



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

REGION IX
CALIFORNIA

50 UNITED NATIONS PLAZA
MAIL BOX 1200; ROOM 1545
SAN FRANCISCO, CA 94102

January 11, 2019

VIA ELECTRONIC MAIL

Ms. Hasmik Danielian, Ed.D.
Superintendent
Norwalk-La Mirada Unified School District
12820 Pioneer Boulevard
Norwalk, California 90650

(In reply, please refer to # 09-18-1114.)

Dear Superintendent Danielian:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against the Norwalk La-Mirada Unified School District (the District). The Complainant¹ had alleged the following:

1. The following aspects of La Mirada High School (the School) were not accessible to individuals with disabilities:
 - a. Spectator seating for the School's football field/track;
 - b. Restrooms for the School's football field/track and the path of travel to those restrooms;
 - c. The ticket booth for the School's football field/track;
 - d. The concession stand for the School's football field/track;
 - e. The path of travel from the School's parking lot to the football field/track;
 - f. Spectator seating for the School's baseball field;
 - g. The path of travel from the School's parking lot to the baseball field;
 - h. The path of travel from the School's accessible parking spaces to the School entrances;
 - i. The lunch counter/pickup area;
 - j. The sinks in the bathrooms of the science building; and,
 - k. Accessible parking in the School's parking lots.²

OCR is responsible for enforcing 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. Section 504 prohibits discrimination on the basis of disability in programs and activities operated by recipients of

¹ OCR previously provided the District with the Complainant's name. His name is not included here for privacy reasons.

² The allegation described in subsection (k) was inadvertently omitted from the initial notification letter sent to the District. OCR subsequently provided the District with notice that it was assessing the accessibility of the School's parking areas during its site visit to the School.

federal financial assistance. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation, at 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities. As a recipient of federal financial assistance and as a public school district, the District is subject to Section 504, Title II, and their implementing regulations.

To investigate this complaint, OCR reviewed information and documentation provided by the Complainant and the District and conducted an interview with the Complainant. OCR also conducted a site visit with District staff to inspect the School on March 13, 2018. After careful review of the information gathered in the investigation, OCR concluded that the District was in violation of Section 504 and Title II and their implementing regulations as to certain aspects of the School's football field, baseball field, and parking lots. As to other aspects described below, prior to OCR completing its investigation and making a compliance determination, the District expressed an interest in voluntary resolution pursuant to section 302 of OCR's Case Processing Manual (CPM), and OCR determined it was appropriate to do so. Finally, OCR determined that the District was in compliance with Section 504 and Title II and their implementing regulations as to the path of travel from the parking lots to the football field and School entrances (allegations 1.e and 1.h above).

The legal standards, facts gathered, and the reasons for OCR's determinations are summarized below.

Legal Standard

The regulations implementing Section 504 and Title II provide that no qualified person with a disability shall, because a recipient or 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 of the recipient. 34 C.F.R. § 104.21; 28 C.F.R. § 35.149. The regulations contain two standards for determining whether a recipient or public entity's programs, activities, and services are accessible to individuals with disabilities. One standard applies to "new construction" and "alterations" while the other applies to "existing facilities." The applicable standard of compliance depends upon the date of construction and/or the date of any alterations to the facility.

New construction and alterations

The Section 504 regulations, at 34 C.F.R. § 104.23, apply to "new construction or alterations," defined as any facility or part of a facility where construction was commenced after June 3, 1977. For the purposes of Title II, "new construction or alterations" is defined as any construction of or alterations to a facility or a part of a facility on or after January 26, 1992. The regulations for each law provide that each facility or part of a facility constructed by, on behalf of, or for the use of the recipient or 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 regulations further provide that each facility or part of a facility altered by, on behalf of, or for the use of the recipient or 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.

The Section 504 regulations, at 34 C.F.R. § 104.23(c), specify the American National Standards Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped (ANSI 117.1 – 1961 (1971)) as the minimum standard for determining accessibility for facilities constructed or altered on or after June 3, 1977 and before January 18, 1991. Facilities constructed or altered on or after January 18, 1991 are required to comply with the Uniform Federal Accessibility Guidelines (UFAS) (Appendix A to 41 C.F.R. subpart 101-19.6). Recipients may choose between applying the 2010 Standards for Accessible Design (2010 Standards) (28 C.F.R. § 35.151 and 28 C.F.R. part 36, subpart D) or UFAS for any new construction or alteration commenced on or after March 15, 2012. 77 F.R. 14972, 14975 (Mar. 14, 2012).

