

RESOLUTION AGREEMENT

Gibbon Public School
OCR Docket Number 07161197

The Gibbon Public School (District), Gibbon, Nebraska, submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the allegations of discrimination based on disability against the District in the above-referenced complaint, and to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 United States Code (U.S.C.) § 794, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and the implementing regulations of these federal laws.

The Complaint alleged the District discriminates on the basis of disability in violation of 34 C.F.R. §104.21, because the District school building that houses grades K-12, has inaccessible doors (main entrance doors, high school office doors, elementary office doors, doors on the two ends of the building, and back doors) and inaccessible parking by those doors.

The Section 504 accessibility regulations are found at 34 C.F.R. §§ 104.21-104.23. The Title II accessibility regulations are found at 28 C.F.R. §§ 35.149-35.151. Both federal regulations at 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 educational institution's facilities are inaccessible to or unusable by persons with disabilities, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination by that educational institution.

According to Department rules and regulations (77 Fed. Reg. 14972-76), the Section 504 accessibility standards applicable to buildings that are altered in 2016 are the *2010 ADA Standards for Accessible Design* (2010 Standards) or the *Uniform Federal Accessibility Standards* (UFAS). The Title II accessibility standards applicable to buildings that are altered in 2016 are the 2010 Standards. As a public entity and a recipient of federal financial aid, the District must comply with both Section 504 and Title II and their implementing regulations and standards.

Before OCR completed its investigation, the District requested to resolve this matter and agreed to the following:

- 1) The applicable accessibility standards, non-complying items, and remedial measures or plans for the surveyed entrances, doors, curb ramps and parking lots are set forth in the attached Compliance Chart, which is incorporated by reference in this Agreement.
- 2) By January 31, 2017, the District will submit, at a minimum, the following information for the remedial plans required in the attached Compliance Chart¹ for OCR's review and approval:

¹ As a matter of technical assistance, OCR has included items in the Compliance Chart that comply with the accessibility standards but still may pose a barrier for access by individuals with disabilities. The District is not required to include address these items in the remedial plan.

- a) A description of the specific architectural changes or actions to be performed by the District to achieve compliance with the facility, area, space, or element identified in the Chart;
- b) The expected start and completion dates; and
- c) The District employee or official responsible for implementation of the plan(s).

OCR will notify the District in writing when OCR has approved the plans.

REPORTING REQUIREMENT AND DOCUMENTATION

- 3) By April 30, 2017, the District shall submit to OCR a monitoring report indicating the status of compliance with the requirements of this Agreement.
- 4) By July 31, 2017, the District shall submit to OCR a monitoring report indicating the status of compliance with the requirements of this Agreement.
- 5) By October 31, 2017 and every three months thereafter until OCR determines all the items identified in the Compliance Chart have been completed, the District will submit a monitoring report indicating the status of compliance with the requirements of this Agreement.

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 regulations implementing Section 504 and Title II, 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 and that all actions taken to comply with the requirements of the Agreement are subject to OCR's review and approval. 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 and Title II, which were at issue in this case.

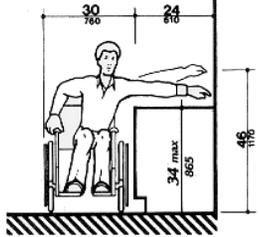
The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce this Agreement,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

The person signing for the District represents that he is authorized to bind the District to this Agreement.

