



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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DALLAS, TX 75201-6810

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

October 02, 2018

Karl Bruchhaus, Superintendent
Calcasieu Parish School Board
3310 Broad Street
Lake Charles, LA 70615

Re: OCR Complaint No. 06151423
Calcasieu Parish School Board

Dear Superintendent Bruchhaus:

This letter is to inform you of the disposition of the above-referenced complaint filed against the Calcasieu Parish School Board (CPSB, District, or Recipient) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), alleging discrimination on the basis of disability. Specifically, the Complaint alleged that specific areas of some of the buildings in the District were inaccessible to people with disabilities.

OCR enforces Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibits discrimination on the basis of disability by recipients of Federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35, which prohibits discrimination on the basis of disability by certain public entities. As a recipient of Federal financial assistance from the Department and a covered public entity, the Recipient is subject to Section 504, Title II and their implementing regulations. Therefore, OCR has jurisdictional authority to process this complaint.

Accordingly, OCR opened the following issue for investigation:

Whether persons with disabilities are denied the benefits of, excluded from participation in, or otherwise subjected to discrimination by CPSB because the allegedly inaccessible components listed at the allegedly inaccessible locations below, are inaccessible to or unusable by persons with disabilities, in violation of Section 504 and Title II, at 34 C.F.R. §§ 104.21-104.23, and 28 C.F.R. §§ 35.149-35.151, respectively.

Legal Authority:

The accessibility requirements of the Section 504 implementing regulations are found at 34 C.F.R. §§ 104.21-104.23. Comparable sections of the Title II implementing regulations are found at 28 C.F.R. §§ 35.149-35.151. Both 34 C.F.R. § 104.21 and 28 C.F.R. § 35.149 provide generally that no qualified individual with a disability shall, because an entity's facilities are inaccessible to or unusable by disabled individuals, be excluded from participation in, or denied

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 benefits of services, programs or activities; or otherwise be subject to discrimination by the entity. The regulations implementing Section 504 and Title II each contain two standards for determining whether an entity's facilities are accessible to or usable by persons with disabilities. One standard applies to facilities existing at the time of the publication of the regulations and the other standard applies to facilities constructed or altered after the publication dates. The applicable standard depends on the date of construction and/or alteration of the facility.

Both the Section 504 and Title II prohibit discrimination on the basis of disability in the programs and activities of covered entities. The regulation implementing each statute requires entities subject to the statute to provide "program accessibility" in programs and activities offered in existing facilities. In addition, each regulation establishes design and construction standards for new and altered facilities.

Existing Facilities

An existing facility under Section 504 is any facility that was constructed, or for which construction was commenced, prior to June 3, 1977, the effective date of the Section 504 regulation. Under Title II, an existing facility includes facilities that were constructed, or for which construction was commenced prior to January 26, 1992, the effective date of the Title II regulation.

For existing facilities, both Section 504 and Title II require public entities and recipients to operate programs or activities so that the programs and activities, when viewed in their entirety, are readily accessible to and usable by individuals with disabilities. (The specific language of Title II also refers to services.) Neither regulation requires public entities or recipients to make all existing facilities or every part of the existing facility accessible to and usable by individuals with disabilities, if the [service], activity, or program as a whole is accessible.

Under both regulations, program accessibility for existing facilities can be achieved by making nonstructural changes such as the redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, or delivery of services at alternate accessible sites. Priority consideration, however, must be given to offering the programs or activities in the most integrated setting appropriate. It should be noted that if no effective alternatives can be provided to achieve program accessibility, a recipient or public entity is required to make necessary structural changes. These changes are to be made consistent with the requirements for new construction.

Depending on the date of construction, some facilities may be existing facilities for purposes of Title II but may also constitute new construction under Section 504 (e.g., buildings constructed on or after June 3, 1977, but before January 26, 1992.) In these cases, public entities/recipients that are covered under both Title II and Section 504 must meet the standards for existing construction under Title II and also the applicable accessibility standards for new construction and alterations under Section 504.

New Construction and Alterations

Both Section 504 and Title II require that a new or altered facility (or the part that is new or altered) be accessible to and usable by individuals with disabilities. However, there are differences in the applicable accessibility standards for new construction and alterations. Alterations standards recognize that structural impracticability or technical infeasibility may be encountered; however, new construction standards must be used in alterations whenever possible.

