



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
ONE PETTICOAT LANE
1010 WALNUT STREET, SUITE 320
KANSAS CITY, MO 64106

REGION VII
ARKANSAS
KANSAS
MISSOURI
NEBRASKA
OKLAHOMA
SOUTH DAKOTA

September 21, 2021

Sent via email only, to: XXXXX

XXXXX XXXXX XXXXX XXXXX
XXXXX XXXXX XXXXX
XXXXX XXXXX XXXXX XXXXX / XXXXX XXXXX XXXXX XXXXX
XXXXX XXXXX XXXXX, XXXXX XXXXX
XXXXX XXXXX, XXXXX XXXXX

Re: Kansas City #33 School District
OCR Case No. 07181155

Dear XXXXX XXXXX:

On April 3, 2018, the U.S. Department of Education, Office for Civil Rights (OCR), received a complaint alleging discrimination based on disability by the Kansas City #33 School District, located in Kansas City, Missouri. This letter is to confirm the Kansas City #33 School District has voluntarily submitted a Resolution Agreement to resolve this complaint.

Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, prohibit discrimination based on disability in programs and activities that receive federal financial assistance. Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35, prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive federal financial assistance.

Because the Kansas City #33 School District receives federal financial assistance from the U.S. Department of Education and is a public entity, the school district is subject to Section 504, Title II, and OCR's jurisdiction. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

Legal Standards

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

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

www.ed.gov

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. The Americans with Disabilities Act 2010 Standards for Accessible Design set out the requirements for accessible parking spaces, routes, access aisles, and signage constructed or altered after March 15, 2012.

OCR investigated whether the main accessible entrance at George Melcher Elementary School and the route from the accessible parking area to the main accessible entrance comply with the requirements of 28 C.F.R. §§ 35.149–35.151 and 34 C.F.R. §104.21–104.23.

Factual Background

The complaint filed with OCR alleged that the Complainant XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX. The complaint stated that the main accessible entrance to George Melcher Elementary School had a small ramp which was not accessible XXXXX XXXXX XXXXX. The complaint further stated that vehicles frequently parked in front of the handicapped accessible entrance which blocked access for individuals, XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX.

OCR conducted an onsite accessibility survey at George Melcher Elementary School on February 21, 2019. During the accessibility survey, OCR observed that the route to the accessible entrance and the interior door were not compliant with the Americans with Disabilities Act 2010 Standards for Accessible Design. Due to weather conditions, OCR was unable to assess whether the accessible parking spaces were compliant with this standard.

Following OCR's onsite accessibility survey, the Kansas City #33 School District made improvements to the accessible parking area and the route from that accessible parking area to the main accessible entrance. On XXXXX XXXXX, 2019, the District provided bid documents for this work to OCR, which included blueprints for the improvements at George Melcher Elementary School. The District also indicated that the improvements would be completed in June 2019. On XXXXX XXXXX, 2020, the District confirmed that the improvements were completed as scheduled.

On XXXXX XXXXX and XXXXX, 2021, the Kansas City #33 School District provided additional photographs and measurements to OCR demonstrating the improvements made to the areas of concern at George Melcher Elementary School. After OCR expressed continued concerns regarding the improvements' full compliance with the Americans with Disabilities Act 2010 Standards for Accessible Design, the District engaged a licensed Professional Engineer to identify any deficiencies regarding the areas of concern at George Melcher Elementary School.¹ The Professional Engineer issued a report finding that certain areas of the route to the main

¹ The Kansas City #33 School District provided a *Curriculum Vitae* describing the qualifications of the Professional Engineer to OCR. The Professional Engineer has over XXXXX years of experience as an engineer, including experience in XXXXX, XXXXX, and XXXXX. The Professional Engineer's experience includes the XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX XXXXX, XXXXX, and XXXXX with respect to the requirements of the Americans with Disabilities Act.

accessible entrance were still not compliant. The District advised OCR that it will correct the ongoing accessibility issues at George Melcher Elementary School.

Resolution

Prior to the completion of OCR's investigation, the Kansas City #33 School District expressed interest in voluntarily resolving the complaint pursuant to Section 302 of OCR's Case Processing Manual.² The Kansas City #33 School District submitted a signed Resolution Agreement (copy enclosed) on September 21, 2021, that, when fully implemented, will address the allegations of this complaint. The Resolution Agreement requires the District to address the issues identified in the Professional Engineer's report and to ensure the main accessible entrance at George Melcher Elementary School and the route from the accessible parking area to the main accessible entrance are in compliance with the Americans with Disabilities Act 2010 Standards for Accessible Design. Please consult the Resolution Agreement for further details.

OCR considers this complaint resolved effective the date of this letter and will monitor the Kansas City #33 School District's implementation of the Resolution Agreement. When OCR concludes that the District has fully implemented the terms of the Resolution Agreement, OCR will close the complaint. If the District fails to carry out the Resolution Agreement, OCR may resume its investigation.

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. OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in federal court whether or not OCR finds a violation.

The Kansas City #33 School District may not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. Complaints alleging such retaliation may be filed with OCR.

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, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

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

² The Case Processing Manual is available on OCR's website at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.

Sincerely,

Kimberly M.J. Lynch
Program Manager, Region VII

Attachment