# **Resolution Agreement**

Broken Arrow Public Schools OCR Docket Number 07131145

The U.S. Department of Education, Office for Civil Rights (OCR), conducted a complaint investigation of the Broken Arrow Public Schools, Broken Arrow, Oklahoma, pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and its implementing regulation at 34 Code of Federal Regulations (C.P.R.) Part 104; and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation at 28 C.P.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance (FFA) and public entities. The District, as a recipient of FFA and a public entity, is subject to the requirements of Section 504 and Title II.

The complainant alleged the parking lot and route from the parking lot to the Oak Crest Elementary School (Oak Crest), particularly the route to the location where students with disabilities are taught, is not accessible to individuals with mobility impairments.

The Title II regulation states that physical construction or alterations commenced on or after September 15, 2010, and before March 15, 2012, may comply with one of the following: 1) the 2010 Standards for Accessible Design (2010 Standards); 2) the 1991 Standards; or 3) the Uniform Federal Accessibility Standards (UFAS). For any physical construction or alterations commenced on or after March 15, 2012, the 2010 Standards apply. This Title II regulation allows for departures from particular requirements of either standard by the use of other methods when it is clearly evident that equivalent access to the facility or part of the facility is provided.

Before OCR completed its investigation, the District agreed to take the following actions:

# PROGRAM AND FACILITY ACCESSIBILITY

1. By entering into this Agreement, the District provides a general assurance that it will operate its District programs, activities, and services so that, when viewed in its entirety, the District is readily accessible to and usable by individuals with disabilities. Methods for providing accessibility may include the redesign or acquisition of equipment, reassignment of services to accessible buildings, delivery of services at alternate accessible locations, alteration of existing construction, construction of new facilities, or any other effective methods that result in making the District's programs, activities, and services readily accessible to and usable by individuals with disabilities. In choosing

<sup>&</sup>lt;sup>1</sup> See 28 C.F.R. § 35.151(b). The 2010 Standards are comprised of the 2004 Americans with Disabilities Act Accessibility Guidelines standards (appendices B & D to 36 C.F.R § 1191) and the amended Title II regulation at 28 C.F.R. § 35.151. The 2010 Standards may be accessed at <a href="http://www.ada.gov/2010ADAstandards">http://www.ada.gov/2010ADAstandards</a> index.htm.

<sup>&</sup>lt;sup>2</sup> 1991 Standards means the 1991 Americans with Disabilities Act Standards for Accessible Design, except the elevator exemption contained at sections 4.1.3(5) and 4.1.6(1)(k), which does not apply.

among methods, the District must give priority to those methods that serve individuals with disabilities in the most integrated setting appropriate and those methods that will allow them to access the programs, activities, and services independently. If the District undertakes alterations or construction of new facilities to achieve program accessibility, all such alterations or new construction commencing after March 15, 2012 will conform to the 2010 Standards.

2. The District is in the process of implementing, and will be completing prior to the 2014-2015 school year, a remedial plan (Plan) to ensure the Oak Crest parking lots, access aisles, accessible routes and entrances to the school are compliant with the 2010 Standards. A description of the Plan to be performed by the District to achieve compliance at the facility with regard to the issues raised by the complainant is identified as follows:

# (a) South Lot

When Oak Crest reopens upon completion of the renovation, which began in the summer of 2013, the south lot will become a "Buses Only" loop for loading and unloading students at the south entrance. Paths of ingress and egress to the building will be accessible as per the 2010 Standards;

