



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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December 4, 2017

XXXXX XXXXX
Attorney at Law
XXXXX, XXXXX, XXXXX
XXXXX XXXXX
XXXXX, XXXXX XXXXX

Re: Spring Hill USD #230
OCR Case Number: 07-16-1109

Dear Mr. XXXXX:

On February 9, 2016, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint alleging discrimination on the basis of disability by the Spring Hill U.S.D. #230 (District), Spring Hill, Kansas. This letter is to confirm the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve allegations 1(a) and 1(b) of this complaint. Allegations 1(c) and 1(d) are being closed pursuant to Section 303a of the *Case Processing Manual*¹. Details of OCR's determination are set out below.

OCR is responsible for enforcing:

- 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. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance (FFA).
- 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. Title II prohibits discrimination on the basis of disability by public entities.

Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

As a recipient of FFA from the Department and a public entity, the District is subject to these laws.

¹ OCR's Case Processing Manual is online at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

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 Complainant alleged that the District discriminates on the basis of disability because the gymnasiums at the Spring Hill High School do not provide accessible facilities for persons with disabilities. Specifically the Complainant alleges the gymnasiums do not have:

- a. a sufficient number of accessible parking spaces;
- b. accessible parking spaces located on the shortest accessible route to the accessible entrances;
- c. accessible seating with lines of sight comparable to those for members of the general public; or
- d. sufficient accessible seating for mobility impaired patrons.

On March 17, 2016, OCR sent a notification letter to the District informing it that this complaint was being opened for investigation. The District's notification letter included a data request. On March 30, 2016, the District provided OCR with a response to OCR's data requests. On June 3, 2016, OCR conducted a site visit to inspect the high school parking lots and gymnasiums. On July 27, 2017, prior to OCR's completion of its investigation, OCR received a letter from the District expressing an interest in engaging in resolution negotiations, pursuant to Section 302 of OCR's *CPM* to resolve allegations 1(a) and 1(b).

Allegations 1(a) and 1(b)

The Complainant alleged that for persons attending events at the gymnasium, there were not a sufficient number of accessible parking spaces; and that the accessible parking spaces were not located on the shortest accessible route to the accessible entrances.

Legal Standard

The 2010 ADA Standards for Accessible Design (2010 Standards) were adopted by the Department of Justice (DOJ) in September 2010. The 2010 Standards took effect on March 15, 2012, and replace DOJ's prior standards. When adopted, the 2010 Standards were immediately available for use as an alternative to the original 1991 standards. Between September 15, 2010 and before March 15, 2012, educational institutions could choose between the 1991 Standards and the 2010 Standards. Facilities constructed or altered on or after March 15, 2012, must comply with the 2010 Standards.

ADAAG 208.2 requires that in parking lots of between 501 and 1,000 spaces, the required minimum number of accessible spaces is two percent of the total.

ADAAG 206.2.1 requires that at least one accessible route shall be provided within the site from accessible parking spaces and accessible passenger loading zones; public streets and sidewalks; and public transportation stops to the accessible building or facility entrance they serve.

Preliminary Investigative Findings

The main parking lot for the gymnasium is the parking lot in front of the high school. That lot contains 550 spaces. ADAAG requires eleven accessible spaces in the lot, however there were ten accessible spaces in the front lot during OCR’s June 3, 2016 site visit. The District informed OCR on July 27, 2017 that the District planned to repaint the parking lot, including the accessible parking markings, during the summer.

Prior to the completion of OCR’s investigation, the District submitted a signed Agreement (copy enclosed) on December 4, 2017, that, when fully implemented, will address Allegations 1(a) and 1(b) of this complaint. The Agreement requires the District to modify the front parking lot to comply with the above provisions of the 2010 Standards. Please consult the Agreement for further details.

Allegations 1(c) and 1(d)

The Complainant alleged that the gymnasiums do not provide accessible seating with lines of sight comparable to those of members of the general public, and do not provide a sufficient number of accessible seats for mobility impaired patrons.

Legal Standard

The 2010 Standards provide the following regarding placement of accessible seating:

221.2.3 Lines of Sight and Dispersion. Wheelchair spaces shall provide lines of sight complying with 802.2 and shall comply with 221.2.3. In providing lines of sight, wheelchair spaces shall be dispersed. Wheelchair spaces shall 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 all other spectators. When the number of wheelchair spaces required by 221.2.1 has been met, further dispersion shall not be required.

221.2.3.2 provides an exception to this rule: “In bleachers, wheelchair spaces shall not be required to be provided in rows other than rows at points of entry to bleacher seating.”