With respect to Title II, public facilities constructed or altered on or after January 26, 1992 through September 14, 2010 are required to choose application of 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 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).

Existing facilities

The Section 504 regulations, at 34 C.F.R. § 104.22, and the Title II regulations, at 28 C.F.R. § 35.150, also apply to “existing facilities.” Section 504 defines existing facilities as any facility or part of a facility where construction was commenced prior to June 3, 1977. Existing facilities for the purposes of Title II are any facility or part of a facility where construction was commenced prior to January 26, 1992. The regulations provide that, with respect to existing facilities, the recipient shall operate its programs, services, and activities so that, when viewed in their entirety, they are readily accessible to and usable by persons with disabilities (hereinafter “the program accessibility standard”).

Accessibility of existing facilities is determined not by compliance with a particular architectural accessibility standard, but by considering whether a recipient’s program, service, or activity offered within an existing facility, when viewed in its entirety, is accessible to and usable by individuals with disabilities. The recipient may comply with the existing facility standard through the reassignment of programs, services, and activities to accessible buildings, alteration of existing facilities, or any other methods that result in making each of its programs, services, and activities, when viewed in their entirety, accessible to individuals with disabilities. In choosing among available methods for redressing program inaccessibility, the recipient must give priority to those methods that offer programs, services, and activities to individuals with disabilities in the most integrated setting appropriate as well as methods that entail achieving access independently and safely.

The concepts of program access and facilities access are related, because it may be necessary to remove an architectural barrier in order to create program access. For example, a program offered exclusively in a particular building on a campus may not be accessible and usable to individuals with disabilities absent the provision of physically accessible features. Under such circumstances, facility accessibility standards may be used to guide or inform an understanding of whether persons with disabilities face barriers to participating in the program, service, or activity provided in a particular facility. In reviewing program accessibility for an existing facility subject to Section 504, UFAS or the 2010 Standards may be used as a guide to understanding whether individuals with disabilities can participate in or benefit from the program, activity, or service. The 2010 Standards may be used as a guide to understanding whether individuals with disabilities can participate in or benefit from the program, activity, or service of a public entity subject to Title II. Specific details of the architectural standards are described below as needed.

Notice & Signage

The Section 504 regulations, at 34 C.F.R. § 104.22(f), also require the recipient to adopt and implement procedures to ensure that interested persons can obtain information as to the existence and location of programs, services, activities, and facilities that are accessible to and usable by persons with disabilities. The Title II regulations, at 28 C.F.R. § 35.163(a), have a similar requirement for public entities. In addition, 28 C.F.R. § 35.163(b) requires a public entity to provide signage at all inaccessible entrances that direct users to accessible entrances or to a location at which they can obtain information about accessible facility entrances. The section also requires that the international symbol for accessibility be displayed at each accessible entrance to a facility.

Findings of Fact

Football Field

The School's football field was built in 1972 and seats approximately 8,000 spectators, including approximately 5,000 on the home side and approximately 3,000 on the visitors' side. According to the District, the only change to the facility since construction in 1972 was that artificial turf was installed in approximately 2004 or 2005.

The football field is elevated above the parking lot that serves the field. The field is served by a ramp added in 2004 or 2005 that goes from the parking lot up to the field area. The ramp is accessible and includes handrails and switchbacks to reduce the slope. The path of travel from the top of the ramp to the bleachers has a running slope of less than five percent and a cross slope of less than two percent.

To enter both the home and visitors' bleachers, spectators have to climb up a set of steps. The School's Principal told OCR that, for football games, wheelchair users would be seated on one corner of the track near the end zone. For graduation, wheelchair users are seated on the field (along with the students and School staff) and are allowed to bring a companion.

One set of restrooms is located next to the home bleachers, and a second set next to the visitors' bleachers. The District told OCR that these restrooms were built in 1972. None of these restrooms are accessible, as the stall doors are not wide enough (less than 30 inches wide), there is not a wide enough path of travel to get to the stalls (the path of travel is less than 36 inches wide), and the stalls themselves do not generally have accessible features. One stall in each bathroom has a handrail, but is not accessible to someone in a wheelchair who would be unable to wheel into the stall due to the narrow stall width. OCR also noted that there were cracks in the asphalt in the path of travel leading up to the entrance to the restrooms.

