



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

230 SOUTH DEARBORN ST., 37<sup>TH</sup> FLOOR  
CHICAGO, IL 60604

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

February 17, 2023

Mr. Steve Underwood  
Interim Superintendent  
North Lawrence Community Schools  
Sent via email to [underwoods@nlcs.k12.in.us](mailto:underwoods@nlcs.k12.in.us)

Re: OCR Docket #05-22-1546

Dear Mr. Underwood:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its complaint resolution activities in connection with the above-referenced complaint against North Lawrence Community Schools (Corporation) alleging discrimination on the basis of disability.

Specifically, the complaint alleges that the Corporation is discriminating against individuals with disabilities by failing to provide sufficient accessible seating and accessible restrooms at the football stadium (Stadium) located at Bedford North Lawrence High School (School).

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, 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. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance from the Department, 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 Corporation. 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) and signed the enclosed Resolution Agreement (Agreement). This letter summarizes the applicable legal standards, the information gathered during the investigation, and how the complaint was resolved.

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

The implementing regulations of Section 504, at 34 C.F.R. § 104.22, and Title II, at 28 C.F.R. § 35.150, are applicable to any facility or part of a facility where construction commenced prior to June 3, 1977 (Section 504) or January 26, 1992 (Title II), respectively. The regulations provide that with regard to such facilities, termed “existing facilities,” the Corporation will operate the programs, activities and (as to Title II) services so that, when viewed in their entirety, the programs, activities, and services are readily accessible to and usable by persons with disabilities. The Corporation may comply with this requirement through the reassignment of programs, activities, and services to accessible buildings, alterations of existing facilities or any other methods that result in making each of its programs, activities, and services accessible to disabled persons. The Corporation is not required to make structural changes in existing facilities where other methods are effective in achieving compliance. In choosing among available methods for meeting the requirements of the statute, the Corporation must give priority to methods that offer the programs, activities, and services to disabled persons in the most integrated setting appropriate.

The implementing regulation of Section 504, at 34 CFR § 104.22(f), provides that the recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and locations of services, activities, and facilities that are accessible to and usable by persons with disabilities. The implementing regulation of Title II, at 28 C.F.R. § 35.163(a), provides that public entities must also ensure that interested persons, including persons with impaired vision or hearing, can obtain information about the existence and location of accessible services, activities and facilities.

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.”

The 2010 Standards require assembly areas, which include stadiums, to provide wheelchair spaces, companion seats, and designated aisle seats. In particular, assembly areas with a total number of seats available between 501 and 5000 must provide a minimum of 6 wheelchair spaces for the first 501 seats plus 1 wheelchair space for every 150 additional seats, or a fraction thereof, after that. Moreover, the 2010 Standards require one companion seat for each wheelchair space available and require accessible wheelchair spaces to provide spectators with choices of seating locations and viewing angles that are substantially equivalent to, or better than, the choices of seating locations and viewing angles available to other spectators. The 2010 Standards also require assembly areas to designate as accessible at least 5 percent of the total number of aisle seats, that those designated aisle seats be closest to accessible routes, and that handrails be provided in aisles serving seating areas. In addition, UFAS, ADAAG and the 2010 Standards contain requirements related to ensuring that restrooms are accessible to individuals with disabilities.

### **Facts**

The Complainant alleged that the Stadium’s visitors’ bleachers, located on the east side of the Stadium, are not accessible to individuals with disabilities because they do not have handrails in the aisles and do not have a ramp to the bleachers. The Complainant alleged that the restrooms are located on the other side of the field from the visitors’ bleachers and are not connected to an accessible route because the required path is too steep for individuals in wheelchairs.

The Stadium was built in 1974 and has a total seating capacity of 3,450, which includes 14 wheelchair spaces and 14 companion seats. According to a statement from the Corporation, the Stadium was remodeled “approximately ten years ago” to add wheelchair seating in the west bleachers and a separate seating area for individuals in wheelchairs and their companions, also on the west side of the Stadium. In addition, the Corporation stated to OCR that it has accommodated individuals with disabilities by allowing them to sit on the track, if requested.

The Stadium has two pairs of restrooms; one pair is connected to the concession stand and was built in 2008, and the other is located in the School’s main gymnasium and was built between 2004 and 2006. Both men’s restrooms have three stalls, one of which is designated as accessible, and both women’s restrooms have six stalls, one of which is designated as accessible.

Photos provided by the Corporation show that routes from the visitors’ bleachers and the parking lot, which is also located on the east side of the Stadium, to the accessible seating areas and the restrooms are paved and appear to be in good condition, but do not reveal the steepness of the path. The Corporation also provided photos showing the stalls in the restrooms available at the Stadium. The photos did not contain sufficient details for OCR to determine whether the restrooms meet applicable accessibility standards.

## **Analysis and Conclusions**

In accordance with Section 302 of the 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. Although OCR has not completed its investigation to determine whether the Corporation is complying with applicable accessibility standards, it has concerns about the number of seats and the potential lack of ramps and/or accessible seating areas in certain areas of the Stadium, as well as the number of designated accessible aisle seats and the possible lack of handrails in the bleachers and about the accessibility of the Stadium's restrooms. Because the Corporation has informed OCR of its willingness to enter into an agreement to resolve this complaint, OCR has determined that it is appropriate to resolve this case via Section 302 of the CPM.

The enclosed Agreement, when fully implemented, will address OCR's compliance concerns. The provisions of the Agreement are aligned with the allegation 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 complaint resolution activities 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.

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 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. 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 Mr. James G. Pittman, the Corporation's

Counsel. If you or any of your staff members have any questions, please contact Alonzo Rivas, OCR Attorney, at (312) 730-1684 or by email at [Alonzo.Rivas@ed.gov](mailto:Alonzo.Rivas@ed.gov).

Sincerely,

Jeffrey Turnbull  
Team Leader

Enclosure

cc: Mr. James G. Pittman (sent via email to [greg@jgpittmanlaw.com](mailto:greg@jgpittmanlaw.com))