



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

230 SOUTH DEARBORN ST., 37TH FLOOR
CHICAGO, IL 60604

**REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN**

July 20, 2020

Mr. Christopher Sonju
Superintendent
Glencoe-Silver Lake
Public Schools, ISD 2859
1621 16th St. E.
Glencoe, MN 55336

Re: OCR Docket # 05-20-1179
Complainant: XXXXXXXXXXXXXXXX

Dear Superintendent Sonju:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint filed on January 28, 2020, against Glencoe-Silver Lake Public Schools, ISD 2859 (District), alleging discrimination on the basis of disability. Specifically, the complaint alleged:

1. The Glencoe campus building's push button accessible doors were locked between November of 2019 and January of 2020 on multiple occasions between November and January when Complainant's son participated in an evening activity; and,
2. The accessible parking spaces in the west parking lot do not comply with the Americans with Disabilities Act due to inadequate marking and signage.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance, and Title II of the Americans with Disabilities Act of 1990 (Title II) 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of federal financial assistance from the Department and a public entity, the District is subject to Section 504 and Title II. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

During the course of its investigation, OCR received information from the Complainant and the District, and interviewed the Complainant and relevant District staff. As explained below, OCR finds insufficient evidence to support Allegation #1. Prior to the conclusion of OCR's investigation, the District expressed an interest in resolving allegation #2. The basis for OCR's determination follows.

Facts

The District consists of two campus buildings in the neighboring towns of Silver Lake and Glencoe, MN.¹ The Glencoe campus building (School) houses the District’s Administrative Offices, Early Childhood Center, one of the District’s two Elementary Schools, and the District’s Junior and Senior High Schools. The District built the first section of the building that houses the Elementary School in 1962. In 1969, the District added space for the Junior High School and the Senior High School. In 1999, the District added a fieldhouse. In 2013, the District added space for the Early Childhood Center and the District offices. In 2017, the District renovated the main parking lot, as well as the exterior doors to the High School, Elementary School, and the fieldhouse.

Allegation #1

The complaint alleged that the School’s push button accessible doors were locked on multiple occasions between November and January when Complainant’s son participated in an evening activity.

After school hours, the District limits the number of available building entrances to six door banks, two on the north side of the building, three on the south side of the building, and one on the west side of the building.² In 2017, the District renovated five of the six designated door banks. Although not renovated in 2017, the District built Door Bank #14 in 2013. Of the six door banks, five provide a push button door opener. The designated entrance for the west side of the building, Door Bank #14, does not provide a push button opener.

The School’s After-Hours Entrances			
Door Bank	Location	Make-up	Push Button
#1	Northeast side of building	4 sets of double leaf doors	1
#9	Southeast side of building	1 set of double leaf doors 2 single doors	1
#10	South center of building	5 single doors	1
#11	Southwest side of building	3 sets of double leaf doors	1
#14	West side of building	2 single doors	0
#32	North center of building	1 set of double leaf doors 1 single door	1

The Complainant told OCR that in the fall of 2019, her son participated in an afterschool basketball program held in the Elementary and Junior High School’s Silver Gymnasium. The Complainant told OCR that on numerous occasions she attempted to access Door Bank #18 on the west side of the building and found it to be locked. Door Bank #18, not a designated after-

¹ The District’s Silver Lake campus building is not subject to this complaint.

² The building has 32 door banks. Many are not available to the public. The District makes 12 door banks available to the public during business hours; fewer door banks are available for after-school activities.

hours entrance, was locked and its push button door opener disengaged.³ The Complainant asserted that she instead accessed Door Bank #14, located 100 feet south of Door #18 on the west side of the building. Although Door Bank #14 did not provide a push button door opener, it was unlocked.

The Superintendent told OCR that the District designated Door Bank #14 as the entrance for the west side of the building. Door Bank #14 is made up of two single doors that swing away from the building. Each door measures 36 inches wide and 80 inches tall, with 11-inch-long vertically mounted pull handle hardware, providing reach between 33 and 44 inches from the ground. Each door, open at 90 degrees, allows for 34 inches of level clearance space. In front of, and beyond each door, there is 48 inches of clear level floor space. A ramp from the parking lot leads to the door.

According to the Superintendent, Door Bank #18 provides access to the Early Childhood Center and is located 421 feet from the Silver Gymnasium. The Early Childhood Center is located in a separate wing of the building that is not open after school hours. Although Door Bank #14 does not provide a push button opener, it is built to new construction accessibility standards, and is located 285 feet from the Silver Gymnasium.