The Principal told OCR that she was not aware of a wheelchair user ever attending a football game and needing to use an accessible restroom. The District told OCR that accessible restrooms in classroom buildings 450 or 750 could be used by individuals visiting the football field. On OCR's site visit, District staff reported that these restrooms would generally be locked during events at the football field, though they could be open for graduation. The accessible route from the wheelchair seating location on the track to the restrooms in Building 450 would be approximately 800 to 900 feet (or a little more than one-eighth of a mile).

The ticket booth for the stadium, which the District told OCR was also built in 1972 and has not been renovated, had six ticket windows. The District acknowledged that the ticket booths were not accessible. Each of the windows was too high for wheelchair users and was also blocked by metal railings that were not spaced far enough apart for a wheelchair user to approach the window. The District told OCR that staff would come out from behind the counter to help wheelchair users as needed.

The football field also had concession booths next to the home and visitors' bleachers, which the District told OCR were built in 1972 and have not been renovated. The District acknowledged that the concession booths were not accessible. The counter heights for those booths were between 43 and 44 inches high. As with the ticket booth, the District told OCR that staff would come out from behind the counter to help wheelchair users as needed.

Baseball Field

According to the District, the baseball field was constructed in 1972. There is currently no accessible route to the baseball field, as the only two routes (a path along the first base side of the field and a path and stairs along the third base side of the field) are up a large hill with no ramp. The District's Facilities Director told OCR that the District was planning to install an accessible ramp along the first base side of the field.

The seating for the baseball field consists of four small sets of bleachers added in 2012, each containing five to eight rows. None of the seating in the bleachers was accessible. District staff told OCR that wheelchair users could sit in spaces between the sets of bleachers. District staff also reported that many fans choose to sit in a dirt area along the third base line because there is no fence there blocking their view.

District staff also reported that spectators for baseball games would use the restrooms at the football field, which were approximately 200 feet away. Because those restrooms were inaccessible, individuals with disabilities would have to use the accessible restrooms in Building 450 or Building 750 discussed above, which were 300 to 400 feet from the exit to the baseball field. However, as noted above, there is currently no accessible path of travel to and from the baseball field that would allow a wheelchair user to get to these bathrooms.

Lunch Counter

The District told OCR that the lunch counter pickup area was constructed in 1960 and renovated in 2003. OCR observed three areas where students could obtain food.

Building 500 (the “lunch counter”) had seven counters that were each 41 inches high. The approach to each counter was separated by rails that were roughly 22 inches apart, meaning that a wheelchair user could not fit between the rails to approach the counter. According to the District’s Nutrition Services Supervisor, these counters served lunch items that were “grab and go” such as sandwiches, pizza and burgers.

Building 550 (the “snack counter”) had nine counters that were approximately 43 inches high, and one lower counter (at the end) that was 35 and 3/4 inches high. The approaches to each counter were separated by rails that were between 27 and 30 inches wide, but the last (lower) counter did not have rails in front of the counter. The Director of Nutrition Services reported that the snack counter served items like chips, juice, fruit cups, and ice cream.

There was also an indoor lunch line that was served by an accessible path of travel. The counter for that lunch line was 31 and 3/4 inches high. The Nutrition Services Supervisor told OCR that the indoor lunch line had a chicken line and a nacho line, and that it served different food than the outdoor counters because the indoor area had different equipment.

The Principal and the Director of Nutrition Services told OCR that all three areas were open during lunch time between 12:25 p.m. and 12:50 p.m.. During “snack” time (a 15-17 minute break between second and third period) the snack and lunch counters were open but the indoor lunch line was closed. Before school only the snack counter was open.

Parking

The School had two main parking areas, referred to here as the “front lot” and the “rear lot.” The rear lot was separated by fences into three separate parking areas, two staff lots on either side of a large student lot. Each lot is discussed below:

Front Lot: The front parking lot, which was last restriped in 2004, had approximately 40 parking spaces, three of which were marked as accessible, including one van accessible space. There was an accessible route (via a ramp) from the accessible parking spaces to the School entrance.

Rear Lot: Western Staff Parking Lot: This lot contained approximately 115 parking spaces, six of which were marked as accessible. The accessible spaces were added in a project approved in

2004. One of the parking spaces was marked as van accessible but was only nine feet wide with a five foot access aisle. On a fence behind the spaces, there were four signs with the symbol for accessibility spaced across the six parking spaces. This lot had an accessible path of travel to the rear entrance of the School.

