



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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REGION VIII

ARIZONA  
COLORADO  
NEW MEXICO  
UTAH  
WYOMING

October 29, 2021

Dr. Andi Fourlis, Superintendent  
Mesa Public Schools  
63 East Main Street  
Mesa, Arizona 85201

*via email to XXXX@XXXX*

Re: **Mesa Public Schools**  
OCR Case 08-21-1375

Dear Superintendent Fourlis:

The Office for Civil Rights (“OCR”) of the U.S. Department of Education (“Department”) has completed its investigation stemming from a complaint – transferred from the U.S. Department of Justice to OCR on July 30, 2021 – against Mesa Public Schools (“District”) alleging that the District discriminates by not having handicap accessible parking available at its Broadway Transportation Yard (“Yard”), located at 109 E. Broadway Rd., Mesa, AZ 85210.

OCR is responsible for enforcing: Section 504 of the Rehabilitation Act of 1973 (“Section 504”), and its implementing regulations, at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination based on disability in any program or activity operated by recipients of federal funds from the Department; and Title II of the Americans with Disabilities Act of 1990 (“Title II”), and its implementing regulations, at 28 C.F.R. Part 35, which prohibit discrimination based on disability by public entities, regardless of whether they receive federal financial assistance. As a recipient of federal financial assistance from the Department and a public entity, the District is subject to these laws and regulations.

OCR found that a preponderance of the evidence supports a violation finding. The reasons for OCR’s conclusions are set forth in this letter.

### **Legal Standards**

Section 504<sup>1</sup> and Title II,<sup>2</sup> provide that no qualified person with a disability shall, because a school district’s facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, excluded from participation in, or otherwise be subjected to discrimination under any program or activity of the school district.<sup>3</sup>

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<sup>1</sup> 34 C.F.R. § 104.21.

<sup>2</sup> 28 C.F.R. § 35.149.

<sup>3</sup> For the 2010 ADA Standards for Accessible Design, visit <https://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm#pgfld-1010282>.

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

### **Number of Accessible Parking Spaces**

Parking facilities with between one and 25 parking spaces must have at least one accessible parking space; those with between 26 and 50 parking spaces must have at least two accessible parking spaces; and those with between 51 and 75 parking spaces must have at least three accessible parking spaces.<sup>4</sup> The number of required accessible parking spaces is calculated separately for each parking facility; the number is not based on the total number of parking spaces provided in all of the parking facilities provided on the site.<sup>5</sup> For every six or fraction of six accessible parking spaces required, at least one must be a van accessible parking space.<sup>6</sup>

### **Dimensions of Accessible Parking Spaces**

Accessible car parking spaces must be at least 96 inches wide. Accessible van parking spaces must be at least 132 inches wide.<sup>7</sup> However, van parking spaces may be 96 inches wide or more where the access aisle is at least 96 inches.<sup>8</sup> Where parking spaces are marked with lines, width measurements of parking spaces and access aisles must be made from the centerline of the markings.<sup>9</sup> Where parking spaces or access aisles are not adjacent to another parking space or access aisle, measurements may include the full width of the line defining the parking space or access aisle.<sup>10</sup>

### **Access Aisles**

Van spaces must have an adjacent access aisle.<sup>11</sup> Two parking spaces shall be permitted to share a common access aisle.<sup>12</sup>

Access aisles serving car and van parking spaces must be at least 60 inches wide and must extend the full length of the parking spaces the aisles serve.<sup>13</sup>

Access aisles shall be at the same level as the parking spaces they serve. Changes in level steeper than 1:48 are not permitted.<sup>14</sup> Access aisles are required to be nearly level in all directions to provide a surface for wheelchair transfer to and from vehicles. The exception allows sufficient slope for drainage. Built-up curb ramps are not permitted to project into access aisles and parking spaces because they would create slopes greater than 1:48.<sup>15</sup>

Access aisles must be marked so as to discourage parking in them.<sup>16</sup> The method and color of marking are not specified by these requirements but may be addressed by State or local laws or regulations.<sup>17</sup>

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<sup>4</sup> 280.2.

<sup>5</sup> 208.2.

<sup>6</sup> 208.2.4.

<sup>7</sup> 502.2.

<sup>8</sup> 502.2.

<sup>9</sup> 502.1.

<sup>10</sup> 502.1.

<sup>11</sup> 502.2.

<sup>12</sup> 502.3.

<sup>13</sup> 502.3.1-2.

<sup>14</sup> 502.4.

<sup>15</sup> 502.4 Advisory.

<sup>16</sup> 502.3.3.

