

Resolution Agreement
Albuquerque Public School District
Complaint Number 08-19-1160

In order to resolve the physical accessibility allegation in Case Number 08-19-1160 filed against the Albuquerque Public School District (District), the District agrees to implement the following Resolution Agreement. This complaint allegation was opened for investigation by the U.S. Department of Education, Office for Civil Rights (OCR) pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504) and its implementing regulation at 34 C. F. R. part 104 and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131–65, and its implementing regulation at 28 C.F.R. part 35, which prohibit discrimination on the basis of disability in education programs that receive Federal financial assistance from the Department.

During the course of OCR’s investigation, before OCR had made any findings, the District indicated its willingness to take steps necessary to ensure compliance with Section 504 and Title II. Pursuant to Section 302 of OCR’s *Case Processing Manual*, a complaint may be resolved when, before the conclusion of an investigation, a recipient expresses an interest in resolving the complaint, OCR believes that doing so is appropriate, and the remedies align with the allegations. The District’s decision to enter into this Agreement is not an admission of liability or wrong-doing, nor shall it be construed as such.

1. The District will evaluate the accessibility of and identify any barriers to access for people with disabilities at Desert Ridge Middle School related to the designated student pick-up/drop-off area (passenger loading zone).

Because Desert Ridge Middle School was constructed just prior to its opening in September 1997, it is considered new construction under the Section 504 and Title II regulations. The District will, therefore, ensure that its facilities are readily accessible to and usable by persons with disabilities. C.F.R. § 104.23; 28 C.F.R. § 35.151. Depending on the date of construction or alteration, the District will evaluate whether its passenger loading zone(s) comply with the applicable new construction/alteration standard:

- Uniform Federal Accessibility Standards (UFAS) §§ 4.1.1, 4.6.1, 4.6.5, 4.6.6, 4.30;
- 1991 ADA Standards for Accessible Design (1991 ADA Standards) §§ 4.1.2, 4.6.1, 4.6.5, 4.6.6, 4.30.7; or
- 2010 ADA Standards for Accessible Design (2010 ADA Standards) §§ 206.2.1, 209.2.1, 503.

After completing its evaluation of the passenger loading zone(s), the District will develop a written remediation plan addressing each barrier to access identified through its evaluation, if any, and submit it for OCR approval. For each barrier, the District may: (1) remove it in a way that complies with the 2010 ADA Standards, (2) propose a timeframe for barrier removal for OCR’s consideration, or (3) propose a timeframe for alternate means of providing equivalent facilitation (for new construction or alterations).