Rear Lot: Student Parking: This lot, which contained approximately 225 parking spaces as of the date of OCR's site visit, included eight newer accessible parking spaces in the middle of the parking lot and six older accessible parking spaces next to the accessible ramp leading to the School entrance. None of the six older spaces were van accessible and four of the six did not have a sign with the international symbol of accessibility.

The Facilities Director told OCR that the newer set of accessible spaces (in the middle of the parking lot) were added because the area around the older set of accessible spaces had been used for temporary buildings in the past. As of the date of OCR's site visit in March 2018, all fourteen accessible spaces were available. However, the Facilities Director told OCR that as part of a construction project running from summer 2018 through the end of 2019, portable buildings were again being added and that those older six accessible parking spaces were again fenced off and unavailable. While the portable buildings were in place, the parking lot contained approximately 185 total parking spaces. OCR reviewed construction plans for the portable buildings, which showed an accessible route during construction from the eight remaining accessible spaces to the School entrance.

Rear Lot: Eastern Staff Parking Lot – This lot contained approximately 33 parking spaces, four of which were accessible (added in 2004), but none of which were van accessible. All of the accessible parking spaces had an accessible route to the rear entrance of the School.

The Complainant told OCR that the slope on the ramp from the rear parking lot up to the entrance of the School was too steep. OCR determined that the running slope of the ramp (which had handrails) ranged between six and seven percent, and the cross slope ranged from 1.6 to 1.9 percent.

Bathrooms in Science Building

The Complainant asserted that certain bathrooms in the science building did not have insulation on the pipes under the sink. The District reported that this building was constructed in 2005. On the date of OCR's site visit, OCR observed that insulation was missing on certain sinks, and the District acknowledged that insulation needed to be added. The District subsequently provided OCR with documentation that insulation was added to those sinks on March 22, 2018.

Analysis and Conclusion

Football Field

Because the football field facility was constructed in 1972, OCR applied a program access standard. This standard, as described above, requires that the facility, viewed in its entirety, be readily accessible to and usable by individuals with disabilities.

As noted above, there was an accessible route to the football field from the parking lot, but there are no accessible restrooms at the field. The only accessible restrooms are in classroom buildings that are locked during football games, the closest of which was 800 to 900 feet away, much further away than the restrooms for other spectators without disabilities. There was also no signage indicating the location of accessible restrooms, meaning that a wheelchair user would have no way of knowing where the accessible restroom was located. OCR therefore found that, under a program access standard, the failure to have any accessible restrooms at the field constituted a violation of Section 504 and Title II and their implementing regulations.

Furthermore, the District modified the football field in approximately 2004 to replace the grass field with an artificial turf field. The standards in place at the time of that alteration were the 1991 Standards, which included the requirement in Section 4.1.6(2) that “an alteration that affects or could affect the usability of or access to an area containing a primary function shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, unless such alterations are disproportionate to the overall alterations in terms of cost and scope.” Disproportionality is defined as when the cost of accessibility modifications exceeds more than 20% of the cost of the overall alterations.

Here, OCR found that the installation of a new field was an alteration that affected the primary function of the facility and that it was a change that affected the usability of the area. OCR therefore found that Section 4.1.6(2) applied and required that the District address any path of travel issues and issues related to restrooms, telephones, and drinking fountains serving the altered area. OCR did not find any issues with the accessibility of drinking fountains or telephones. However, as noted above, the restrooms serving the altered area are not accessible. OCR therefore found that, to the extent that costs are not disproportionate as defined in the regulation, the District was required to provide accessible restrooms for the facility and an accessible path of travel to those restrooms. The District subsequently communicated to OCR that it was planning to modernize the football field facility and include accessible restrooms, and agreed to provide portable accessible restrooms in the interim until construction was complete.

With respect to seating, the District told OCR that spectators in wheelchairs could sit on the corner of the track. Because OCR’s visit was conducted in the spring (which was not during football season), OCR was not able to observe a football game or speak to individuals in wheelchairs attending the game. Based on the information gathered to date, OCR had concerns about whether the track seating provided an option that was accessible to and usable by individuals with disabilities for all of the events at the football field. In order to reach a finding regarding the seating, OCR would need to gather more information about exactly how the District provides access to wheelchair users for football games and other events. However, prior to the completion of OCR’s investigation, the District expressed a willingness to develop a plan to ensure that spectators with disabilities have access to seating that is safe and accessible for all events at the field, and subsequently notified OCR that it had decided to modernize the School’s football field and provide accessible bleacher seating.