Access aisles must not overlap the vehicular way.<sup>18</sup> A vehicular way is “a route provided for vehicular traffic, such as in a street, driveway, or parking facility.”<sup>19</sup>

Access aisles may be placed on either side of the parking space, except for angled van parking spaces, which must have access aisles located on the passenger side of the parking spaces.<sup>20</sup>

### **Identification Signs**

Parking space identification signs must include the International Symbol of Accessibility.<sup>21</sup> Signs identifying van parking spaces must contain the designation “van accessible.”<sup>22</sup> Signs must be at least 60 inches above the ground surface measured to the bottom of the sign.<sup>23</sup>

### **Accessible Routes**

Accessible routes must connect accessible parking spaces to accessible building entrances.<sup>24</sup> Accessible parking spaces must be located on the shortest accessible route to an entrance that complies with Title II.<sup>25</sup> Access aisles must adjoin an accessible route.<sup>26</sup>

The clear width of walking surfaces must be at least 36 inches. However, the clear width may be reduced to 32 inches minimum for a length of 24 inches maximum provided that reduced width segments are separated by segments that are at least 48 inches long and 36 inches wide.<sup>27</sup>

Cars and vans, when parked, must not obstruct the required clear width of adjacent accessible routes.<sup>28</sup> Wheel stops are an effective way to prevent vehicle overhangs from reducing the clear width of accessible routes.<sup>29</sup>

### **Facts**

The Yard consists of parking spaces for buses and transportation employees; a mechanics bay for bus washing and maintenance; a main office building for dispatch and employees to report for duty and pick up their keys and assignments; and an employee lounge building with bathrooms, a kitchen, and seating area. There is one parking lot adjacent to the Yard – between the north side of the Yard and a public street – with 57 parking spaces (“Lot 1”). Lot 1 is used by bus drivers. There is a second parking lot within the Yard, with 35 parking spaces, not including the bus spaces (“Lot 2”). Lot 2 is used by main office staff, mechanics, contract relief, bus trainers, and some bus drivers. The lots are separated by a wall and

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<sup>17</sup> 502.3.3 Advisory

<sup>18</sup> 503.3.

<sup>19</sup> 106.5.

<sup>20</sup> 502.3.4.

<sup>21</sup> 502.6.

<sup>22</sup> 502.6.

<sup>23</sup> 502.6.

<sup>24</sup> 502.3 Advisory.

<sup>25</sup> 208.3.1.

<sup>26</sup> 503.3.

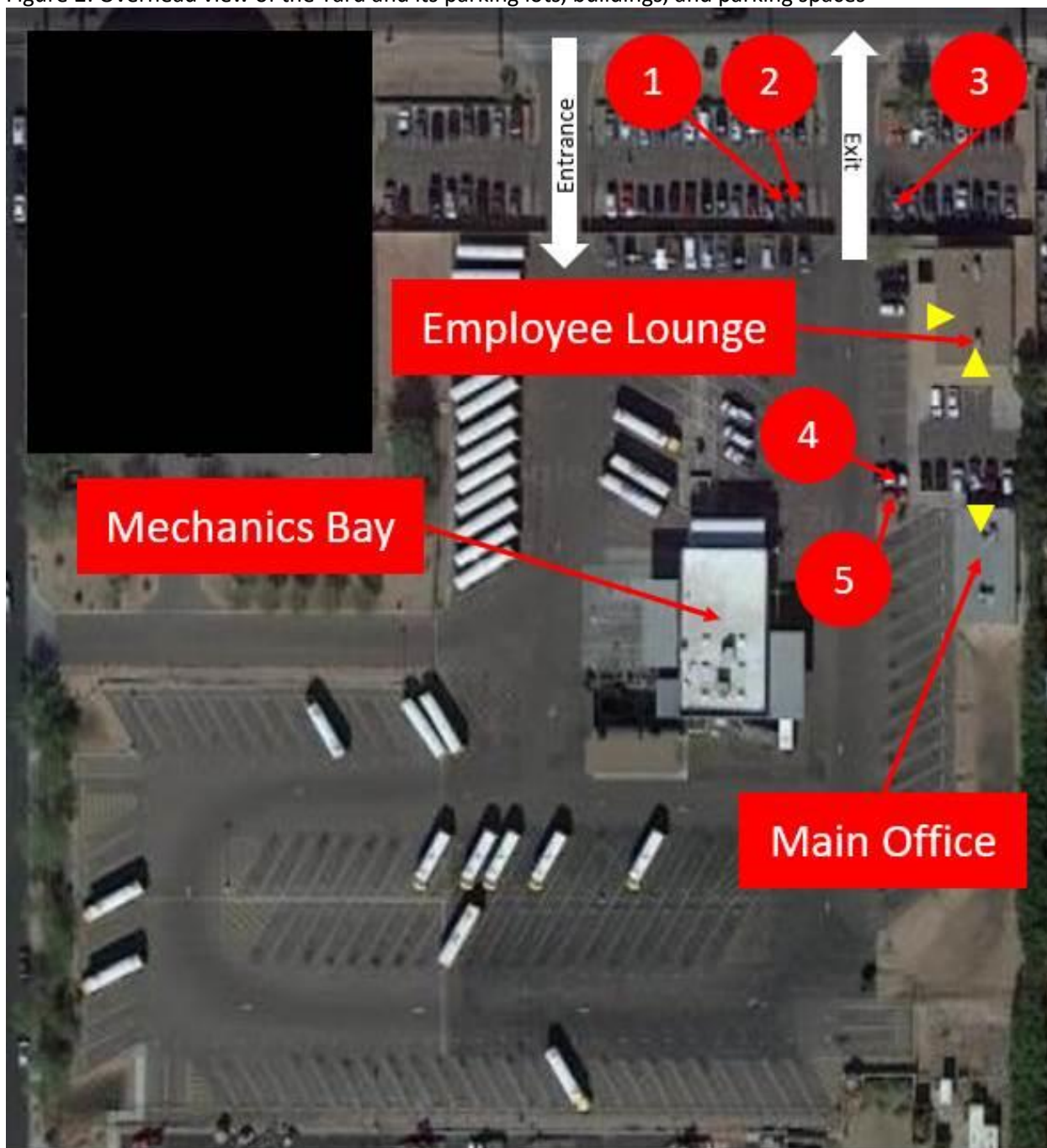
<sup>27</sup> 403.5.1 (Except as provided in 403.5.2 and 403.5.3).