Door Bank #11 is located on the southwest side of the building and is 150 feet from the Silver Gymnasium. Door Bank #11 was remodeled in 2017 and provides three sets of double leaf doors that swing away from the building. Each door measures 36 inches wide and 80 inches tall, with 11-inch-long pull handle hardware mounted between 33 and 44 inches from the ground. Each door, open at 90 degrees, allows for 34 inches of level clearance space. In the space in front of, and beyond each door, there is a 48 inches of clear level floor space. An automatic door opening button is mounted on a post 33 inches from the ground near the set of double leaf door it operates. Door Bank #11 is open after school hours. However, Door Bank #32 is the primary after school entrance.

Centrally located on the north side of the building, Door Bank #32, remodeled in 2017, faces the main parking lot of the School. Door Bank #32 sits 60 feet from the closest of eleven disabled parking spaces. Signage above Door Bank #32 designates it as the main entrance to the building. It consists of one double leaf door and one single door. Each door measures 36 inches wide and 80 inches tall, with 11-inch-long pull handle hardware mounted between 33 and 44 inches from the ground. Each door, open at 90 degrees, allows for 34 inches of level clearance space. In the space in front of, and beyond each door, there is 48 inches of clear level floor space. An automatic door opening button is mounted on a post 33 inches from the ground near the single

³ According to the District, Door Bank #18 was built in 2013. It is made up of two single doors that swing away from the building. Each door measures 36 inches wide and 80 inches tall, with 11-inch-long vertically mounted pull handle hardware, providing reach between 33 and 44 inches from the ground. Each door, open at 90 degrees, allows for 34 inches of level clearance space. In front of, and beyond each door, there is 48 inches of clear level floor space. An automatic door opening button is mounted on a post 33 inches from the ground near the door it operates. Door Bank #18 is open and fully operational during school hours.

door it operates. Once inside Door Bank #32, the Silver Gymnasium is roughly 150 ft away. Door Bank #32 is open after school hours.

The Superintendent told OCR that the Complainant informed the District about her inability to gain entry through Door Bank #18 after her son's basketball program ended. The Superintendent asserted that the District would have engaged the Complainant in the interactive process to provide the complainant a reasonable accommodation to enter the School.

Allegation #2

The complaint alleged that the accessible parking spaces in the west parking lot do not comply with the Americans with Disabilities Act due to inadequate marking and signage.

The District has two parking lots: the north lot and the west lot. The north lot, constructed in 1969 and renovated in 2019, contains 522 parking spaces. It provides 11 accessible parking spaces. The west lot, constructed in 1962 and renovated in 2014, contains 90 parking spaces. It provides 3 accessible parking spaces, none of which are designated with signage. The District constructed an annex to the west lot that provides 17 parking spaces. It provides no accessible parking spaces.

Legal Standards

Accessibility – General

The implementing regulations of Section 504 at 34 C.F.R. § 104.21 and of Title II at 28 C.F.R. § 35.149, provide that no qualified person with a disability shall, because a recipient's facilities are inaccessible to or unusable by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity.

Accessibility – New Construction

The implementing regulation of Section 504, at 34 C.F.R. §104.23, and Title II, at 28 C.F.R. 35.151, are applicable to any facility or part of a facility where construction commenced after June 3, 1977 (Section 504), or January 26, 1992 (Title II), respectively. Such facilities, or the newly constructed portions thereof, are termed "new construction." The regulations provide that each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by persons with a disability. The Section 504 regulation, in effect and applicable for facilities constructed or altered on or after January 18, 1991, at 34 C.F.R. 104.23(c), delineated the Uniform Federal Accessibility Standards (UFAS) as a minimum standard for determining accessibility. The Title II regulation, at 28 C.F.R. 35.151 (c), delineated UFAS or the Americans with Disabilities Act Accessibility Guidelines for Building and Facilities (ADAAG) as a minimum standard for determining accessibility for facilities

constructed or altered on or after January 26, 1992. Under the regulations, departures are allowed from particular requirements of the standards when it is clearly evident that equivalent access is provided. Under Title II, a recipient may select UFAS or ADAAG as a compliance standard. Under Section 504, ADAAG may be utilized as a standard that provides equivalent access.

The regulation implementing Title II and the ADAAG standards were amended in September 2010. Title II adopted new accessibility guidelines, 2010 ADA Standards for Accessible Design (ADA Standards), which became effective March 15, 2011. The ADA Standards, at 28 C.F.R. §35.151(c)(3), provide, “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 Standards.” OCR Notice of Interpretation, Federal Register, Vol. 77, No. 50, pages 14972-14976 (March 14, 2012), allows use of the ADA Standards under Section 504. OCR utilizes the UFAS or ADDAG standards as a guideline to assess if an element of an existing facility is accessible.

