



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS
400 MARYLAND AVENUE, SW
WASHINGTON, DC 20202-1475

REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, DC

June 3, 2014

Dr. Marcus J. Newsome
Superintendent
Chesterfield County Public Schools
Post Office Box 10
Chesterfield, Virginia 23832

RE: OCR Complaint No. 11-13-1251
Letter of Findings

Dear Dr. Newsome:

This letter is to notify you of the outcome of the discrimination complaint filed with the District of Columbia Office of the Office for Civil Rights (OCR), U.S. Department of Education (the Department), on May 31, 2013, against Chesterfield County Public Schools (the Division). The complaint alleged that various Division facilities are not physically accessible to persons with disabilities, specifically individuals with mobility impairments.

OCR investigated the complaint under the authority of 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 in programs and activities that receive Federal financial assistance from the Department. OCR also enforces 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, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. Because the Division receives Federal financial assistance from the Department and is a public entity, we have jurisdiction over it pursuant to Section 504 and Title II.

Legal Standards

Physical Accessibility

Both Section 504 (at 34 C.F.R. § 104.21) and Title II (at 28 C.F.R. § 35.149) provide that no qualified individual with a disability shall, because a district's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in the district's programs or activities. The accessibility requirements of the Section 504 implementing regulation are found at 34 C.F.R. §§ 104.21-104.23. Comparable sections of the Title II implementing regulations are found at 28 C.F.R. §§ 35.149-35.151.

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

The regulations implementing Section 504 and Title II contain two standards for determining whether a district's programs and activities or facilities are accessible to individuals with disabilities. One standard applies to existing facilities; the other covers new construction and alterations. The applicable standard depends upon the date of construction and/or alteration of the facility.

For existing facilities, Section 504 (at 34 C.F.R. § 104.22) and Title II (at 28 C.F.R. § 35.150) require a district to operate each program or activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. This standard does not require that a district make each existing facility or every part of an existing facility accessible if alternative methods are effective in providing overall access to the program or activity. Under the Section 504 regulation, existing facilities are those for which construction began prior to June 4, 1977; under the Title II regulation, existing facilities are those for which construction began prior to January 27, 1992.

Facilities constructed or altered on or after these dates are considered newly constructed or altered facilities under Section 504 and Title II standards. With respect to newly constructed facilities, Section 504 (at 34 C.F.R. § 104.23(a)) and Title II (at 28 C.F.R. § 35.151(a)) require that the facility be designed and constructed in such a manner that it is readily accessible to and usable by individuals with disabilities. In addition, for new alterations that affect or could affect facility usability, Section 504 (at 34 C.F.R. § 104.23(b)) and Title II (at 28 C.F.R. § 35.151(b)) require that, to the maximum extent feasible, the facility be altered in such a manner that each altered portion is readily accessible to and usable by individuals with disabilities.

The new construction provisions of the Section 504 and Title II regulations also set forth specific architectural accessibility standards for facilities constructed or altered after particular dates. With respect to Section 504 requirements, facilities constructed or altered after June 3, 1977, but prior to January 18, 1991, must comply with the American National Standards Institute (ANSI) Standards (A117.1-1961, re-issued 1971). Facilities constructed or altered after January 17, 1991, must meet the requirements of the Uniform Federal Accessibility Standards (UFAS). Under the Title II regulation, districts had a choice of adopting either UFAS or the 1991 Americans with Disabilities Act Accessibility Guidelines (ADAAG) for facilities constructed or altered after January 26, 1992 and prior to September 15, 2010. For facilities where construction or alterations commenced on or after September 15, 2010, and before March 15, 2012, the Title II regulation provides that districts had a choice of complying with one of the following: UFAS, ADAAG, or the 2010 ADA Standards for Accessible Design (2010 Standards).¹ The Title II regulation provides that districts are required to comply with the 2010 ADA Standards for Accessible Design for construction or alterations commencing on or after March 15, 2012.²

Significant Assistance

¹ The 2010 ADA Standards for Accessible Design consist of 28 C.F.R. § 35.151 and the 2004 ADAAG at 36 C.F.R. Part 1191, appendices B and D.

² After the U.S. Department of Education revises its Section 504 regulation to formally adopt the 2010 Standards in lieu of UFAS, use of the 2010 Standards will be required to comply with Section 504.

