



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

50 BEALE ST., SUITE 7200
SAN FRANCISCO, CA 94105

REGION IX
CALIFORNIA

July 15, 2016

Mary L. George
Director of Library Services
Placer County Library Administration
350 Nevada Street
Auburn, CA 95603

(In reply, please refer to case no. 09-16-4004.)

Dear Ms. George:

The U.S. Department of Education, Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against the Placer County Library (Library). The Complainant alleged that the Library discriminated against her on the basis of disability.¹ Specifically, OCR investigated the following allegations:

1. Whether the Library excludes persons with disabilities from the use of library computers because the Auburn branch's (Branch) computers and computer reservation system are not accessible to individuals with visual impairments, and because the Branch's computer workstations are not accessible to individuals who use wheelchairs.
2. Whether the disabled parking spaces at the Branch are ADA compliant.
3. Whether there is an accessible path to the Branch from public transportation.

OCR is responsible for enforcing Title II of the Americans with Disabilities Act of 1990, as amended (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation, at 28 C.F.R. Part 35 over complaints alleging discrimination on the basis of disability that are filed against certain public entities, including the Library.

OCR gathered evidence by reviewing documents and correspondence provided by the Complainant and the Library, and by interviewing the Complainant. Prior to OCR completing its investigation, the Library voluntarily agreed to address the areas of concern identified by OCR with respect to the issues investigated. This letter summarizes the applicable legal standards, the relevant facts obtained during the investigation, and the terms of the resolution reached with the Library.

Allegation One: *Whether the Library excludes persons with disabilities from the use of library computers because the Branch's computers and computer reservation system are not accessible to individuals with visual impairments, and because the Branch's computer workstations are not accessible to individuals who use wheelchairs.*

¹ OCR previously provided the Library with the identity of the Complainant. We are not including her name in this letter for privacy reasons.

Legal Standard

The regulations implementing Title II, at 28 C.F.R. §35.130(a) and (b), prohibit discrimination based on disability. The Title II regulations, at 28 C.F.R. §35.149, also provide that no qualified person with a disability shall, because a public entity's facilities are inaccessible to or unusable by disabled persons, be denied the benefits of, excluded from participation in, or otherwise be subjected to discrimination under any program, service, or activity of the recipient. 28 C.F.R. § 35.133 provides that a public entity shall maintain in operable working condition those features of facilities and equipment that are required to be readily accessible to and usable by persons with disabilities by the ADA.

Section 35.160(b) provides that a public entity shall furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities, including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity and that the type of auxiliary aid or services necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities. In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

Facts Gathered to Date and Analysis

Accessibility of Computers for Individuals with Visual Impairments

The Complainant, who is visually impaired, alleged that the Branch's computers and computer reservation system were not accessible to individuals with visual impairments because of a lack of text-to-speech functionality, headphones, magnifier functionality, and accessible keyboards. According to the County, the accessibility software available on the Branch's computers is Microsoft Windows' "Ease of Access" tool set, which includes basic magnifier and text-to-speech capabilities. The County also stated that the Branch's computer reservation system is a separate software program installed on one of the Library's computers. The County's response raised concerns about whether the computers were accessible to individuals with visual impairments because the Ease of Access tools, which come installed as a default on Windows computers, are scaled-down versions of more full-featured products like ZoomText (for magnification) and JAWS (for text to speech) for individuals with visual impairments. Based on the facts gathered to date, it is unclear whether the Ease of Access tools installed on the Branch's computers provide equally effective access to individuals with visual impairments.

Complainant also alleged that she asked Branch staff for assistance in making the computers accessible and Library staff told her that they could only make the font bigger and did not mention the Ease of Access tools. The allegation that Library staff did not direct her to the Ease of Access tools also raised concerns about whether Library staff are knowledgeable about the services available for individuals with visual impairments.

Accessibility of Computer Workstations for Individuals with Mobility Impairments

The Complainant, who also has a mobility impairment, alleged that there were no computer workstations at the Branch that were accessible to individuals who use wheelchairs. In response to the

complaint, the Library provided OCR with measurements for the Branch's computer workstations. These measurements raised concerns that the Library may not have any computer workstations that are accessible under the 2010 Americans with Disabilities Act Standards for Accessible Design (2010 Standards).²

Section 902 of the 2010 Standards requires that work surfaces be a minimum of 28 inches and a maximum of 34 inches high. Sections 305 and 306 of the 2010 Standards also require that work surfaces have 27 inches of height and a width of 30 inches for knee clearance and a clear floor space underneath the table of 30 inches by 48 inches. The measurements provided to OCR for the tables for computers with Internet access all had only 26.5 inches of knee clearance, less than the required 27 inches, and the clear floor space was also smaller than the required 30 inches by 48 inches. The County also provided measurements for some of the computer tables without Internet access; a review of these measurements also raised concerns under the 2010 Standards. For example, the knee clearances of three such tables were less than the required 27 inches high, and the knee clearance of another table was less than the required 30 inches wide. The information provided by the Library was not detailed enough to determine whether any of the Branch's workstations were fully accessible.