With respect to Section 504 requirements, facilities constructed or altered after June 3, 1977, but prior to January 18, 1991, must comply with the American National Standards Institute (ANSI) Standards (A117.1-1961, re-issued 1971). Facilities constructed or altered after January 17, 1991, must meet the requirements of the Uniform Federal Accessibility Standards (UFAS). Under the Title II regulation, districts had a choice of adopting either UFAS or the 1991 Americans with Disabilities Act Accessibility Guidelines (ADAAG) for facilities constructed or altered after January 26, 1992 and prior to September 15, 2010. For facilities where construction or alterations commenced on or after September 15, 2010, and before March 15, 2012, the Title II regulation provides that districts had a choice of complying with one of the following: UFAS, ADAAG, or the 2010 ADA Standards for Accessible Design (2010 Standards).¹ The Title II regulation provides that districts are required to comply with the 2010 Standards for construction or alterations commencing on or after March 15, 2012.² For the purposes of Title II compliance, a public entity must comply with the 2010 Standards as of March 15, 2012, even if the Uniform Federal Accessibility Standards (UFAS) remains an option under the Section 504 regulations after that date.

Investigation To Date:

To date, OCR has investigated this complaint by reviewing information provided by the Complainant and the Recipient. OCR has conducted a preliminary assessment of several of the accessibility issues raised in this complaint. The Complainant alleged the following accessibility issues:

(1) Career & Technical Education Building (600 South Shattuck Street):

- A. Sidewalks and Ramp leading to front entrance: no ramp in front of the building; there is an accessible entrance on the south side of the building, but the ramp rails are “short” with “no overhand;” no accessible entrance signage.
- A. Front doors: no accessible handles on doors; door pressure too heavy.
- B. Men’s Restrooms: door into restroom too narrow for wheelchair access; no locks on stalls; toilets too low; no handrails in stalls or at urinals.
- C. Lobby area within building: stairs leading to higher level with no ramp or rails available.
- D. Front offices within building: doorknobs that require twisting.
- E. No access to second floor activities.

¹ The 2010 ADA Standards for Accessible Design consist of 28 C.F.R. § 35.151 and the 2004 ADAAG at 36 C.F.R. Part 1191, appendices B and D.

² The U.S. Department of Education revised its Section 504 regulations to formally adopt the 2010 Standards in lieu of UFAS. The Section 504 regulations now require the use of the 2010 Standards in new construction and renovations.

F. Drinking fountains inaccessible.

(2) Reynaud Middle School (“Rise Connection”) Building (745 South Shattuck Street):

- A. Front doors: small concrete slab leading to entrance with no rails; no accessible handles on doors.
- B. Men’s Restrooms: door pressure into restroom too heavy; one stall has 2 handicap rails but no doors; urinals with no support rails; toilets too low.
- C. Entrances to dressing room within gymnasium attached to Rise Building: door pressure too heavy.
- D. Restrooms within gymnasium: no locks to stalls; no handrails; toilets too low.

(3) CPSB Administration Building (3310 Board Street):

- A. Accessible entrance to building: door pressure too heavy.

OCR conducted a preliminary examination of the information provided by the Complainant and the data responses from the Recipient, and found possible compliance concerns as to whether the items identified by the Complainant are accessible to individuals with disabilities.

Prior to the completion of OCR’s investigation, the Recipient asked to resolve this complaint pursuant to Section 302 of OCR’s *Case Processing Manual* (CPM). On XXX, 2018, the Recipient submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the allegations in the complaint.

In light of the commitments the Recipient has made in the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will monitor the Recipient’s implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may request additional information as necessary to determine whether the Recipient has fulfilled the terms of the Agreement and is in compliance with Section 504 and Title II with regard to the issues raised.

If the Recipient fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR shall give the Recipient written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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

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 the public.

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 harmed individual may file a complaint alleging such treatment.

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

Under the Freedom of Information Act, it may be necessary to release this letter and related correspondence and records upon request. In the event that OCR receives such a request, it 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.

OCR looks forward to receiving the Recipient's first monitoring report by November 30, 2018. For questions about implementation of the Agreement, please contact Cristina Doss, who will be monitoring the Recipient's implementation, by e-mail at cristina.doss@ed.gov or by telephone at (214) 661-9684. For questions about this letter, please contact me at (214)-661-9648.

Sincerely,

/s/

Timothy D. Caum
Supervisory Attorney/Team Leader
Office for Civil Rights
Dallas Office