



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620  
DALLAS, TX 75201-6810

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

Resolution Agreement  
Crowley ISD  
Complaint No. 06121480

The Crowley Independent School District (CISD) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), Dallas Office in order to resolve the above-referenced complaint. This Agreement does not represent an admission of liability for any violation of state or federal laws protecting individuals with disabilities. However, in order to resolve the pending complaint and ensure continued access for disabled individuals, CISD commits to the following actions to ensure that it has achieved compliance with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (amended 1992), and its implementing regulation at 34 C.F.R. Part 104 (2012), and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35 (2012).

In September 2010, the U.S. Department of Justice (DOJ) released its final rule updating the Title II regulations. Among other significant changes, DOJ adopted the entirety of the 2004 ADA Accessibility Guidelines (ADAAG) as the revised standards for physical accessibility under Title II. The 2010 ADA standards for Accessible Design (hereinafter referred to as the “2010 Standards”), which took effect on March 15, 2012, consist of the 2004 ADAAG and the requirements under 28 C.F.R. § 35.151. These include scoping and technical requirements for play areas at sections 240 and 1008, respectively.

Generally, 28 C.F.R. § 35.150(b)(2)(i) provides that elements that have not been altered in existing facilities on or after March 15, 2012, and that comply with the corresponding scoping and technical specifications for those elements in either the 1991 Standards or in the Uniform Federal Accessibility Standards, are not required to be modified in order to comply with the requirements set forth in the 2010 Standards. There are exceptions to this safe harbor provision, and 28 C.F.R. § 35.150(b)(2)(ii) provides that the safe harbor provision does not apply to those elements in existing facilities that are subject to supplemental requirements. The same provision expressly identifies play areas (governed by sections 240 and 1008) as elements not eligible for the element-by-element safe harbor provision. Although play areas are not subject to the safe harbor provisions, 28 C.F.R. § 35.150(b)(1) provides multiple options for existing facilities to comply with accessibility requirements, including: “redesign or acquisition of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, or any other methods that result in making its services, programs, or activities readily accessible to and usable by individuals with disabilities.” A public entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with program accessibility.

The CISD understands that by signing this Agreement, it agrees to provide OCR in a timely manner the information necessary to comply with the reporting requirements of this Agreement. Further, the CISD understands that during the monitoring of this Agreement, if CISD fails to comply with the reporting requirements identified in this Agreement, OCR may initiate additional investigation and request such additional reports or data as may be necessary for OCR to determine whether the district has fulfilled the terms of this Agreement and is in compliance with Section 504, and its implementing regulations at 34 C.F.R. Part 104, and Title II, and its implementing regulations at 28 C.F.R. Part 35. The CISD understands that OCR will not close the monitoring of this Agreement, and by default, the complaint, until OCR determines that the CISD has fulfilled all of the terms of this Agreement.

The CISD understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. However, before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the CISD written notice of any alleged breach of the Agreement and a minimum of sixty (60) calendar days to cure the alleged breach.

Under this Agreement, the CISD agrees to take the following specific actions:

**Program Accessibility – Play Areas**

**Action Item #1**

- A. By June 30, 2014, CISD will review and evaluate the playground facilities located at the following campuses: Sycamore, Parkway, Jackie Carden, Deer Creek, Meadowcreek, Oakmont, Dallas Park, Hargrave, Poynter, Bess Race, Sue Crouch, S.H. Crowley, David Walker and Mary Harris; and, if feasible, consult with one or more professionals knowledgeable about accessible playground settings to develop a written plan (Plan) to ensure all students with mobility impairments have access to usable, age-appropriate play areas in accordance with Section 504 and Title II.
1. The Plan will include a description of how CISD intends to meet its obligation to provide accessible play areas using the means available under 28 C.F.R. § 35.150(b)(1).
  2. The Plan will identify a sufficient number of campuses at which students with mobility impairments have access to play areas with an accessible route of travel to the play area, a range of accessible equipment, and an accessible surface beneath the accessible equipment.
  3. The Plan will identify how CISD will ensure that any student assigned to a specific campus in order to provide access to an accessible play area will also continue to have access to the same variety of academic and non-academic programs for which the student might be eligible on the student's home campus.

4. If the Plan requires modifications of existing equipment or surface areas, the Plan will include a timetable for completion of any modifications, not to exceed June 30, 2015.
- B. CISD agrees that any modifications of existing equipment or surface areas required by the Plan will be executed in accordance with the provisions of Sections 402 (Accessible Route), 240 (Play Areas), and 1008 (Play Areas) of the 2010 Standards.
- C. By August 31, 2016, the CISD will ensure that the Plan is fully implemented. All activities related to the Plan shall be performed in compliance with Section 504, Title II, and applicable board policy and procedures and may be subject to board approval.

#### Reporting Requirements

By August 31, 2016, the CISD will submit a final report to OCR, which demonstrates the completion of Action Item #1 (A-C). The report to OCR shall include documentation to evidence CISD's compliance with Section 504 and Title II, including, as applicable, copies of new policies or procedures, plans, measurements, photographs, technical drawings, work orders, invoices, and other reports (including information about materials and vendors).

#### **Program Accessibility – Ninth Grade Center**

The requirements for accessibility are different for existing building and for new construction. Facilities constructed or altered after the effective dates of the regulations (June 3, 1977, for Section 504 and January 26, 1992, for Title II) are considered new construction. The Ninth Grade Center was originally constructed in 1971, with alterations/additions in 1973, 1980, 2003, 2004, 2005 and 2006. The alterations included an addition to the athletic facilities, upgrades to athletic flooring, boys' and girls' locker rooms, Ninth Grade Center bathrooms, library additions, signage at Ninth Grade Center entrances, addition of a ramp and resurfacing of the parking lot. Therefore, based on the alterations to the Ninth Grade Center, which include alterations to the athletics facilities, the parking lot and other alterations to the structure, OCR considers the Ninth Grade Center as new construction under Section 504 and Title II. Therefore, the CISD must ensure compliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.23, and Title II and its implementing regulation at 28 C.F.R. § 35.151. Under this Agreement, the CISD agrees to take the following specific actions:

#### Action Item #2

By June 30, 2014, the CISD will ensure signage is installed at the Ninth Grade Center to identify any entrance for which public access is limited to specific times and identify accessible routes to an alternative accessible entrance. CISD will ensure sufficient accessible parking is available at those entrances open to the public.

#### Reporting Requirements

By June 30, 2014, the CISD will submit to OCR a final report demonstrating the completion of Action Item #2. This report will include appropriate documentation or information sufficient to show compliance with Section 504 and Title II, regarding the above-referenced Action Item #2.

For Crowley Independent School District:

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Dr. Dan Powell, Superintendent  
Crowley Independent School District

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Date