The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

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applicable standard depends upon the date of construction and/or alteration of the facility. Under the Title II regulations, existing facilities are those for which construction began before January 26, 1992.

For existing facilities, 28 C.F.R. § 35.150(a) requires a public entity to operate each service, program, or activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. This standard does not necessarily require that a public entity make each existing facility or every part of an existing facility accessible if alternative methods are effective in providing overall access to the service, program, or activity.

The City informed OCR that when the original site of the Library was destroyed by fire in 1984, the Library moved to a temporary location for more than a year before moving to its current location in 1986. The building where the Library is currently housed was constructed in the 1940s. The City asserted that the Library has not been renovated or altered since 1991. The Library has moveable shelves, bookcases, and other furniture that can be rearranged. Because OCR did not readily identify any post-1991 renovations or alterations during its onsite visit on August 15, 2017, OCR concluded that the Library is an existing facility governed by the regulation at 28 CFR § 35.149. Under the existing facilities standard, the Library is required to operate each service, program, or activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities.

During OCR’s site visit, the City provided OCR with an approved Library Board of Trustees policy. The policy states that the Library “is committed to providing equitable access to information to all members of the community.” The City, through its City Administrator, also expressed its interest in resolving the complaint allegation. OCR did observe that the library entrance does not have an accessible door for individuals with mobility impairments and access to the children’s section requires the use of a stairway.

In accordance with Section 302 of OCR’s Case Processing Manual, a complaint may be resolved at any time when, before OCR issues its final determination, the recipient expresses an interest in resolving the complaint allegations and OCR determines that it is appropriate to resolve the issues under investigation with an agreement. In light of the City’s willingness to address the concerns identified by OCR without further investigation, OCR determined that entering into a voluntary resolution agreement is appropriate. The Agreement requires the City to evaluate its current services, policies, and practices, and the effects thereof, and determine which services, policies, and practices do not or may not meet the requirements of Title II; to develop a plan to bring the Library into compliance with Title II; to provide OCR a copy of the evaluation, plan and timeline of alterations and modifications; and to provide individual assistance to individuals who need assistance. Subsequent discussions with the Library resulted in the Library signing the attached Agreement on August 19, 2020, which when fully implemented will address the concerns in the complaint.

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.

OCR’s Case Processing Manual may be accessed at http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html.
This concludes OCR’s investigation of this complaint. A complainant may have the right to file a private suit in Federal court regardless of OCR’s determination.

Please be advised that the City and Library may not harass, coerce, intimidate, discriminate, or otherwise retaliate against any individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, or participates in an OCR proceeding. If this happens, that individual may file a complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document 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 that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released.

OCR will monitor the implementation of the Agreement and will close the complaint when OCR determines that the terms of the Agreement have been satisfied. The first report under the Agreement is due by August 28, 2020.

If you have any questions, please contact XXXXXXX XXXXXXXXXX, Attorney, at (XXX) XXX-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXXXX.XXXXXXXXXX@ed.gov.

Sincerely,

J. Earlene Gordon
Supervisory Attorney

Attachment