



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

March 23, 2023

**Via Electronic Mail**

Dr. Tim Stowe  
2335 Plaza Del Amo  
Torrance, CA 90501

*By email only to: [superintendent@tusd.org](mailto:superintendent@tusd.org)*

Re: Torrance Unified School District  
OCR Case No. 09-22-1625

Dear Superintendent Stowe:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its investigation of the above-referenced complaint against Torrance Unified School District (District). The complaint alleged that the District discriminated against the Complainant on the basis of disability. OCR investigated whether the District excluded the Complainant from participating as a spectator at a high school XXXXXX game because the West High School stadium is not accessible to individuals with disabilities. Specifically, OCR investigated whether there is an accessible path to seating in the stadium and an accessible bathroom.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability under any program or activity receiving 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. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a public entity and a recipient of Federal financial assistance from the Department, the District is subject to Section 504 and Title II.

To investigate this complaint, OCR gathered evidence by interviewing the Complainant and by reviewing documents provided by the District. Prior to the conclusion of the investigation, the District expressed an interest in voluntary resolution pursuant to Section 302 of OCR's Case Processing Manual, and OCR determined that it was appropriate to do so. The applicable legal standards, facts gathered to date, and resolution of this matter are summarized below.

## Legal Standards

The regulations implementing Section 504 and Title II provide that no qualified person with a disability shall, because a 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, service, or activity of the recipient, 34 C.F.R. § 104.21 and 28 C.F.R. § 35.149, respectively.

The regulations contain two standards for determining whether a recipient's programs, activities, and services are accessible to individuals with disabilities. One standard applies to "existing facilities" while the other covers "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.

### *New Construction/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/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/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, apply to “existing facilities,” and define them as any facility or part of a facility where construction was commenced prior to June 3, 1977 or January 26, 1992, respectively. The regulations provide that, with respect to existing facilities, the district 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 program, service, or activity offered within an existing facility, when viewed in its entirety, is accessible to and usable by individuals with disabilities. The district 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 district 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.

### Factual Findings To Date

#### *Background*

The Complainant is XXX-redacted content-XXX. The Complainant uses a wheelchair. In Fall 2022, the Complainant attended a XXXXXX game at West High School (School) to watch XXX-redacted content-XXX. Upon arriving at the School’s XXXXXX stadium (Stadium), the Complainant discovered that there was no wheelchair access to reach the visitor’s stands and seating area. The Complainant also learned that there was no designated space for wheelchairs in or near the home stands. An individual working at the game suggested that she could watch the

game from a walkway on the home side of the field. However, the Complainant had recently had XXXX XXXXXXXX and worried that someone may accidentally bump into her in the walkway.

The Complainant stated that in order to watch the game from the visitor's side, two XXXXXX players carried the Complainant down the stairs of the home stands to reach the track. The Complainant then pushed herself along the track to reach the visitor's side where she watched the game directly from the track. After the game, she waited for three XXXXXX players to carry her back up the stairs so she could leave.

### *West High School's Stadium*

Information provided to OCR by the District shows that the Stadium and both the home and visitor stands were built in 1961. In 2009, the Stadium's track and field were renovated when a new synthetic playfield was installed. In 2018, the District renovated the bathrooms throughout the School campus, and modernized the existing paths of travel to and through the home side of the Stadium to comply with California Building Code. The District informed OCR they worked with the Division of the State Architect to ensure that the modernization complied with accessibility standards.

### Analysis

While the track and field were renovated in 2009, the stands have not been altered since they were originally constructed in 1961. Therefore, the Stadium's stands are considered an existing facility and OCR applied the program accessibility standard. This standard requires that the program, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.

Unlike new construction and alterations which would be subject to UFAS or the 2010 Standards where each facility or part of a facility must comply with specific architectural standards, the standard for this Stadium only requires that the program, when viewed in its entirety is accessible and usable. As such, here the District is required to have space for individuals in wheelchairs to view the sporting event at the Stadium. OCR notes that under the program accessibility standard, the seating is not required to be on the visitor's side of the Stadium as long as seating is provided in manner that would allow individuals to access the program.

The documentation that the District provided indicates that the path of travel to the Stadium, and to the home side stands and bathroom is accessible. OCR however identified a concern that there is no area that is designated for accessible seating at the Stadium. However, prior to the conclusion of OCR's investigation, the District expressed interest in voluntarily addressing the issues raised in the complaint under Section 302 of OCR's Case Processing Manual, and OCR determined that it was appropriate to do so.

### Conclusion

To address the issues alleged in the complaint, the District, without admitting to any violation of law, entered into the enclosed Resolution Agreement (Agreement) which is aligned with the complaint allegation and the information obtained by OCR during its investigation. Based on the

commitments made in the enclosed 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 Agreement is intended to address the complaint allegation. OCR will monitor the implementation of the resolution agreement until the District is in compliance with the terms of the resolution agreement and the statutes and regulations at issue in 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 complaining party 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 District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against any individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a separate retaliation complaint with OCR.

Under the Freedom of Information Act (FOIA), it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, OCR will seek to protect, to the extent provided by the law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of privacy if released.

OCR would like to thank Ian Kempton and Keith Butler for their assistance in this investigation. If you have any questions regarding this letter, please contact Dana Isaac Quinn at [Dana.IsaacQuinn@ed.gov](mailto:Dana.IsaacQuinn@ed.gov) and/or Blake Mollberg at [Malissa.Mollberg@ed.gov](mailto:Malissa.Mollberg@ed.gov).

Sincerely,

/s/

Sara Berman  
Team Leader

*cc: Ian Kempton, Director of Facilities and Operations  
Keith Butler, Chief Business Officer*

*Enclosures*