Doors

The ADA Standards at 206.5 apply to a facility’s doors, doorways, and gates, including entrance doors. Section 206.4.1 requires 60% of a facility’s public entrances to be accessible pursuant to Section 404. Section 404 governs door and entrance width, maneuvering clearances, and door hardware. Although Section 404 provides scoping requirements for automatic or power assisted doors, the ADA Standards do not require any facility to provide a minimum number of automatic or power assisted doors.

Door openings shall provide a clear width of 32 inches minimum measured between the face of the door and the stop, with the door open 90 degrees. Openings more than 24 inches deep shall provide a clear opening of 36 inches minimum. There shall be no projections into the required clear opening width lower than 34 inches above the finish floor or ground. Projections into the clear opening width between 34 inches and 80 inches above the finish floor or ground shall not exceed 4 inches. Handles pulls, latches, locks, and other *operable parts* on doors and gates shall comply with 309.4. Operable parts of such hardware shall be 34 inches minimum and 48 inches maximum above the finish floor or ground.

Parking

The ADA Standards at Section 208.1, *et seq.* require that for parking lots or facilities built or renovated after March 15, 2012, the lot or facility must provide a number of accessible parking space based on the number of available spaces in each lot or facility. If a recipient offers more than one lot or facility on a site, Section 208.2 requires that the number of accessible parking spaces be determined for each lot or facility on a particular site.

Section 501, *et seq.* provides the technical scoping requirements for accessible parking spaces, including length, width, spacing, and proper identification. Pursuant to the ADA Standards at Section 502.6, parking space identification signs shall include the International Symbol of

Mr. Christopher Sonju
OCR Docket # 05-20-1179
June 8, 2020
Page 6 of 7

Accessibility complying with Section 703.7.2.1. Signs identifying van parking spaces shall contain the designation “van accessible.” Signs shall be 60 inches (1525 mm) minimum above the finish floor or ground surface measured to the bottom of the sign.

Analysis and Conclusion

Allegation #1

OCR determined that all of the District’s six after hour entrances, including the west side entrance, are accessible pursuant to new construction standards for door size, hardware, and clear accessible space. Although Door Bank #14 does not have an automatic or power assisted door, the evidence shows that two other sets of doors, closer to the center of the building, have automatic or power assisted doors that were operable and available to the Complainant at the time of the complaint. Furthermore, Door Bank # 14 complies with the minimum accessibility requirements of the ADA Standards.

Based on the foregoing, the evidence is insufficient to show that the District discriminated against the Complainant or others with disabilities when it locked Door Bank #18.

Allegation #2

OCR obtained evidence that shows that that based on the date of renovation and/or construction of the west lot, it should have a minimum of 4 accessible parking spaces and the west annex lot should have a minimum of 1 accessible parking space. Currently, the west lot provides 3 accessible parking spaces, and the west annex lot provides no accessible parking spaces. Additionally, the 3 accessible parking spaces in the west lot have no signage other than ground markings.

During the course of OCR’s investigation, prior to OCR conducting an on-site visit to the School, the District expressed a willingness to resolve the complaint pursuant to Section 302 of OCR’s Case Processing Manual. OCR has determined that it is appropriate to resolve this complaint with a Voluntary Resolution Agreement at this juncture.

On June 8, 2020, the District signed the enclosed Agreement, the terms of which are aligned with Allegation #2. The Agreement requires the District modify the west parking lot in accordance with the ADA Standards.

This concludes OCR’s investigation of the complaint and should not be interpreted to address the College’s compliance with any other regulatory provision or to address any issues other than those addressed in this letter. OCR will monitor the College’s implementation of the Agreement. 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

Mr. Christopher Sonju
OCR Docket # 05-20-1179
June 8, 2020
Page 7 of 7

the public. The complainant may have a right to file a private suit in federal court whether or not OCR finds a violation.

The complainant has a right to appeal OCR's determination of Allegation #1 within 60 calendar days of the date indicated on this letter. In the appeal, the complainant must explain why the factual information was incomplete or incorrect, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the complainant appeals OCR's determination, OCR will forward a copy of the appeal form or written statement to the recipient. The recipient has the option to submit to OCR a response to the appeal. The recipient must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

Please be advised that the recipient 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, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

This concludes OCR's investigation of the complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. OCR wishes to thank the District for the courtesy and cooperation extended to OCR during the investigation. If you have any questions about this letter, please contact Sara Choh, OCR Attorney, by phone at (312) 730-1461 or by email at sara.choh@ed.gov.

Sincerely,

Ann Cook-Graver
Supervisory Attorney