Pursuant to Section 302 of the OCR's Case Processing Manual (CPM), prior to the conclusion of and to address the concerns raised in OCR's investigation of the complaint, the Library, without admitting to any violation of law, entered into the enclosed resolution agreement, which is aligned with the complaint allegation and the information obtained by OCR during its investigation. As part of that resolution agreement, the Library will install at least one ADA accessible table (compliant with Section 902 of the 2010 Standards) and provide priority access to that workstation for individuals with mobility impairments. Under the agreement, the Library will also provide training and a guidance memorandum to Library staff regarding their responsibilities to individuals with disabilities, will ensure that headphones for text to speech functionality and an accessible keyboard are available for Library users with visual impairments, and will install magnifier and reader software on one computer at the Branch with priority access to that computer for individuals with visual impairments.

Allegations Two and Three: *Whether the disabled parking spaces at the Branch are ADA compliant and whether there is an accessible path of travel to the Branch from public transportation.*

Legal Standard

The Title II regulation, at 28 CFR §35.150, provides that as to "existing facilities" the public entity shall operate its programs and activities so that, when viewed in their entirety, they are readily accessible to and usable by persons with disabilities. These sections are applicable to any facility or part of a facility where construction was commenced prior to January 26, 1992. Accessibility of existing facilities is determined not by compliance with a particular architectural accessibility standard, but by considering whether the program or activity, when viewed in its entirety, is accessible to and usable by individuals with disabilities. Program access may require consideration of potential barriers to access that were not recognized at the time of construction or alteration.

The Title II regulations, at 28 C.F.R. §35.151, are applicable to "new construction or alterations", defined as any facility or part of a facility where construction was commenced after January 26, 1992. The regulations provide that each newly constructed facility or part of a facility shall be designed and

² Available at <http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm>

constructed in such manner that it is readily accessible to and usable by persons with disabilities using the 2010 Standards for Accessible design when construction commences on or after March 15, 2012. The regulations further provide that each newly altered facility or part of a facility affecting accessibility shall, to the maximum extent feasible, be altered in such manner that the altered portion is readily accessible to and usable by persons with disabilities.

Facts Gathered to Date and Analysis

The Complainant alleged that there was not an accessible path of travel to the Branch from the bus stop on Nevada Street and that the Branch's parking lot is not accessible. The Library reported to OCR that several parking spaces marked as accessible were added in 1995, along with a concrete curb ramp from the parking spaces to the existing sidewalk. To date, OCR has not determined whether those parking spaces are accessible under the relevant legal standards. Furthermore, based on a review of pictures of the site, OCR had concerns about whether there is an accessible path of travel from the public sidewalk to the Branch entrance because there appears to be no curb with a ramp on the route from the public sidewalk to the Library, and because there are steps leading up to the main entrance of the Library. OCR has not yet determined whether there is any alternative accessible path of travel to the main entrance of the Library.

However, pursuant to Section 302 of the OCR's CPM, prior to the conclusion of and to address the concerns raised in OCR's investigation of the complaint, the Library, without admitting to any violation of law, entered into the enclosed resolution agreement, which is aligned with the complaint allegations and the information obtained by OCR during its investigation. In the resolution agreement, the Library has agreed to modify the parking lot and the path of travel from public transportation to the entrance of the Branch to be brought into compliance with the 2010 Standards.

Conclusion

Based on the commitments made in the enclosed resolution agreement, OCR is closing the investigation of this complaint as of the date of this letter, and notifying the complainant concurrently. When fully implemented, the resolution agreement is intended to address all of OCR's compliance concerns in this investigation. OCR will monitor the implementation of agreement until the Library is in compliance with the statutes and regulations at issue in the case, in particular 28 C.F.R. §§ 35.130, 35.150, 35.151, and 35.160.

OCR's determination in this matter should not be interpreted to address the Library's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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.

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 Complainant may file another 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, it will seek to protect, to the extent provided by the law, personal information that, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Blake Thompson, Civil Rights Attorney, at (415) 486-5630.

Sincerely,

/s/

Zachary Pelchat
Team Leader

Cc: Sheri Chapman, Placer County Counsel (by email)