Under 34 C.F.R. §104.4(b)(1)(v), a school district may not aid or perpetuate discrimination against a qualified individual with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit or service to beneficiaries of the recipient's program or activity. The Title II regulations, which apply to public entities, contain a similar requirement at 28 C.F.R. §35.130(b)(1)(v). Under these provisions, if a public school district provides significant assistance to an outside entity and the entity is shown to have discriminated on the basis of disability, the district must take steps to obtain compliance from the organization or terminate its assistance.

Analysis

The Complainant identified accessibility concerns at ten Division schools: Cosby High School; James River High School; Manchester High School; Meadowbrook High School; Bailey Bridge Middle School; Swift Creek Middle School; Crenshaw Elementary School; Davis Elementary School; Grange Hall Elementary School; and Reams Road Elementary School. OCR's investigation focused on the specific features of each site that the Complainant identified as non-compliant with Section 504 and Title II. We reviewed documents provided by the Division, including photographs and schematic representations of several facilities. We also utilized satellite imaging to view the facilities and on September 19, 2013, conducted on-site visits to many of the facilities. Photographs from the on-site visits are included in the attached Appendix.

For each facility, below we provide the dates of construction or alteration, the corresponding accessibility standard that was used in the construction or alteration, the Complainant's concerns regarding the particular facility, and any compliance concerns we identified related to that facility. OCR identified compliance concerns at every school except Cosby High School. To resolve these concerns, the Division voluntarily entered into a Resolution Agreement, signed on May 30, 2014 (attached).

The Division reported that the athletic fields at Crenshaw Elementary and Grange Hall Elementary were converted to competition fields by the Chesterfield County Department of Parks and Recreation (Parks and Recreation). In addition, it reported that the athletic fields at Davis Elementary, Reams Road Elementary, and Swift Creek Middle are used by Parks and Recreation. The Division provides significant assistance to Parks and Recreation with respect to school athletic facilities. In particular, a Memorandum of Agreement (MOA) between the Division and Parks and Recreation provides that all outdoor recreational facilities located on school sites, with the exception of varsity football fields, are available exclusively to Parks and Recreation after all school use is scheduled. All use of such facilities after school hours, such as by local youth leagues, must be scheduled through Parks and Recreation. The MOA also provides that when new school sites are developed, the Division will afford Parks and Recreation the opportunity to assist in site evaluation, review and comment on site plans, and attend pre-construction meetings and site inspections. If the Division believes that Parks and Recreation is responsible for the accessibility of any particular school athletic facilities, it must take steps to obtain compliance from Parks and Recreation or terminate its assistance.

Cosby High School

The Division reported that Cosby was constructed in 2006 and that it relied on ADAAG and a state building code as accessibility standards in constructing the facility. OCR applied ADAAG in its analysis.

At Cosby, the football stadium and two pairs of softball/baseball fields are clustered together with one set of softball/baseball fields to the left, and another set to the right, of the football stadium. A large parking lot is situated between the school and the cluster of athletic fields. The Complainant complained of inadequate designated disability parking in close proximity to the fields, the lack of curb cuts allowing access to the fields, and an inaccessible entrance to the football field because the gate is too narrow to allow wheelchair access.

Satellite imagery shows that the school's designated disability parking spaces are distributed between several different locations, including ten spaces at the front entrance to the school and two spaces each at three other entrances to the school. The Division reported, and OCR confirmed during the site visit, that there are six designated disability parking spaces at the entrance to the cluster of athletic fields. The total number of designated disability parking spaces in the school's parking lots is compliant with ADAAG § 4.1.2(5)(a). ADAAG does not specify how the required number of accessible parking spaces should be distributed between each facility or element on a school campus. Therefore, we cannot find that six spaces are inadequate to serve the athletic field entrance. Nevertheless, we encourage the Division to monitor the need for disability parking during athletic events and add additional spaces at this location if warranted.