Finally, OCR found that because the ticket booth and the concessions booths were built in 1972, the program access standard also applied to these aspects of the facility. The concession booths and the ticket booth were not accessible because the counters were too high and because of the poles in front of the ticket booth. The District could potentially provide access to these services by having the individuals working at the booths come out from behind the counters to assist individuals with disabilities. However, in order to determine whether the District is providing access to these services, OCR would have needed to interview those individuals to determine whether they were providing assistance in the absence of an accessible counter. Prior to the completion of the investigation, however, the District expressed a willingness to develop a plan to ensure that training is provided on the obligations to provide access by specifically assisting customers with disabilities.

Baseball Field

Because the baseball field was built in 1972, OCR applied a program access standard in evaluating the accessibility of the facility. Under that standard, OCR evaluates whether the facility is readily accessible and usable to individuals with disabilities. Because OCR determined that there was no accessible route to the baseball field (given that all routes to the field go up steps or a steep hill), OCR determined that the District was in violation of Section 504 and Title II as to the accessibility of programs at the field, and the Resolution Agreement provides that the District will create an accessible path of travel to the field.

OCR also evaluated the accessibility of the seating at the field. The bleachers for the baseball field were added in 2012 and are therefore subject to the 2010 Standards. Section 221.2.1 of the 2010 Standards requires the following number of wheelchair accessible spaces for assembly areas such as athletic fields.

Number of Seats	Minimum Number of Required Wheelchair Spaces
4 to 25	1
26 to 50	2
51 to 150	4
151 to 300	5
301 to 500	6
501 to 5000	6, plus 1 for each 150, or fraction thereof, between 501 through 5000
5001 and over	36, plus 1 for each 200, or fraction thereof, over 5000

As noted above, the bleachers are not accessible and the only seating areas for wheelchair users at the field are outside the bleachers. Section 221.2.2 provides that “wheelchair spaces shall be an integral part of the seating plan.” The note to that section explains that “[t]he requirement that wheelchair spaces be an ‘integral part of the seating plan’ means that wheelchair spaces must be placed within the footprint of the seating area. Wheelchair spaces cannot be segregated from

seating areas. For example, it would be unacceptable to place only the wheelchair spaces . . . outside the seating areas defined by risers in an assembly area.”

Here, the wheelchair accessible seating area is not an integral part of the seating plan because the wheelchair spaces are outside the bleachers. OCR therefore found that the bleacher seating is not compliant with Section 504 and Title II and their implementing regulations. The Resolution Agreement therefore requires that the District create accessible bleacher seating consistent with Section 221 of the 2010 Standards.

Lunch Counter

The District told OCR that the lunch counters were constructed in 2003, meaning that the 1991 Standards applied. Section 7.2(1) of the 1991 Standards provided that for sales and service counters, “at least one of each type [of counter] shall have . . . a maximum height of 36 in[ches].” Here, all the lunch counters in Building 500 were at least 41 inches high, meaning that none of them were compliant with Section 7.2(1) as to the height. There was also no way for a wheelchair user to approach the lunch counters because all of the approaches were blocked by metal railings that were approximately 22 inches apart.

OCR also determined that while food was available at the accessible snack counter and indoor lunch line, those were different types of counters in that they offered different food options and were open at different times. For example, students without disabilities could access meals (not just snacks) during the break between second and third period, but an individual with a disability could not do so because the lunch counter is not accessible.

OCR therefore found that the District was in violation of Title II and Section 504 and their implementing regulations with respect to the lunch counter area. The Resolution Agreement therefore requires that the District modify the lunch counter area to be accessible consistent with the 2010 Standards or instead ensure that the accessible snack counter provides equal access for individuals with disabilities for all of the School’s food options.

Parking and Path of Travel from Parking Lots

OCR evaluated the parking lots under the 1991 Standards because the lots were last modified in 2004 and 2005. The 1991 Standards provide the following table showing the required numbers of accessible parking spaces in each lot under Section 4.1.2(5) of the standards.

<u>Total Parking in Lot</u>	<u>Required Minimum Number of Accessible Spaces</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6

<u>Total Parking in Lot</u>	<u>Required Minimum Number of Accessible Spaces</u>
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

Section 4.1.2(5)(b) also provides that one in every eight accessible spaces must be a van accessible space. For sites like this one with multiple parking facilities, the required number of accessible spaces, including van accessible spaces, is calculated separately for each parking lot on a site. Under Section 4.6.4, accessible spaces must be marked by a sign showing the international symbol of accessibility, which must be located so it cannot be obscured by a vehicle parked in the space.