<sup>28</sup> 502.7.

<sup>29</sup> 502.7 Advisory.

chain-link gates. See Figure 2. There are no assigned parking spaces in either lot.

Figure 2: Overhead view of the Yard and its parking lots, buildings, and parking spaces



According to the District's General Counsel and the Site Supervisor for the Yard, the Yard did not have any accessible parking prior to this case. After the allegation was opened for investigation, the District attempted to remedy the absence of accessible parking at the Yard and to resolve this case through OCR's Rapid Resolution Process.<sup>30</sup> Specifically, the District added three spaces in Lot 1 (labeled spaces 1,

<sup>30</sup> See OCR's *Case Processing Manual* § 110 and 108(k).

2, and 3 in Figure 2) and two spaces in Lot 2 (labeled spaces 4 and 5 in Figure 2). Two of the spaces were designated van spaces. OCR appreciates the District's efforts and cooperation; however, the changes do not bring the District into compliance with the ADA because, among other reasons, the spaces were not sufficiently wide and the identification signs were not sufficiently high.

### **Conclusion**

Upon being advised of the violation finding, the District entered into a Resolution Agreement ("Agreement") to resolve the matter. A signed copy of the Agreement is attached with this letter. When the Agreement is fully implemented, the issue will be resolved consistent with the requirements of Section 504, Title II, and their implementing regulations. OCR will monitor implementation of this Agreement through periodic reports from the District about the status of the Agreement terms. OCR will provide the District written notice of any deficiencies regarding implementation of the terms of the Agreement and will require prompt actions to address such deficiencies. If the District fails to implement the Agreement, OCR will take appropriate action, as described in the Agreement.

The case is now in the monitoring phase. The monitoring phase of this case will be completed when OCR determines that the District has fulfilled all terms of the Agreement. When the monitoring phase of this case is complete, OCR will close this case and send a letter to the District, stating that this case is closed.

This concludes OCR's investigation for this complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

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.

The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Individuals filing a complaint or participating in an investigation are protected by federal law against harassment, retaliation, or intimidation.

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, we will seek to protect, to the extent provided by law, personal information, which, if released, could constitute an unwarranted invasion of privacy.

Thank you for the courtesy and cooperation that the District's General Counsel and the Yard's Site Supervisor extended to OCR during the investigation and resolution of this case. If you have any questions, please contact the attorney assigned to this case, Jason Langberg, at (XXX) XXX-XXXX or XXXX@XXXX.

Sincerely,

/s/

Jason Langberg  
Designated Team Leader

cc: Frank Castillo, Site Supervisor for the Yard  
Kacey Gregson, General Counsel  
Kathy Hoffman, State Superintendent