



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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CHICAGO, IL 60604

REGION V
ILLINOIS
INDIANA
IOWA
MINNESOTA
NORTH DAKOTA
WISCONSIN

September 1, 2022

XXXXXXX

XXXXXXX

Metropolitan School District of Martinsville
Central Education Center 389 E. Jackson St.,
Martinsville, IN 46151

Sent via email to: XXXXXX

Re: OCR Docket #05-22-1289

Dear XXXXXX:

The U.S. Department of Education (Department), Office of Civil Rights (OCR), has completed its complaint resolution activities in connection with the above-referenced complaint against Metropolitan School District of Martinsville (Corporation) alleging discrimination on the basis of disability. Specifically, the complaint alleges that the Corporation discriminates against individuals with certain physical disabilities who visit Martinsville High School (School) because:

1. There is no accessible route between the handicap accessible spaces in the western parking lot and the newly constructed field house, which was completed in the fall of 2021,
2. There is no accessible entrance that connects the South entrance to the field house and the western parking lot; and
3. The handicap accessible parking spaces on the access road between the sports complex that contains the School's athletic fields and the main buildings of the School are not on an accessible route.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 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. §§ 12131 - 12134, and its implementing regulation at 28 C.F.R. Part 35. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance, and Title II prohibits discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and a public entity, the Corporation is subject to these laws.

During the investigation, OCR reviewed information provided by the Complainant and the Corporation and conducted an inspection of the School. Prior to the completion of OCR's investigation, the Corporation expressed interest in resolving the complaint in accordance with Section 302 of OCR's *Case Processing Manual* (CPM).

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

Legal Standards

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.

The implementing regulations of Section 504, at 34 C.F.R. § 104.23(b), and Title II, at 28 C.F.R. § 35.151, are applicable to any facility or part of a facility where construction was commenced after June 3, 1977 (Section 504) or January 26, 1992 (Title II), respectively. These facilities are termed "new construction or alterations." The regulations provide that each facility or part of a facility which is altered by or for the use of a recipient in a manner that affects or could affect the usability of the facility shall, to the maximum extent feasible, be altered such that the altered portion is readily accessible to and usable by persons with disabilities. The regulations specify the accessibility standard to be used in determining the accessibility of the alterations based on the date of construction or renovation.

The Section 504 regulation, at 34 C.F.R. § 104.23(c), delineated the American National Standards Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped [ANSI 117.1-1961 (1971)] (ANSI) as a minimum standard for determining accessibility for facilities constructed or altered on or after June 3, 1977, and before January 18, 1991, and the Uniform Federal Accessibility Standards (UFAS) for facilities constructed or altered on or after January 18, 1991. The Title II regulation, at 28 C.F.R. § 35.151(c), delineated UFAS or The Americans with Disabilities Accessibility Guidelines for Buildings and Facilities (ADAAG) as a minimum standard for determining accessibility for facilities constructed or altered on or after January 26, 1992.

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 (2010 Standards). The regulation, 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 Standards."

Facts

The Complainant alleged that the Corporation did not have an accessible route between handicap accessible parking spaces in the Western Parking Lot (Western Lot) of the School and a newly constructed field house (Fieldhouse) and between handicap accessible parking spaces on an access road leading to the athletic fields. Specifically, the Complainant alleged that there was no ramp close to the doors connecting the Fieldhouse with the Western Lot, and that routes between handicap accessible parking and both the Fieldhouse and athletic fields included areas highly trafficked by vehicles.

According to the Corporation, the Fieldhouse was completed in October 2021. Both the access road and the Western Lot were resurfaced after 2010. The Corporation also informed OCR that it

had created two handicap accessible spaces along the northern part of the access road, and that these spaces were adjacent to an accessible ramp. Additionally, the Corporation explained that all parking along the access road becomes handicap accessible parking during football games.

On June 29, 2022, the Corporation informed OCR that it was in the process of adding a ramp that would connect the Western Lot and the Fieldhouse. The installation of an accessible ramp was contracted on March 24, 2022, and installation was completed on or around July 11, 2022.

On August 22, 2022, OCR conducted an onsite inspection of the Western Lot, the access route to the Fieldhouse, the entrance to the Fieldhouse and the accessible parking spaces on the access road between the sports complex.

Analysis and Conclusion

According to Chapter 4 of the 2010 Standards, Section 403 requires that all walking surfaces comply with Section 302, doorways along the accessible route must comply with Section 404, and any ramps along the route must comply with Section 405.¹ According to Chapter 4 of the 2010 Standards, all walkways, ramps, and doorways along the route must meet the specifications outlined in the 2010 Standards.

During its August 22, 2022, inspection of the School, OCR identified concerns that both the curb ramp that connects the Western Lot and the Fieldhouse and the doors that connect the Field House to the Western Lot are not fully compliant with the 2010 Standards. Specifically, one portion of the curb ramp exceeded the 1:12 grade requirement of Section 406 of the 2010 Standards, and OCR had concerns that the doors referenced above did not comply with requirements of Section 404 of the 2010 Standards. OCR did not identify any compliance concerns along the route between the accessible parking spaces in the Western Lot and the curb ramp or between the arrival points along the access road and the athletic fields.²

In accordance with Section 302 of OCR's CPM, a complaint may be resolved at any time when, before the conclusion of an investigation, the recipient expresses an interest in resolving the complaint. On August 24, 2022, the Corporation expressed interest in resolving this complaint.

On August 30, 2022, the Corporation executed the enclosed Agreement, which when fully implemented, will address the compliance concerns. The provisions of the Agreement are aligned with the allegations in the complaint and the information obtained during OCR's investigation and are consistent with the applicable regulations. OCR will monitor the implementation of the Agreement.

This concludes OCR's investigation of the complaint and should not be interpreted to address the Corporation's compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

¹ Section 406 of the 2010 Standards outlines the specific requirements for curb ramps.

² Section 206.2.1 of the 2010 Standards requires an accessible route between arrival points, which include accessible parking spaces, and the accessible building or facility entrance they serve. According to an advisory note to Section 206.2.1, access from site arrival points *may* include vehicular ways, but that if the vehicular way is designed for pedestrian travel, such as within a shopping mall parking lot, the route must be accessible.

The 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.

Please be advised that the Corporation 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 another complaint alleging such treatment.

The Complainant has a right to appeal OCR's determination 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 Corporation. The Corporation has the option to submit to OCR a response to the appeal. The Corporation must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the Corporation.

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 privacy.

The Complainant may file a private suit in Federal court, whether or not OCR finds a violation.

OCR would like to thank the Corporation for the cooperation and courtesy extended to OCR during our investigation. In particular, we wish to thank XXXXXX and XXXXXX, the Corporation's Counsel. If you or any of your staff members have any questions, please contact XXXXXX, at XXX-XXX-XXXX or by email at XXXXXX

Sincerely,

XXXXXX
Team Leader

Enclosure

cc. XXXXXX (sent via email to XXXXXX)
XXXXXX (sent via email to XXXXXX)