



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

61 FORSYTH ST., SOUTHWEST, SUITE 19T70
ATLANTA, GA 30303-8927

REGION IV
ALABAMA
FLORIDA
GEORGIA
TENNESSEE

November 5, 2019

Mr. Don Embry
Superintendent of Schools
Bedford County Schools
500 Madison Street
Shelbyville, TN 37160

Re: OCR Complaint #04-19-1381

Dear Mr. Embry:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has concluded its investigation of a complaint received by this office on May 9, 2019 alleging discrimination on the basis of disability by the Bedford County School District (District). Specifically, the Complainant alleged there is no wheelchair access to the sports complex on the campus of the Community Elementary and Community Middle Schools (Schools). Specifically, the complaint alleged that there are no designated accessible parking spaces and routes to the Schools' sports complex or designated accessible routes that lead to the restrooms behind the concession stand at the football, baseball and softball fields (Fields), and accessible stalls inside the restrooms located behind the concession stands at these Fields.

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 issue: whether the District discriminates against individuals with mobility impairments by not providing designated accessible parking spaces and accessible routes to the designated accessible restrooms at its sports complex, 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 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.

OCR received photos of the parking areas and designated accessible routes from the Schools' parking lot to the Schools' Sports Complex, as well as photos of the concession stands and restrooms at the Fields. The District provided other photos that show the route from the main parking lot to the outer perimeter of the baseball complex; however, this route does not extend to the bleacher/spectator areas. Further, the photos do not show any signage that designates the alternate accessible routes to the Fields. The District provided measurements of the restrooms located at the baseball and softball fields, including the door, the designated accessible toilet stalls and sink area, and height of the lavatory for the women's restroom. However, the District did not provide measurements for the urinals, lavatories, soap dispensers, door opening width, or grab bars for either restroom. In addition, the District did not provide OCR with measurements to the men's and women's restrooms at the football field.

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 October 30, 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.

OCR is committed to prompt and effective service. If you have any questions, please contact Cassandra Williams at (404) 974-9393 or by email at cassandra.williams@ed.gov or the undersigned at (404) 974-9408.

Sincerely,

April England-Albright
Supervisory General Attorney

Enclosure