



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

1244 SPEER BLVD., SUITE 310
DENVER, CO 80204-3582

REGION VIII

ARIZONA
COLORADO
NEW MEXICO
UTAH
WYOMING

January 30, 2022

Honorable Philip R. Goode
Mayor
City of Prescott
201 South Cortez Street
Prescott, AZ 86303

Joseph Young, Esq.
City Attorney
City Attorney's Office
221 South Cortez Street
Prescott, AZ 86303

Sent via email to designated contact: joseph.young@prescott-az.gov

Re: Prescott Public Library
Case Number: 08-22-4019

Dear Mayor Goode:

This letter is to advise you of the resolution of the above referenced complaint alleging that the Prescott Public Library (Library) discriminates on the basis of disability. Specifically, the complaint alleges that the Library discriminates against patrons with mobility disabilities by failing to provide a sufficient number of accessible parking spaces that are located on an accessible route(s) to an accessible entrance(s) of the Library.

OCR is responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35. Under the ADA, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities, including public libraries. The Library is a public entity subject to the ADA. Therefore, OCR has jurisdictional authority to investigate this complaint under the ADA.

Summary of Investigation

OCR notified the Library of the complaint allegation and provided the Library an opportunity to respond to our request for data relating to the allegation. The City of Prescott (the City), on behalf of the Library, responded to OCR's request by providing OCR with photographs of the designated accessible parking spaces and a corresponding spreadsheet of measurements for the

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

representative parking spaces; however, the City initially did not provide data relating to the routes connecting the designated accessible spaces to the entrances of the Library. After providing the supporting documentation for the parking spaces and working with OCR to provide information about the routes, the City informed OCR that it determined that alterations are necessary, and as such, the City is already in the process of making alterations. The City told OCR that it made this determination based on its own review of the parking spaces and routes connecting the spaces to the two designated accessible entrances of the Library. Consequently, the City expressed a desire to resolve the allegations in this complaint through a voluntary resolution agreement.

Legal Standard

The regulation implementing the ADA provides that no qualified person with a disability shall, because a public entity'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, service, or activity. 28 C.F.R. § 35.149. The regulation contains two standards for determining whether a public entity's programs, activities, and services are accessible to individuals with disabilities. One standard applies to "existing facilities" while the other applies to "new construction" and "alterations." The applicable standard of compliance depends upon the date of construction and/or the date of any alterations to the facility.

Under the ADA implementing regulation, "new construction" or "alterations" is defined as any construction of or alterations to a facility or a part of a facility commenced on or after January 26, 1992. The regulation provides that each facility or part of a facility constructed by, on behalf of, or for the use of the recipient/public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by persons with disabilities. The regulation further provides that each facility or part of a facility altered by, on behalf of, or for the use of the recipient/public entity in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by persons with disabilities.

Public facilities constructed or altered on or after January 26, 1992, through September 14, 2010, are required to choose application of *Uniform Federal Accessibility Guidelines* (UFAS) or the *1991 ADA Standards for Accessible Design* (1991 Standards) (28 C.F.R. Part 36, App. A). Public facilities constructed or altered on after September 15, 2010, through March 14, 2012, are able to comply through the application of UFAS, the 1991 Standards, or the *2010 ADA Standards for Accessible Design* (2010 Standards). Effective March 15, 2012, new construction and alterations pursuant to Title II are required to comply with the 2010 Standards. New construction and alterations completed before March 15, 2012, that did not comply with the 1991 Standards or UFAS (i.e., noncompliant new construction and alterations) were also subject to the 2010 Standards. 28 C.F.R. § 35.151(c)(5).

Background

The City reported that the Library building was constructed in 1974. The City completed an expansion and remodel of the Library in 2006 using the 1991 Standards, which included relocation of parking and alterations to the routes connecting the parking to an accessible entrance of the Library. The City further reported that since the 2006 expansion and remodel, it has made no other alterations or renovations to the surrounding parking and routes.

At the time of the City's response to OCR on September 28, 2022, the Library had 50 total parking spaces, of which seven were designated and signed as accessible. Specifically, the Library provided the following parking options for patrons:

- One designated van accessible space on the north side of the building that connects to a route that contains an accessible ramp, which then connects to the north side accessible entrance of the Library.
- Four parallel parking spaces in a series located along a curve that extends along the east side of the Library that are designated as standard accessible parking spaces and connect to the route with the ramp described above.
- A parking facility on the west and south sides of the Library that includes 44 pull-in and diagonal spaces, of which two are designated as accessible (1-van and 1-standard) and are located directly next to the west side accessible entrance.

After submitting its initial response, the City reported to OCR that it had recently conducted meetings regarding the parking and routes at the Library. Based on those discussions, the City is currently making alterations to the one north side van accessible parking space and a portion of the route that connects the parking to the north entrance. The City anticipates the north side parking alteration will be completed in early 2023. The City reported that it also has a designer providing options for altering the two accessible parking spaces on the west side.

Regarding the parallel parking spaces, the City reported that it has already noted concerns with the four designated accessible parking spaces. The concerns included the slopes, widths, and distances to the accessible entrance. Therefore, rather than refreshing the four parallel parking spaces and addressing concerns the City noted, the City has instead chosen to remove the parallel parking spaces entirely, resulting in no parking along the curve around the east side of the Library.