The 2010 Standards at 221.2.1.1 require the following minimum number of wheelchair seats for assembly areas:

Number of seats	Minimum number of required wheelchair Spaces
4 to 25	1
26 to 50	2
51 to 150	4
151 to 300	5
301 to 500	6
501 to 5000	6, plus 1 for each 150, or fraction thereof, between 501 through 5000
5001 and over	36, plus 1 for each 200, or fraction thereof, over 5000

Findings of Fact

The high school has two gymnasiums, designated by the District as the main gym and the auxiliary gym. OCR inspected both gyms.

The seating in both gyms consists entirely of bleachers. In the auxiliary gym there are a total of 456 seats. There are 6 wheelchair spaces, each with companion seats. ADAAG requires a minimum of 6 spaces. The wheelchair spaces are located along the floor level in cutouts of the first row of bleachers. The wheelchair spaces are provided in rows at points of entry to bleacher seating.

In the main gym there is bleacher seating on both sides of the gym. On each side, there are two tiers of seats. There are a total of 2,688 bleacher seats. There are 28 wheelchair spaces, each with companion seats. ADAAG requires a minimum of 21 wheelchair spaces. On each side, the wheelchair spaces are at the bottom of both the upper and lower tiers of bleachers. There is a separate entrance for each tier. The entrance for the upper tier is from the main floor of the high school. The lower tier entrance is from the floor below the main floor, and is accessible by an elevator. The wheelchair spaces are located along the floor level in cutouts of the first row of bleachers in each tier.

There is a walkway along the bottom of the upper tier bleachers for people to use to traverse to the seats. On the outer edge of the walkway is a railing separating the walkway from the top of the lower tier of bleachers. The railing is 3.5 feet high. From the top of the railing to the floor is a metal mesh with holes in it. The people in the first few rows have to look through the mesh to see the court floor. The higher the seat, the less of the court must be viewed through the mesh.

Analysis

OCR applies a preponderance-of-the-evidence standard to determine whether the evidence is sufficient to support a particular conclusion. Specifically, OCR examines the evidence in support of and against a particular conclusion to determine whether the greater weight of the evidence supports the conclusion, or whether the evidence is insufficient to support the conclusion.

Number of seats

In the auxiliary gym, ADAAG requires a minimum of 6 wheelchair spaces. The auxiliary gym has that number of wheelchair spaces. The wheelchair spaces are provided in rows at points of entry to bleacher seating. Therefore the auxiliary gym meets the standards for number and dispersal of wheelchair spaces.

In the main gym, ADAAG requires a minimum of 21 wheelchair spaces. The main gym has 28 wheelchair spaces. The wheelchair spaces are provided in rows at points of entry to bleacher seating. Therefore the main gym meets the standards for number and dispersal of wheelchair spaces.

Comparable lines of sight

OCR considered whether the railing and mesh results in the wheelchair spaces not having lines of sight comparable to the other seats. The railing and mesh are only present for the upper tier of seats in the main gym. For the upper tier, the wheelchair spaces have the same line of sight as the first row of bleacher seats; the line of sight of all of the seats in that row goes through the mesh. The row above has a similar view. Because all the seats are bleacher seats, the wheelchair spaces are not be required to be provided in rows other than rows at points of entry to bleacher seating.

Conclusion

There is insufficient evidence to find that either gym fails to meet the number and dispersal of wheelchair spaces required by the Standards. Similarly, there is insufficient evidence to conclude that the wheelchair spaces in the main gym do not have a substantially equivalent line of sight with the other first and second row bleacher seats in both tiers of seats. Therefore, OCR is closing Allegations 1(c) and (d) of the complaint as of the date of this letter.

OCR considers all of the allegations of this complaint resolved effective the date of this letter and will monitor the District's implementation of the Agreement. When OCR concludes the District has fully implemented the terms of the Agreement, OCR will close the complaint. If the District fails to carry out the Agreement, OCR may resume the investigation with regard to Allegations 1(a) and 1(b) of the complaint.

The District 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, please be advised that the individual subjected to such treatment may file a 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. If 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 personal privacy.

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. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

If you have any questions, please contact XXXXX XXXXX, Attorney, at (816) 268-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXX.XXXX@ed.gov. You may also contact XXXX XXXX, Attorney, at (816) 268-XXXX or email at XXXXX.XXXXX@ed.gov

Sincerely,

J. Earlene Gordon
Supervisory Attorney

Enclosure