# (b) North and West Lots

- (1) As part of the ongoing construction project, the required accessible parking spaces in the North and West parking lots will be repaved and restriped, and the surface cracks, curb, curb ramp, slope, width and access aisle issues identified by the OCR will be resolved by this repaving and restriping process. These parking lots, parking spaces and access aisles will be redesigned to meet current 2010 Standards and the requirements of the building code adopted by the City of Broken Arrow, Oklahoma;
- (2) Van accessible parking spaces in the North and West parking lots will meet current 2010 Standards and the requirements of the building code adopted by the City of Broken Arrow, Oklahoma. As the South parking lot will become a "Buses Only" loop, the need for a van accessible parking space will be eliminated;
- (3) International Symbols of Accessibility will be installed which meet current 2010 Standards and the requirements of the building code adopted by the City of Broken Arrow, Oklahoma;
- (4) Walking surfaces will be differentiated from traffic surfaces in the North and West parking lots in accordance with current 2010 Standards and the requirements of the building code adopted by the City of Broken Arrow, Oklahoma; and

(5) Identified passenger loading and unloading zone will comply with the current 2010 Standards and the requirements of the building code adopted by the City of Broken Arrow, Oklahoma; and

# (c) Entrances

As part of the ongoing renovation at Oak Crest, accessible entrances will be renovated to meet current ADA standards and the requirements of the building code adopted by the City of Broken Arrow, Oklahoma.

Attached as "Exhibit A" is an architectural drawing showing the configurations of the parking lots upon completion of the project.

**REPORTING REQUIREMENT:** On January 15, 2014, April 15, 2014, June 15, 2014, and upon substantial completion of the project the District will provide the OCR with a written status update which will depict the steps which have been completed since the date of the Agreement or since the date of the previous status update and will include photographs regarding the status of progress in implementing the Plan.

## **ACCESSIBILITY NOTICE**

3. The District will amend its nondiscrimination statement to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities, in accordance with 34 C.F.R. § 104.22(f) and 28 C.F.R. § 35.163. The statement will read as follows:

# Notice of Non-Discrimination

Broken Arrow Public Schools (BAPS) does not discriminate on the basis of race, color, national origin, gender, sexual orientation, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following people at BAPS have been designated to handle inquiries regarding the non-discrimination policies:

#### **Contacts:**

For all <u>non</u>-student and/or employment related issues:

XXXXX XXXXX Chief Human Resources Officer 701 South Main Street Broken Arrow, OK 74012 (918)-259-5700

For all student issues <u>except</u> those related to Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973:

## XXXXX XXXXX

Assistant Superintendent of Administrative Services 701 South Main Street Broken Arrow, OK 74012 (918) 259-5700

For all <u>student issues</u> related to Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973:

## XXXXX XXXXX

Director of Special Services 701 South Main Street Broken Arrow, OK 7 4012 (918) 259-5700

For all student issues related to Title IX, of the Education Amendments of 1972:

## XXXXX XXXXX

Assistant Athletic Director 1901 E. Albany Broken Arrow, OK 74012 (918)-259-4310

For issues related to accessibility to facilities, services and activities pursuant to the Americans with Disabilities Act:

## XXXXX XXXXX

Chief Operating Officer 701 South Main Street Broken Arrow, OK 74012 (918) 259-5700

Inquiries concerning non-discrimination can also be made to the United States Department of Education, Office for Civil Right. The contact information for the Kansas City Enforcement Office is included below:

Office for Civil Rights
U.S. Department of Education

One Petticoat Lane 1010 Walnut Street, Suite 320 Kansas City, MO 64106 Telephone: (816) 268-0550 TTY (877)-521-2172 Facsimile: (816) 823-1404

Email: OCR.KansasCity@ed.gov

4. The District will publish and prominently display the nondiscrimination statement at its a) website; b) in the online student and employee handbooks; and c) at the Human Resources webpage by December 15, 2013.

**REPORTING REQUIREMENT:** By December 20, 2013, the District will provide to the OCR documentation indicating that the revised nondiscrimination statement has been electronically posted as set forth in item 4 to this Resolution Agreement.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the recipient has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.P.R. Part 104 and Title II at 28 C.P.R. Part 35, which were at issue in this case.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.P.R. Part 104 and Title II at 28 C.P.R. Part 35, which were at issue in this case.

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

/s/Cheryl Kelly	12-9-13
Cheryl Kelly, Board President	Date