Analysis

The City reported to OCR that the Library parking and routes were altered in 2006. Therefore, the alterations must meet the minimum requirements for new construction. 1991 Standards §§ 4.1.6.

The 1991 Standards provide that accessible parking spaces serving a particular building shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.

Accessible parking shall be provided in each parking area in conformance with the table provided below. In buildings with multiple accessible entrances with adjacent parking, accessible parking spaces shall be dispersed and located closest to the accessible entrances. They may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience, is ensured. 1991 Standards §§ 4.1.2, 4.3, 4.6.

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20, plus 1 for each 100 over 1000

In addition, one in every eight accessible parking spaces, but not less than one, shall be served by an access aisle 96 inches wide minimum and shall be designated as “van accessible.” 1991 Standards §§ 4.1.2(5)(b), 4.30.7(1).

Regarding parking spaces, the 1991 Standards require that standard accessible spaces are a minimum of 96 inches wide and served by access aisles at least 60 inches wide and that van accessible spaces are a minimum of 96 inches wide and served by access aisles at least 96 inches wide. At all spaces designated as reserved for persons with disabilities, vertical signs with the International Symbol of Accessibility must be provided and located such that they cannot be obstructed by parked vehicles. At van accessible spaces, an additional “Van-Accessible” sign must be provided and located below the International Symbol of Accessibility. Lastly, all spaces and access aisles for persons with disabilities must be flat and level, with slopes and cross-slopes not exceeding 1:50 in all directions, with surfaces that are firm, stable, and slip-resistant. 1991 Standards §§ 4.1.2(5), 4.6, 4.30.7(1).

Regarding accessible routes, the 1991 Standards require routes to have the following: a minimum clear width of 36 inches, or a minimum clear width of 42 inches if there is a turn around an obstruction less than 48 inches wide; have passing spaces at least 60 inches by 60 inches at least every 200 feet; have a minimum clear headroom of 80 inches; have a surface that is firm, stable, and slip resistant; have, in the absence of a curb ramp, ramp, elevator, or platform lift, no level changes in excess of ½ inch vertically; and have a running slope of less than 1:20 (5%) (or have been constructed as a fully accessible ramp) and a cross slope of less than 1:50 (2%). 1991 Standards §§ 4.3, 4.5, Fig. 7.

If an accessible route includes a ramp, the 1991 Standards require the following as to the ramp: it be at least 36 inches wide; have a slope not exceeding 1:12 and a cross slope not exceeding 1:50; and provide level landings at the top and bottom of the ramp that are at least as wide as the ramp and at least 60 inches long. If the ramp changes direction, a level landing measuring at least 60 inches by 60 inches at the change in direction must be provided. On both sides of the ramp, handrails between 1¼ inches and 1½ inches in diameter with a continuous gripping surface shall be provided. The handrails shall extend at least 12 inches beyond the top and bottom of the ramp parallel with the ground surface, be mounted between 34 inches and 38 inches above the ramp surface, not rotate within their fittings, and have ends that are rounded or return smoothly to floor, wall, or post. The ramp will provide edge protection that is at least 2 inches high at the ramp's drop off sides. The level landing at the top and bottom will be designed and maintained so that water does not accumulate on walking surfaces. 1991 Standards §§ 4.3.8, 4.8.

Conclusion

Based on OCR's preliminary review of the photographs and general measurements of the parking spaces provided by the City, and our discussions with the City, OCR shares the City's concerns regarding the parking surrounding the Library. The parallel parking spaces, before being removed, did not immediately connect to an accessible route based on observations relating to slope and width. The one north side space already being altered, as well as the first few feet of route connecting to the north entrance, contained excessive slopes. Finally, while the two west side spaces accessing the west accessible entrance are mostly compliant with the 1991 Standards, the spaces' cross slopes and access aisles gradually increase from <1% nearest to the entrance to an average of 2-3% by the right boundary of the second space.

Based on the City's ongoing process to improve access to the Library through the redesign of the parking serving the Library and the alterations to the route(s), as necessary, OCR determined that resolving the outstanding concerns with an agreement pursuant to Section 302 of OCR's CPM, without concluding the investigation, was appropriate in this instance.

On January 25, 2023, we received the City's signed Resolution Agreement (enclosed). OCR is closing the investigative phase of this case effective the date of this letter. The case is now in the monitoring phase. OCR will closely monitor the City's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively and that the City's policies and practices are administered in a non-discriminatory manner. When the Agreement is fully implemented, this allegation will have been resolved consistent with the requirements of Title II, and its implementing regulations. If the City fails to implement the Agreement, we will take appropriate action, which may include enforcement actions, as described in the Agreement.

This concludes OCR's investigation and should not be interpreted to address the City'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 investigation. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. The complainant may have a right to file a private suit in federal

court whether or not OCR finds a violation.

Please be advised that the Library 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 individual may file a 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.

If you have any questions, please contact XXXX, Equal Opportunity Specialist, at 303-844-XXXX, or by email at XXXX@ed.gov.

Sincerely,

Thomas M. Rock
Supervisory General Attorney

Enclosure

cc (via email): XXXX
Library Director

XXXX
City of Prescott