ADAAG §§ 4.6.3 and 4.6.4 detail the dimension and signage requirements of accessible parking spaces. In addition, ADAAG § 4.3.2 requires at least one accessible route from accessible parking to the accessible facility entrance it serves. During the on-site visit, OCR staff confirmed that each of the six designated accessible parking spaces at the athletic field entrance had appropriate signage, appropriate dimensions, and had adjoining access aisles consistent with ADAAG §§ 4.6.3 and 4.6.4. However, only one of the access aisles had a curb ramp to the sidewalk which serves as an accessible route of travel. Due to the lack of curb ramps at the other access aisles, the only viable means of getting from several of the designated accessible parking spaces to the sidewalk (i.e., accessible route) by wheelchair requires proceeding behind spaces, including those with parked vehicles, to get to the one access aisle that has a curb ramp. This configuration, which would compel users to travel behind parked cars, is not preferred. (See photographs 1148 and 1149 in Appendix.) We encourage the Division to connect all of the access aisles to a sidewalk.

The Division reported, and OCR's on-site visit confirmed, that the curb in front of the entrance to the pathway leading to the fields and stadium is at the same level as the road. Given that there is no change in level, no curb ramp is necessary. Moreover, OCR confirmed that the width of the football stadium entrance gate, which measures eight feet, is sufficiently wide for passage by wheelchair. Neither the curb ramp from the sidewalk to the crosswalk or the route from the sidewalk to the gate posed a compliance concern.

Meadowbrook High School

The Division reported that Meadowbrook was constructed in 1963 and has undergone a series of alterations since then.

The Complainant complained that the entry gates to the football stadium are too narrow to allow wheelchair access and that the bleachers in the football stadium are not accessible given that there is no ramp for bleacher access. While the Division did not provide the date of the most recent alterations to the football stadium, the program accessibility standard for existing facilities requires that games held at the stadium be readily accessible to and usable by individuals with disabilities.

The Division acknowledged that the entrance gate is too narrow and stated that it intends to modify the gate to make it wide enough for wheelchair access. In addition, the Division reported that it is in the process of retrofitting football stadium bleachers at several high schools, including to make them accessible to individuals with mobility impairments. According to the Division, retrofitting work was done on two high schools during the summer of 2013, and the retrofitting of Meadowbrook's bleachers is scheduled for summer of 2014. Given the Division's acknowledgement that the football stadium is not readily accessible, OCR did not visit Meadowbrook.

The Resolution Agreement addresses the need to enlarge the gate access to the football stadium and provide bleacher access. To the extent that the football stadium is used for any program or activity prior to the completion of these alterations, the Division will need to develop an access plan to facilitate access to the stadium by wheelchair users and access to the stadium bleachers.

James River High School

The Division reported that James River was constructed in 1994 and has undergone two alterations. The Division relied on ADAAG and a state building code for the initial construction and relied on ADAAG for the most recent alteration in 2010. OCR applied ADAAG in its analysis.

The Complainant alleged that there is no accessible route from designated disability parking to the entrance to ball fields because the sidewalk is blocked and there is no accessible route from gate access to the school's ball fields because the terrain is comprised of dirt and gravel for approximately 100-150 feet.

ADAAG § 4.3.2(1) requires at least one accessible route from accessible parking to the facility entrance being served. Likewise, ADAAG § 4.3.2(2) requires that at least one accessible route connect accessible buildings, facilities, elements, and spaces that are on the same site. Ground surfaces along accessible routes and in accessible spaces must comply with the requirements of § 4.5, including that they be stable, firm, and slip-resistant and are subject to specific requirements governing changes in level. ADAAG § 4.6.2 requires that accessible parking spaces be located on the shortest accessible route of travel to an accessible entrance.

Football Stadium

In its April 14, 2013 submission, the Division reported finding no blocked sidewalk during staff's recent visit to the area. During the on-site inspection, OCR found a dumpster partially obstructing the sidewalk near the football stadium; however, that sidewalk does not serve the stadium entrance and there is no apparent need for patrons to utilize that sidewalk to access the stadium. (See photo 1159.) OCR's on-site inspection did not reveal any other obstruction to sidewalks in proximity to the ball fields.

In the lot directly adjacent to the football stadium, OCR observed signage designating two accessible parking spaces, but one of the two signs was placed at an access aisle rather than a parking space. This appears to invite patrons to park in the access aisle, which would render the other space inaccessible. (See photo 1160.) In addition, the curb ramp leading from this parking area to the football stadium entrance has a vertical change in level at the base which does not appear to comply with ADAAG §§ 4.3.8, 4.5.2, and 4.7.2. (See photo 1157.) These compliance concerns are addressed in the Resolution Agreement.