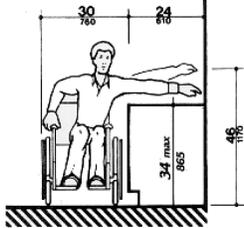
For The District

Date

Compliance Chart
 Gibbon Public School, Gibbon, Nebraska
 OCR Docket #07161197

Entrance or Parking Lot #	Applicable Accessibility Standard for Element, Space, or Area	Existing Measurements or Summary of Non-compliance	Photographs or Diagrams if Available (enlarge electronically)	Remedial Action 2010 Standards (unless noted otherwise)
Entrance 15/16	<p>4.2.6* Side Reach. If the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be 54 in (1370 mm) and the low side reach shall be no less than 9 in (230 mm) above the floor (Fig 6, Fig 6(a) and Fig (b)). If the side reach is over an obstruction, the reach and clearances shall be as shown in Fig 6(c). See also 4.27.3.</p> 	<p>There is a drain with a 32% slope in front of the button to the automatic door (operable part) which prevents an individual ambulating with a wheelchair from using a front approach or typical side approach.</p> <p>The only side approach that can be utilized is for the individual to pull up to the right of the button facing forward, and to try to reach the button from the side. This is not the type of side reach typically contemplated by the regulation.</p> <p>The button is mounted 44½ inches (bottom) and 48½ inches (top) from the finish floor. There is 9½ inches of wall space from the button to the clear space. Even if analyzed under a side reach approach, the 9½ inches of wall space is an obstruction that runs the full length of the wall. The obstruction therefore exceeds the 34 inch maximum height allowed for obstructions.</p>		<p>Reach standards are in section 308.2 and 308.3. Operable parts standards are in section 309. Standards can be accessed here: 2010 ADA Standards.</p> <p><i>The District must provide for a front or side approach to the operable part in compliance with the 308.2 and/or 308.3. This may entail moving the button onto a different wall or moving the drain in some way.</i></p>
Entrance 15/16 Entrance 25/26 Entrance 27/28 Entrance 29/30	<p>4.1.2 Accessible Sites and Exterior Facilities: New Construction.</p> <p>(7) Elements and spaces of accessible facilities which shall be identified by the International Symbol of Accessibility and which shall comply with 4.30.7 are:</p> <p>...</p> <p>(c) Accessible entrances when not all are accessible (inaccessible entrances</p>	<p>During arrival (~7am – 8:30am) and dismissal (~3pm – 4pm) entrances 15/16 and 25/26 have automatic doors that can be activated with the push of a button. These entrances are locked when it is not arrival and dismissal time; when the entrances are locked, the button to activate the automatic doors will not work. In order to get into the building during the school day, individuals must the entrances that lead into the elementary and high school offices or any of the doors that have a buzzer/two-way communication system.</p> <p>Of issue, all the accessible entrance signage lead</p>		<p>216.1 General. Signs shall be provided in accordance with 216 and shall comply with 703.</p> <p>216.3 Directional and Informational Signs. Signs that provide direction to or information about interior spaces and facilities of the site shall comply with 703.5.</p> <p>216.6 Entrances. Where not all entrances comply with 404, entrances complying with 404 shall be identified by the International Symbol of</p>

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	<p>shall have directional signage to indicate the route to the nearest accessible entrance);</p>	<p>to entrances 15/16 and 25/26. There are no signs indicating that those doors are limited use, and where to find the accessible entrances during the day. Additionally, the office entrances do not have signs with the symbol of accessibility.</p> <p>Thus, OCR is concerned that the District's signage does not meet the 1991 standard.</p>		<p>Accessibility complying with 703.7.2.1. Directional signs complying with 703.5 that indicate the location of the nearest entrance complying with 404 shall be provided at entrances that do not comply with 404.</p> <p>Advisory 216.6 Entrances. Where a directional sign is required, it should be located to minimize backtracking. In some cases, this could mean locating a sign at the beginning of a route, not just at the inaccessible entrances to a building.</p> <p>2010 ADA Standards</p> <p><i>The District shall add signage directing individuals to the elementary and high school offices during non-arrival and non-dismissal times.</i></p> <p><i>The District shall also add, on signs leading to and at entrances 15/16 and 25/26, language specifying that those entrances are only accessible during arrival and dismissal and directing individuals to the nearest accessible door with daytime access.</i></p>
<p>Entrance 17/18</p>	<p>4.3.7 Slope. An accessible route with a running slope greater than 1:20* is a ramp and shall comply with 4.8. Nowhere shall the cross slope of an accessible route exceed 1:50.</p> <p>*1:20 = 5% = 2.8°</p>	<p>When exiting the doors, the fourth and fifth concrete panels had the following slope/incline measurements when measured:</p> <p>5:8 = 5.2% = 3°</p> <p>These measurements exceed the running slope requirements for an accessible route.</p>		<p>402.2 Components. Accessible routes shall consist of one or more of the following components: walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4.</p>

