



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

January 7, 2021

Sent via electronic mail only, to: XXXXXXXXX

XXXXXX XXXXXX, Superintendent
Concordia Public Schools USD 333
217 W 7th St.
Concordia, Kansas 66901

Re: Concordia USD 333
OCR Case Number: 07211012

Dear Superintendent XXXXXX,

On October 21, 2020, the U.S. Department of Education (Department), Office for Civil Rights (OCR), received a complaint against Concordia USD 333 (District), Concordia, Kansas, alleging discrimination on the basis of disability. The complaint was forwarded to OCR by the U.S. Department of Justice. This letter is to acknowledge that the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

OCR investigated whether the District provides adequate accessible parking at its Junior High/Senior High School Building to persons with disabilities as required by Section 504 and Title II.

Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, prohibit discrimination on the basis of disability in any program or activity receiving 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) 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 FFA. 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 the Complainant, employees, witnesses, and other parties also were not used in the letter.

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

OCR interviewed the Complainant on November 5, 2020. The Complainant stated that the parking for the Concordia Junior/Senior High School is not accessible to individuals with disabilities. The Complainant stated that there are not enough designated disabled parking spaces and some of the existing designated parking spaces are not accessible due to surface conditions. OCR interviewed the Superintendent and Director of Operations (Director) on December 1, 2020. The Director said that the City owns the streets around the school, but the District and the City work together to pave the streets around the school. The Director said the designated disabled parking spaces for the school have been changed in the last few years.

After reviewing the information provided by the District, and examining photos of the parking at the school, OCR identified potential compliance concerns with regard to availability of accessible spaces, access aisles and appropriate accessibility signage. The Director told OCR that the District is willing to fix the current parking situation.

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 January 6, 2021, 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 the Junior High/Senior High School Building 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.

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

A recipient 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 a complaint alleging such treatment. A complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

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 (816) XXX-XXXX (voice) or (877) 521-2172 (telecommunications device for the deaf), or by email at XXXXXXXX XX XX

Sincerely,

XXXXX XXXXX
Supervisory Attorney

Enclosure