



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION VIII

ARIZONA
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January 21, 2022

Brian Luck, Superintendent
Roswell Independent School District
300 N. Kentucky
Roswell, NM 88201

By email only to bluck@risd.k12.nm.us; jwhitcamp@risd.k12.nm.us

Re: OCR Complaint No. 08-21-1423
Roswell Independent Schools

Dear Superintendent Luck:

This letter is to notify you of the disposition of the August 30, 2021, complaint received by the U.S. Department of Education, Office for Civil Rights, alleging that the Roswell Independent Schools (the District) discriminates against mobility-impaired individuals, based on disability, with respect to accessible parking at the Goddard High School (School).

Specifically, the Complainant alleged that there is an inadequate number of parking spaces at the School and that the School lacks an accessible path from the parking lot because the curb ramps are inadequate.

OCR enforces 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, which prohibit discrimination on the basis of disability by recipients of federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. §§ 12131-12134, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. Because the District receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

During the course of our investigation, the District indicated its desire to voluntarily enter into an agreement to resolve the complaint allegations pursuant to Section 302 of our *Case Processing Manual (CPM)*. OCR carefully reviewed the documentation provided by the District and determined that resolution pursuant to Section 302 was appropriate. On January 18, 2022, prior to OCR completing its investigation or making any findings of fact, the District signed an Agreement which, when fully implemented, will address the issue raised in the complaint.

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

When a recipient restripes parking spaces in a parking lot or parking structure (parking facilities), it must provide accessible parking spaces as required by the 2010 ADA Standards for Accessible Design (2010 Standards).

Minimum Number of Spaces

The required number of accessible parking spaces must be calculated separately for each parking facility, not calculated based on the total number of parking spaces provided on a site. One of six (or fraction of six) accessible parking spaces, but always at least one, must be van accessible.

Minimum Number of Accessible Parking Spaces

2010 Standards (208.2)

Total Number of Parking Spaces Provided in Parking Facility (per facility)	(Column A) Minimum Number of Accessible Parking Spaces (car and van)	Minimum Number of Van-Accessible Parking Spaces (1 of six accessible spaces)
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	2
301 to 400	8	2
401 to 500	9	2
500 to 1000	2% of total parking provided in each lot or structure	1/6 of Column A*
1001 and over	20 plus 1 for each 100 over 1000	1/6 of Column A*

*one out of every 6 accessible spaces

Location

Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance. Where buildings have multiple accessible entrances with adjacent parking, the accessible parking spaces must be dispersed and located closest to the accessible entrances.

When accessible parking spaces are added in an existing parking lot or structure, locate the spaces on the most level ground close to the accessible entrance. An accessible route must always be provided from the accessible parking to the accessible entrance. An accessible route never has curbs or stairs, must be at least 3 feet wide, and has a firm, stable, slip-resistant surface. The slope along the accessible route should not be greater than 1:12 in the direction of travel.

Features for Accessible Spaces

- 1.** Parking space identification sign with the international symbol of accessibility complying with 703.7.2.1 mounted 60 inches minimum above the ground surface measured to the bottom of the sign.
- 2.** If the accessible route is located in front of the parking space, install wheel stops to keep vehicles from reducing the clear width of the accessible route below 36 inches.
- 3.** Two parking spaces may share an access aisle except for angled parking spaces (see below). Access aisle width is at least 60 inches, must be at the same level and the same length as the adjacent parking space(s) it serves, maximum slope in all directions is 1:48, and access aisle must connect to an accessible route to the building. Ramps must not extend into the access aisle.
- 4.** Parking space shall be 96 inches wide minimum, marked to define the width, and maximum slope in all directions is 1:48.
- 5.** Boundary of the access aisle must be clearly marked so as to discourage parking in it. (State or local laws may address the color and manner that parking spaces and access aisles are marked.)

Features for Van Accessible Spaces

- 1.** Parking space identification sign with the international symbol of accessibility and designation, "van accessible." Note, where four or fewer parking spaces are provided on a site, a sign identifying the accessible space, which must be van-accessible, is not required.
- 2.** Vertical clearance of 98 inches minimum to accommodate van height at the vehicle parking space, the adjacent access aisle, and on the vehicular route to and from the van-accessible space.
- 3.** Van parking space must be 132 inches wide minimum with an adjacent 60-inch wide minimum access aisle. A van parking space of 96 inches wide minimum width an adjacent 96-inch wide minimum access aisle is also permitted.