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				<p>The District must correct the slope at this entrance so it does not exceed 1:20, or else ensure the walkway meets the requirements for ramps 405.</p>												
<p>Entrance 27/28</p>	<p>4.2.6* Side Reach. ... If the side reach is over an obstruction, the reach and clearances shall be as shown in Fig 6(c).</p>  <p>The figure shows the button must be 46in from the floor.</p>	<p>In the vestibule, there are two buttons to activate the second automatic door. Those buttons are located above a heater. According to the applicable standards, the height of the buttons should be 46in max.</p> <p>The buttons' dimensions are:</p> <p>Floor to top of button = 48.5in Floor to bottom of button = 44.5in</p> <p>The heater's dimensions are:</p> <p>Width (wall to front of unit) = 9.5in Length (side to side) = 45in Height 1 (floor to top of unit) = 32.5in Height 2 (floor to bottom of unit) = 6.25in</p>		<p>To make a compliance determination, OCR needs to clarify whether touching the bottom of the buttons will activate the doors. If yes, the operable part of the button is placed between 44.5 to 46 inches from the finish floor, in compliance with the standards. If one must touch the center or upper part of the button to activate the automatic door (46 to 48.5) the buttons are not in compliance.</p>												
<p>Parking Lot</p>	<p>4.1.2 Accessible Sites. (5) (a) If parking spaces are provided for self-parking by employees or visitors, or both, then accessible spaces complying with 4.6 shall be provided in each such parking area in conformance with the table below...</p> <table border="1" data-bbox="289 1263 688 1352"> <thead> <tr> <th># Spaces</th> <th># Accessible Spaces</th> </tr> </thead> <tbody> <tr> <td>...</td> <td>...</td> </tr> <tr> <td>301 to 400</td> <td>8</td> </tr> </tbody> </table> <p>4.6.3* Parking Spaces. Accessible parking spaces shall be at least 96 in (2440 mm) wide. Parking access aisles shall be part of an accessible</p>	# Spaces	# Accessible Spaces	301 to 400	8	<p>Regular Lot Dimensions: 116ft x 325ft = 37,700 sq. ft. 6 compliant accessible spaces, 1 of which is a van space</p> <p>Gravel Lot Dimensions: 302ft x 248ft x 307x307 = 84,097.86 sq. ft. 4 non-compliant accessible spaces</p> <p>If there are 117 spots in a 37,000 sq. ft. lot then an 84,097.86 sq. ft. lot should hold approximately 266 spots.</p> <p>Combined, the paved and the gravel lot would have 383 spots. A lot with 301 to 400 spots requires 8 handicapped accessible spaces.</p>		<p>208.2 Minimum Number. Parking spaces complying with 502 shall be provided in accordance with Table 208.2 except as required by 208.2.1, 208.2.2, and 208.2.3.</p> <table border="1" data-bbox="1604 1203 2003 1292"> <thead> <tr> <th># Spaces</th> <th># Accessible Spaces</th> </tr> </thead> <tbody> <tr> <td>...</td> <td>...</td> </tr> <tr> <td>301 to 400</td> <td>8</td> </tr> </tbody> </table> <p>208.2.4 Van Parking Spaces. For every six or fraction of six parking spaces required by 208.2 to comply with 502, at least one shall be a van parking space complying with 502.</p>	# Spaces	# Accessible Spaces	301 to 400	8
# Spaces	# Accessible Spaces															
...	...															
301 to 400	8															
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	<p>route to the building or facility entrance and shall comply with 4.3. Two accessible parking spaces may share a common access aisle (see Fig. 9). Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (2%) in all directions.</p> <p>4.6.4* Signage. Accessible parking spaces shall be designated as reserved by a sign showing the symbol of accessibility (see 4.30.7). Spaces complying with 4.1.2(5)(b) shall have an additional sign "Van-Accessible" mounted below the symbol of accessibility. Such signs shall be located so they cannot be obscured by a vehicle parked in the space.</p>	<p>The spaces marked accessible in the gravel lot do not have lines demarcating the spots, do not have access aisles, are not connected to an accessible route, signage height is insufficient and the ground is not stable, firm and slip resistant.</p>		<p>208.3 Location. Parking facilities shall comply with 208.3.</p> <p>502.1 General. Car and van parking spaces shall comply with 502.</p> <p>See 208.3 and 502 here (2010 Standards) or at ada.gov for all applicable standards.</p> <p><i>The District must add two compliant accessible parking spaces to the lot, one of which shall be a van space. OCR recommends those spaces be added near the stadium as the current spaces in that location that are marked accessible are non-compliant. Surface of the spaces must be stable, firm and slip-resistant and comply with all the above provisions.</i></p> <p><i>The District must remove the "accessible" signs from the spaces in the gravel lot that are non-compliant.</i></p>
<p>Curb Ramps</p>	<p>4.7.7 Detectable Warnings. A curb ramp shall have a detectable warning complying with 4.29.2. The detectable warning shall extend the full width and depth of the curb ramp.</p> <p>4.29.2* Detectable Warnings on Walking Surfaces. Detectable warnings shall consist of raised truncated domes with a diameter of nominal 0.9 in (23 mm), a height of nominal 0.2 in (5 mm) and a center-to-center spacing of nominal 2.35 in (60 mm) and shall contrast visually with adjoining surfaces, either light-</p>	<p>On the accessible routes from both parking lots, the detectable warning consists of truncated domes. The domes are worn down from use and no longer reach the height or contrast requirements specified in the statute.</p>		<p>705.1 General. Detectable warnings shall consist of a surface of truncated domes and shall comply with 705.</p> <p>705.1.1 Dome Size. Truncated domes in a detectable warning surface shall have a base diameter of 0.9 inch (23 mm) minimum and 1.4 inches (36 mm) maximum, a top diameter of 50 percent of the base diameter minimum to 65 percent of the base diameter maximum, and a height of 0.2 inch (5.1 mm).</p> <p>705.1.2 Dome Spacing. Truncated domes in a detectable warning surface</p>