In the parking lot across from the football stadium, OCR identified 13 designated accessible spaces with appropriate signage and access aisles. (See photo 1161.) However, the access aisles are not connected to a sidewalk and consequently wheelchair users would be required to proceed behind spaces, including those with parked vehicles, to get to the football stadium. As noted above, a configuration that requires wheelchair users to proceed behind parked cars is not preferred. In addition, there is no marked crossing across the roadway between the parking lot and football stadium. We encourage the Division to address these safety concerns.

Baseball Fields

The baseball fields are located on the western edge of campus. There is no parking lot adjacent to the fields. A dirt path through a wooded area leads from the nearest parking lot to the baseball fields. There are no accessible parking spaces near the path. Rather, the designated accessible parking that is available in the lot serving the baseball field is on the other side of the lot and would require a wheelchair user to maneuver through parking lot traffic. In addition, the dirt path itself is not accessible. There is also a paved road leading from the parking lot to the baseball fields, but there is no sidewalk beside the road. The concerns regarding the parking and lack of an accessible route to the baseball fields are addressed in the Resolution Agreement.

Softball Fields

The softball fields are at the northern edge of campus. The small parking lot nearest the softball fields contains several accessible parking spaces, but there is no accessible route from these parking spaces (or any other location) to the softball field as required by ADAAG § 4.3.2. Patrons must cross a large area of dirt and grass to reach the softball field; there is no sidewalk provided. This concern is also addressed in the Resolution Agreement.

Crenshaw Elementary

The Division reported that groundbreaking for Crenshaw occurred in 1987 and that the facility was subsequently altered in 1993.

The Complainant alleged that there is no accessible route to the baseball/softball fields, which the Division acknowledged. However, the Division maintained that the school was originally built with open physical education fields that have since been converted to competition fields by Parks and Recreation and that Parks and Recreation installed the gravel parking lot closest to the fields. Although it is not clear when the ball fields were constructed, each of the accessibility standards in effect since 1987 requires an accessible route³ to the fields, not present here.

In addition, the Complainant alleged that there is no designated accessible parking in close proximity to the ball fields. OCR applied ADAAG because we assume that all parking lots have been altered (restriped) at least once since the effective date of Title II. The gravel parking lot closest to the ball fields is not accessible. There are no designated accessible parking spaces in the main lot behind the school, which is the closest paved lot to the fields. There is one space with appropriate dimensions and an access aisle located at the back entrance to the school, on the opposite side of the parking lot from the fields, but this space lacks signage and the built-up curb ramp serving the access aisle is not compliant with ADAAG Fig. 13. (See photos 1131-1134.) Furthermore, the sidewalk accessible from this parking space leads to the school building and not to the athletic fields. At the front entrance to the school, there are three designated accessible spaces. However, the access aisle serving one of these spaces is not aligned with a curb ramp, so users would be required to travel behind parked cars to reach the other access aisle, which is not preferred. (See photos 1136 and 1137.) Because the school has 102 total parking spaces, ADAAG § 4.1.2(5)(a) requires that at least five spaces be accessible.

The Resolution Agreement addresses the lack of an accessible route to the athletic fields and the insufficient number of accessible parking spaces at the school. We also encourage the Division to ensure that its parking lot configuration does not require wheelchair users to travel behind parked vehicles. If the Division believes that Parks and Recreation is responsible for remedying any compliance concerns, it must take steps to obtain compliance from Parks and Recreation or terminate its assistance.

Bailey Bridge Middle School

The Division reported that Bailey Bridge Middle was constructed in 1991 and that it relied on a state building code as the accessibility standard. No alterations were reported.

The Complainant alleged that there is no accessible route to the baseball/softball field. The Division concedes that the field located at the lower level of the property has no wheelchair access or parking and states that the incline in this area is very steep, making installation of a path with an acceptable degree of incline extremely difficult. We observed the area during our site visit. It appears that it may be feasible to construct an accessible sidewalk leading from the

³ See ADAAG § 4.1.2; ANSI § 4.2; and UFAS § 4.3.

south end of the parking lot, around the south end of the tennis courts, between the tennis courts and the soccer field, to the baseball/softball field.

Based on the groundbreaking date, it is not clear whether the applicable accessibility standard is ANSI or UFAS. However, both standards would require that there be an accessible route to the ball field that is not present here. The Resolution Agreement requires the Division to construct an accessible route to the field. If the Division believes that constructing an accessible route is technically infeasible, it must provide a detailed explanation to OCR and put an alternative plan in place to provide access to programs and activities on the field for persons with mobility impairments, such as moving physical education classes, games, and practices to accessible locations if a person with a mobility impairment will be participating or attending.