Curb Ramps

A curb ramp is a short ramp cutting through a curb or built up to it. The different parts of the most common type of curb ramp, a perpendicular curb ramp, are described in this paragraph. The ramp, or ramp run, is the sloped section that individuals who use wheelchairs travel up and down when transitioning between the street and the sidewalk. Transitions between the ramp and the sidewalk, gutter and street are located at the top and bottom of the ramp run. Flared Sides, or flares, bring the curb itself to the level of the street. The gutter is the roadway surface immediately next to the curb ramp that runs along the curb.

The slope of the curb ramp must be less than 8.33 percent (1:12). The cross slope of the ramp run itself may not exceed 2 percent (1:50). The ramp/ramp run must be at least 36 inches wide, not including flared sides. The ramp run must have detectable warnings, i.e. dome-shaped bumps, that extend the full width and depth of the ramp. Transitions from the ramp to the walkway, gutter, and street must be flush and free of abrupt level changes. The gutter must have a slope of no more than 5 percent (1:20) toward the ramp.

Factual Findings

The District provided OCR with photographs and descriptions of the School's parking lots and access ramps. OCR's review of this documentation indicated potential compliance concerns.

The School has multiple parking lots near multiple accessible entrances. OCR could not determine the precise number of parking spaces in each lot from the documentation provided. However, OCR's estimate of the total number of parking spaces, accessible parking spaces, and van accessible parking spaces suggests that not every lot has adequate accessible or van accessible parking spaces. In addition, OCR's review of the documentation could not confirm that the features of each accessible or van accessible space complied with the applicable ADA standards. Finally, OCR could not confirm from the documentation that curb ramps from the parking lot to the sidewalk or other accessible ramps complied with ADA standards.

Analysis and Resolution

On November 1, 2021, before OCR completed its investigation, the District expressed a willingness to resolve the complaint allegations. OCR would need additional information to make a compliance determination, including information to confirm the precise number of parking spaces, accessible parking spaces, and van accessible parking spaces in each parking lot at the School, precise measurements regarding the features of the accessible and van accessible parking spaces, and precise measurements and description of the parking lots' curb ramps. However, based on the information provided about the number of accessible parking spaces, their features, and the District's willingness to enter into a Section 302 Agreement to address compliance concerns, an Agreement to ensure the School's parking lots' curb ramps comply with ADA standards is appropriate.

To resolve the allegations described above, the District signed the attached Resolution Agreement on January 18, 2022, under which it agreed to: (1) provide an accurate count of the parking spots in each of its lots; (2) provide an adequate number of accessible parking spots and van accessible parking spots, according to the 2010 ADA standards for each lot and near each entrance; (3) ensure that accessible parking spots have adequate signage; (4) ensure that accessible parking spots have adequate features; and (5) ensure that curb ramps connect the School's parking lots to its sidewalks and that the curb ramps conform with ADA standards.

The provisions of the enclosed Resolution Agreement are aligned with the complaint allegations and information obtained by OCR to date in its investigation, are consistent with the applicable regulations, and when fully implemented will address the compliance concerns described in this letter. Therefore, OCR is closing this complaint investigation effective the date of this letter.

OCR will actively monitor the District's implementation of the Agreement until the District fulfills the terms of the agreement and is in compliance with the statutes and regulations at issue in this case. If the District fails to implement the Agreement as specified, OCR may initiate administrative or judicial proceedings as described in the Agreement or resume its investigation of the initial allegations.

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.

Please be advised that 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, the Complainant may file another complaint alleging such treatment. In addition, the 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. If OCR receives such a request, we will protect personal information to the extent provided by law.

If you have any questions, you may contact the attorney assigned to this case, XXX, at XXX.

Sincerely,

XXX
Supervisory General Attorney

cc: Jessica R. Terrazas, Counsel, *via email to* jessica@ortiz-zamora.com