OCR’s analysis of each lot is described below.

- Front Lot:** The front lot had 40 parking spaces, which meant that under the 1991 Standards two accessible parking spaces were required (including one van accessible space). Because the lot had three accessible spaces, including one van accessible space, OCR found that the number of accessible spaces in the lot complied with the 1991 Standards.
- Rear Staff Lot – West:** This lot had 115 parking spaces, which meant that under the 1991 Standards five accessible parking spaces were required (including one van accessible space). Because the lot had six accessible spaces, OCR found that the lot had a sufficient number of accessible parking spaces. There was one space marked as van accessible, but that space was only nine feet wide with a five foot wide access aisle. The 1991 Standards require that the access aisle for a van accessible parking space be eight feet wide. (The 2010 standards also allow a van accessible space to have a five foot access aisle if the parking space is eleven feet wide.) OCR therefore found that the District was not in compliance with the requirement to have a van accessible parking space in this lot. OCR also found that signage was missing for two of the six accessible parking spaces in this lot. The Resolution Agreement therefore requires the creation of a van accessible parking space and appropriate signage.
- Rear Lot (Student):** While the portable buildings are in place, this parking lot will contain approximately 185 parking spaces and eight accessible parking spaces (not counting the six older accessible spaces that will not be used while the portables are in place). The 2010 Standards for a parking lot of this size require only six accessible parking spaces, so OCR determined that the parking lot contained sufficient numbers of accessible parking spaces.

As a matter of technical assistance, OCR notes that once the portables are removed, the District should relocate the accessible parking spaces to the original location nearest the

ramp. Section 208.3 of the 2010 Standards requires that accessible parking spaces shall be located on the shortest accessible route from accessible parking to the accessible entrance.

- **Rear Staff Lot – East:** This lot had 33 parking spaces, which meant that under the 1991 Standards two accessible parking spaces were required (including one van accessible space). Because the lot had four accessible spaces, OCR found that there were sufficient numbers of accessible parking spaces. However, the lot did not contain any van accessible parking spaces. OCR therefore found that the District was not in compliance with the requirement to have a van accessible parking space in this lot.

As noted above, OCR also reviewed the slope of the ramp from the rear parking lot up to the school entrance. Section 4.8.2 of the 1991 Standards provides that the maximum running slope for a ramp is 1:12 (or 8.33%). OCR found that the running slope for the ramp ranged from six percent to seven percent. OCR therefore found that the ramp was in compliance with the applicable ADA standard as to slope.

Bathrooms in Science Building

OCR observed that several of the bathrooms in the science building did not have insulation around the piping under all the sinks. Because these bathrooms were built in 2005, they were evaluated under the 1991 Standards. Section 4.19.4 of the 1991 Standards requires that “[h]ot water and drain pipes under lavatories shall be insulated or otherwise configured to protect against contact.” As described above, the District provided OCR with evidence that this issue was resolved on March 22, 2018.

Overall Conclusion

This concludes the investigation of this complaint.

To address the issues alleged in the complaint, the District, 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. The Resolution Agreement requires the District to add accessible features as identified above.

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 the complaint allegations. OCR will monitor the implementation of the resolution agreement until the District is in compliance with the terms of the resolution agreement. Upon completion of the obligations under the resolution agreement, OCR will close the case.

OCR’s determination in this matter 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. 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.

With regard to the areas discussed above in which OCR found the District in compliance,³ the complainant has a right to appeal OCR's determination within 60 calendar days of the date indicated on this letter. In the appeal, the complainant must explain why the factual information was incomplete, inaccurate, the legal analysis was incorrect or the appropriate legal standard was not applied, and how correction of any error(s) would change the outcome of the case; failure to do so may result in dismissal of the appeal. If the complainant appeals OCR's determination, OCR will forward a copy of the appeal form or written statement to the recipient. The recipient has the option to submit to OCR a response to the appeal. The recipient must submit any response within 14 calendar days of the date that OCR forwarded a copy of the appeal to the recipient.

Please be advised that the District may not harass, coerce, intimidate, retaliate, 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 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-XXXX or at blake.thompson@ed.gov.

Sincerely,

/s/

Zachary Pelchat
Team Leader

Enclosure

cc: Robert Jacobsen, General Counsel (by email)

³ As noted above, OCR found that the District was in compliance as to allegations 1.e and 1.h.