spaces and accessible routes that lead from the parking lot to the track field and no accessible seating inside the track field.

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, 34 C.F.R. Part 104, which prohibit discrimination based on disability by recipients of Federal financial assistance (FFA). OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), as amended, 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of FFA from the Department and a public entity, the District is subject to the provisions of Section 504 and Title II.

Based on the allegation, OCR opened an investigation of the following legal issues: whether the District discriminates against individuals with mobility impairments by not providing designated accessible parking spaces, accessible routes, and accessible seating at the track field at the School, in non-compliance with the regulation implementing Section 504 at 34 C.F.R. §§ 104.4, 104.21, 104.22, 104.23, and Title II at 28 C.F.R. §§ 35.130, 35.149, 35.150 and 35.151.

Pursuant to OCR's *Case Processing Manual* (CPM) at Section 302, a complaint may be resolved when, before the conclusion of an investigation, "the recipient expresses an interest in resolving the allegations and issues *and* OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation." After submitting information in response to OCR's data request letter, the District informed OCR of its desire to take voluntary action

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness  
by fostering educational excellence and ensuring equal access.*

[www.ed.gov](http://www.ed.gov)

necessary to resolve the allegation in the complaint. Accordingly, OCR has not issued findings concerning these issues. Set forth below is a summary of the evidence obtained thus far, prior to the signing of the resolution agreement and the terms of the resolution agreement.

The District provided OCR with photos and an aerial photo of the School and the School's parking spaces, designated accessible route to the Sport Field House Stadium (Stadium) and designated accessible seats within the Stadium.

Based on the photos alone, OCR could not determine the total number of available parking spaces at the Stadium. Also, according to information provided by the District thus far, the track was not accessible to the public during the most recent modification during the 2018-2019 school year. As a result, the front entrance to the School building was temporarily relocated to another location on the School's grounds. Some of the photos of the parking spaces and routes include signage, but it is unclear whether the accessible routes and location of the signage comply with the 2010 ADA Standards.<sup>1</sup> Additional information from the District shows that there is only one set of bleachers located by the track field, which includes three designated accessible seating locations. The District represented that the bleachers are accessible via a ramp located on the east of the seating area. The District's photos also appear to show that the view of the track is not obstructed in front of the designated accessible seating areas, OCR does not have the total number of seating available on the bleaches.

As indicated above, prior to the completion of OCR's investigation, the District requested to voluntarily resolve this complaint, and OCR determined that resolution pursuant to OCR's CPM section 302 was appropriate. The attached Resolution Agreement (Agreement) will require the District to take actions to remedy any compliance concerns identified in the complaint.

On November 7, 2019, OCR received the enclosed signed Agreement that, when fully implemented, will resolve the allegations in the complaint. OCR will monitor the District's implementation of this Agreement to ensure that it is fully implemented. If the District fails to fully implement the Agreement, OCR will reopen the case and take appropriate action to ensure compliance with Section 504 and Title II. The Complainant may file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the District may not harass, coerce, or discriminate against any individual because he or she has filed a complaint, or participated in the complaint resolution process. If this happens, the Complainant may file another 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. If OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information that, if released, could constitute an unwarranted invasion of privacy.

---

<sup>1</sup> The regulation implementing Title II and the ADA Standards for Accessible Design was amended in September 2010. Title II adopted new accessibility guidelines, the 2010 ADA Standards for Accessible Design (2010 ADA Standards), which became effective March 15, 2012. Title II, at 28 C.F.R. §35.151(c)(3), now provides, "If physical construction or alterations commence on or after March 15, 2012, then new construction and alterations subject to this section shall comply with the 2010 [ADA] Standards."

OCR is committed to prompt and effective service. If you have any questions please contact me, the undersigned at [April.England-Albright@ed.gov](mailto:April.England-Albright@ed.gov) or at (404) 974-9408.

Sincerely,

/s/April England-Albright  
Supervisory General Attorney

Enclosure