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	<p>on-dark, or dark-on-light.</p> <p>The material used to provide contrast shall be an integral part of the walking surface. Detectable warnings used on interior surfaces shall differ from adjoining walking surfaces in resiliency or sound-on-cane contact.</p>			<p>shall have a center-to-center spacing of 1.6 inches (41 mm) minimum and 2.4 inches (61 mm) maximum, and a base-to-base spacing of 0.65 inch (17 mm) minimum, measured between the most adjacent domes on a square grid.</p> <p>705.1.3 Contrast. Detectable warning surfaces shall contrast visually with adjacent walking surfaces either light-on-dark, or dark-on-light.</p> <p><i>The District shall repair the detectable warnings in their curb ramps in accordance with the above requirements.</i></p>

Technical Assistance Chart
 Gibbon Public School, Gibbon, Nebraska
 OCR Docket #07161197

TECHNICAL ASSISTANCE CHART			
Entrance or Parking Lot #	Existing Measurements or Summary of Non-compliance	Photographs or Diagrams if Available (enlarge electronically)	Recommended Remedial Action
<p>Entrance 27/28 Entrance 29/30</p>	<p>These two entrances are the primary entrances through which individuals enter the building when it is not arrival or dismissal time. The entrances both have an exterior door that is unlocked and an interior door that is locked at all times. In the vestibule between the doors, there is a bell that someone seeking admittance may ring so that office staff can buzz open the interior door.</p> <p>For many individuals with temporary or permanent disabilities, it may be challenging to open the exterior door; however, the exterior doors do not have a bell or two-way communication system that would allow the individual to signal to someone in the office that he/she is trying to gain admittance.</p> <p>Though not required under the ADA regulations, in order to ensure individuals with accessibility needs can gain admittance to the building during the day, OCR recommends that the District install a bell or two-way communication system outside the exterior office doors. It is important to note that though not required now, a student could have 504 plan that would mandate this kind of accommodation in the future.</p>		<p>OCR recommends that the District install a bell or two-way communication system outside the exterior office doors.</p>