

Resolution Agreement
Docket # 07151189

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

The complainant alleged that the District discriminates on the basis of disability because the District's Junior High School has inaccessible parking, entrances, gymnasium seating, and auditorium entrance and seating.

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

1. By May 16, 2016, the District will make three additional accessible parking spaces and at a minimum two additional access aisles by the Junior High School building which meet the requirements of Sections 208 and 502 of the Americans with Disabilities Act (ADA) 2010 Standards.

REPORTING REQUIREMENT: By May 16, 2016, the District will provide OCR documentation that the District made three additional accessible parking spaces by the Junior High School building which meet the requirements of Sections 208 and 502 of the ADA 2010 Standards. This documentation will include the location and dimensions of the three additional accessible parking spaces (width of accessible parking spaces, marked to define the width, two parking spaces can share a common access aisle, width of access aisle, access aisle extends the full length of the parking spaces, access aisle is marked to discourage parking in it, access aisle does not overlap the vehicular way, access aisle is at the same level as the parking spaces it serves and nearly level in all directions, marked with identification signs, access aisle adjoins an accessible route, access routes connect parking spaces to accessible entrances, and located on the shortest accessible route from parking to an accessible entrance). This documentation will also include pictures documenting the above.

2. By May 16, 2016, the District will mark the two accessible parking spaces by the football stadium, which did not have identification signs at the time of OCR's onsite, with identification signs which comply with Section 502.6 of the ADA 2010 Standards. The District will also make the identification signs for the other ten accessible parking spaces by the football stadium 60 inches minimum above the finish

floor or ground surface measured to the bottom of the sign as required by Section 502.6 of the ADA 2010 Standards.

REPORTING REQUIREMENT: By May 16, 2016, the District will provide OCR documentation that the District marked the two accessible parking spaces by the football stadium, which did not have identification signs at the time of OCR's onsite, with identification signs which comply with Section 502.6 of the ADA 2010 Standards. The District will also provide OCR documentation that the District made the identification signs for the other ten accessible parking spaces by the football stadium 60 inches minimum above the finish floor or ground surface measured to the bottom of the sign as required by Section 502.6 of the ADA 2010 Standards. This documentation will include pictures of each of the twelve accessible parking spaces by the football stadium with their identification signs and pictures of the height of each of the identification signs with a measuring tape showing that the signs are 60 inches minimum above the finish floor or ground surface measured to the bottom of the signs.

3. By May 16, 2016, the District will lower the height of the outside automatic door button at the main entrance door to be between 48 inches maximum and 15 inches minimum above the finish floor or ground to meet the requirements of Sections 308.2.1 and 308.3.1 of the ADA 2010 Standards.

REPORTING REQUIREMENT: By May 16, 2016, the District will provide OCR documentation that the District lowered the height of the outside automatic door button at the main entrance door to be between 48 inches maximum and 15 inches minimum above the finish floor or ground to meet the requirements of Sections 308.2.1 and 308.3.1 of the ADA 2010 Standards. This documentation will include pictures of the outside automatic door button at the main entrance door with a measuring tape showing that this is between 48 inches maximum and 15 inches minimum above the finish floor or ground.

4. By May 16, 2016, the District will conduct activities in gymnasium 1 so that the newer bleachers with the accessible seats are available for use and the activities are conducted close to the accessible seats. In addition, when seating is installed in gymnasium 2, the District will ensure that the seating meets the requirements of the ADA 2010 Standards.

REPORTING REQUIREMENT: By May 16, 2016, the District will provide OCR documentation that the District conducted activities in gymnasium 1 so that the newer bleachers with the accessible seats were available for use and the activities were conducted close to the accessible seats. This documentation will include a list of the activities conducted in gymnasium 1, a description of each activity, where in gymnasium 1 the activity was conducted, where audience members sat, whether persons using wheelchairs attended the activity, and where the persons using

wheelchairs sat. In addition, if seating is installed in gymnasium 2 by the above date, the District will provide OCR pictures and measurements of this seating and where persons using wheelchairs sit to establish that this seating meets the requirements of the ADA 2010 Standards.

5. By May 16, 2016, the District will remove additional seating by the spaces left by the District's removal of auditorium seats so that they are 36 inches wide minimum for a single wheelchair space or 33 inches wide minimum for each of two adjacent wheelchair spaces to provide at least 7 wheelchair spaces of this required width as required by Section 802.1.2 and Table 221.2.1 of the ADA 2010 Standards. The District will also determine if it is technically feasible to have the 7 wheelchair spaces be 48 inches deep minimum where a wheelchair space can be entered from the front or rear and 60 inches deep minimum where a wheelchair space can be entered only from the side and provide this if and where possible as required by Section 802.1.3 of the ADA 2010 Standard. The District will further provide at least one companion seat for each wheelchair space where possible as required by Section 221.3 of the ADA 2010 Standards. In addition, the District will ensure that wheelchair spaces are used by persons in wheelchairs.

REPORTING REQUIREMENT: By May 16, 2016, the District will provide OCR documentation that the District has removed additional seating by the spaces left by the District's removal of auditorium seats so that they are 36 inches wide minimum for a single wheelchair space or 33 inches wide minimum for each of two adjacent wheelchair spaces to provide at least 7 wheelchair spaces of this required width as required by Section 802.1.2 and Table 221.2.1 of the ADA 2010 Standards. The District will also provide OCR documentation of the District's determination regarding whether or not it is technically feasible to have the 7 wheelchair spaces be 48 inches deep minimum where a wheelchair space can be entered from the front or rear and 60 inches deep minimum where a wheelchair space can be entered only from the side and if so, provided this, as required by Section 802.1.3 of the ADA 2010 Standards. The District will further provide OCR documentation of the District's determination regarding whether or not it is technically feasible to have at least one companion seat for each wheelchair space, and if so, provided this, as required by Section 221.3 of the ADA 2010 Standards. In addition, the District will provide documentation to OCR of the District's efforts to ensure that wheelchair spaces are used by persons in wheelchairs. This documentation will include the location, dimensions, and pictures of the above.

6. By May 16, 2016, the District will adopt and publish a § 104.22(f) notice. This notice will state 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 by contacting [title, address, telephone number, and email address]. This notice will be included in

a prominent place on the District’s website, in all student handbooks, and at each building.

REPORTING REQUIREMENT: By May 16, 2016, the District will provide OCR copies of the § 104.22(f) notice, the District’s website page which includes the § 104.22(f) notice, and all student handbooks which include the § 104.22(f) notice. The District will also provide OCR pictures of the § 104.22(f) notices which are posted at each building.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 at 34 C.F.R. § 104.21, § 104.22, and § 104.23 and the regulation implementing Title II at 28 C.F.R. § 35.149, § 35.150, and § 35.151, 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 regulation implementing Section 504 at 34 C.F.R. § 104.21, § 104.22, and § 104.23 and the regulation implementing Title II at 28 C.F.R. § 35.149, § 35.150, and § 35.151, 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.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/ Stephen Kleinsmith
Superintendent

11/17/2015
Date