



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VII
ARKANSAS
KANSAS
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NEBRASKA
OKLAHOMA
SOUTH DAKOTA

April 24, 2020

Sent via email only to XXXXX@XXXXX.XXX

XXXXX XXXXX, XXXXX
XXXXX XXXXX XXXXX
XXXXX, XXXXX XXXXX

Re: Conestoga Public Schools
OCR Case Number: 07-20-1044

Dear XXXXX XXXXX:

On November 7, 2019, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against the Conestoga Public Schools (District), Murray, Nebraska, alleging discrimination on the basis of disability. The complaint was forwarded to OCR by the U.S. Department of Justice. This letter is to confirm that the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

In a January 31, 2020 letter, OCR informed the District it would investigate whether the District fails to provide adequate accessible parking at its high school to persons with disabilities as required by Section 504 and Title II.

OCR is responsible for enforcing:

- Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance (FFA). Under Section 504, OCR has enforcement jurisdiction over recipients of FFA from the Department.
- 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. Under Title II, OCR has enforcement jurisdiction over public school districts.

As a recipient of FFA from the Department and a public entity, the District is subject to Section 504 and Title II and to OCR's jurisdiction. Additional information about the laws OCR enforces is available on our website at <http://www.ed.gov/ocr>.

To protect individuals' privacy, the names of employees and other parties were not used in the letter.

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

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 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 (ADA) 2010 Standards for Accessible Design (2010 ADA Standards) set out the requirements for accessible parking spaces, routes, access aisles, and signage constructed or altered after March 15, 2012.

Preliminary Investigative Findings

The Complainant alleged the District failed to provide adequate accessible parking at the District's High School campus. The Complainant stated the school no longer has the appropriate signage designating accessible parking, that the number of accessible parking spaces is inadequate based on the total number of parking spaces, and the markings and dimensions for the accessible parking space is not in compliance.

The District's High School was built in 1979. The District's High School is not registered as a historical site nor has application been made to register it as a historical site. According to the District's response, the campus primarily consists of the main school building and the school's football stadium. According to the District's response, the campus has one main parking lot located to the southwest of the school's main entrance with approximately 80 parking spaces and two designated accessible parking spaces. These two accessible spaces are located directly adjacent and at the shortest distance to the accessible route leading to the school's secondary entrance. The main parking lot adjoins with a parking stall that is located more directly in front of the main entrance of the school. According to the District, this area has 10 parking spaces and two accessible parking spaces, one of which is designated as van accessible, though not specifically marked as such. The accessible spaces do include signage and are marked with paint on the curbs and on the parking lot surface with the accessible parking symbol in blue paint. According to the District's response, these parking areas were resurfaced in the last five years and were restriped in 2019, making this area and any related routes subject to the 2010 ADA Standards. In addition, directly south of the main parking lot lies a large gravel parking lot serving the school's football stadium. This lot has two paved accessible parking spaces located at the closest possible location adjacent to the entrance route to the stadium.

After reviewing the information and aerial photographs provided by the District and Superintendent, as well as other information gathered through Google Earth and the Complainant, OCR identified potential compliance concerns with regard to: the number of available accessible spaces, including van accessible parking spaces; access aisles; and, appropriate accessibility signage.

The District Superintendent informed OCR the District is currently in the process of updating the High School building and campus, and as part of the designing phase, will be looking at changes to its parking.

Resolution

Prior to the completion of OCR’s investigation, the District expressed interest in voluntarily resolving this complaint pursuant to Section 302 of OCR’s *Case Processing Manual (CPM)*.¹ The District submitted a signed Agreement (copy enclosed) on April 24, 2020, that, when fully implemented, will address the allegations of this complaint. The Resolution Agreement requires the District to develop and implement a plan to provide accessible parking at its High School campus in compliance with the 2010 ADA Standards. Please consult the Agreement for further details.

OCR considers the allegation 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 investigating 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 the Complainant may file another 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. In the event that 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. A complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

OCR is committed to prompt and effective service. If you have any questions, please contact XXXXX XXXXX, Attorney, at XXX-XXX-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXX.XXXXX@ed.gov. Thank you for your cooperation.

Sincerely,

Kelli Douglas
Supervisory Attorney

Enclosure

¹ The *Case Processing Manual* is available on OCR’s website at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>.