Manchester High School

The Division reported that Manchester High School was constructed in 1992 and underwent alterations in 1996, 2002, and 2005. The Division relied on a state building code for the initial construction and relied on ADAAG and a state building code in its alterations. OCR applied ADAAG in its analysis. The Manchester campus includes a complex of four baseball and softball fields that are used by school teams as well as by Chesterfield Little League. The entrance to the complex is located at the bottom of the school's parking lot. There are also two newer softball fields between the complex and the school building. There is a paved sidewalk leading from the middle of the school's parking lot toward the two newer softball fields.

The Complainant complained of inadequate disability parking near the baseball/softball fields. OCR identified three designated accessible spaces with appropriate signage near the entrance to the baseball/softball complex at the bottom of the school's parking lot. However, none of the spaces had an access aisle. Therefore, there are no compliant accessible parking spaces in the vicinity of the baseball/softball complex. In addition, there is no sidewalk adjacent to these parking spaces. (See photos 1140 – 1142.) As a result, wheelchair users would have to wheel behind parked vehicles to cross the street to the path leading to the baseball field, which is not preferred.

While not alleged by the Complainant, the Division's response indicated, and OCR's on-site visit confirmed, that there are compliance concerns relating to the two newer softball fields reportedly constructed with booster funding 8-9 years ago. First, there is no accessible parking in close proximity to the sidewalk leading to the softball fields. Also, there is no curb ramp from the parking lot to the sidewalk leading to the softball fields. (See photo 1143.) In addition, the sidewalk itself has areas where the running slope and cross slope are steeper than allowed by ADAAG § 4.3.7, and areas with sharp drop-offs that lack any form of edge protection. (See photos 1146 and 1147.) Finally, the sidewalk terminates in a grassy patch several feet short of the spectator seating associated with the first field. (See photo 1145.) There is no pathway at all leading to the second field, which appears to be the field used for school softball games.

The lack of accessible parking in close proximity to the baseball/softball fields and the lack of accessible routes to the two newer softball fields present compliance concerns, which are addressed in the Resolution Agreement.

Grange Hall Elementary School

The Division reported that Grange Hall was constructed in 1922 and has been the subject of several alterations from 1951 through 2013. According to the Division, Parks and Recreation converted the ball fields into competition fields that have been in place since the late 1980s and is in the process of renovating them. The Division reports that school use of the fields is limited to physical education during school hours. The Complainant reported, and the Division conceded, that there is no accessible route from designated accessible parking to the fields. It is not clear when the ball fields were most recently altered; however, each accessibility standard in effect since the 1980s requires an accessible route to a facility such as the ball fields. This compliance concern is addressed in the Resolution Agreement. If the Division believes that Parks and Recreation is responsible for remedying this compliance concern, it must take steps to obtain compliance from Parks and Recreation or terminate its assistance.

Davis Elementary School

Davis Elementary was constructed in 1964 and renovated most recently in 1984 and 1987 in accordance with state building codes. The Division reported that the fields at Davis Elementary are used only by Parks and Recreation.

The Complainant was concerned with the lack of an accessible route from designated disability parking to the ball fields. OCR's on-site visit confirmed that there is no accessible route to the soccer or baseball/softball fields from the designated accessible spaces in the parking lot. The paths around the baseball/softball and soccer fields are gravel. The Resolution Agreement addresses this compliance concern.⁴ If the Division believes that Parks and Recreation is responsible for remedying this compliance concern, it must take steps to obtain compliance from Parks and Recreation or terminate its assistance.

Reams Road Elementary School

The Division reported that Reams Road Elementary was constructed in 1968 and renovated most recently in 1997 using ADAAG as the governing standard.

The Complainant reported concerns regarding the lack of designated disability parking in close proximity to the ball fields and inadequate disability parking at the school in that there is only one designated parking space and it lacks proper signage. OCR applied ADAAG in its analysis of parking spaces because we assume that parking lots have been altered (restriped) at least once since the effective date of Title II.

The Division reported a total of 106 parking spaces, two of which are designated accessible. Per ADAAG § 4.1.2(5)(a), a minimum of five accessible spaces is required. OCR's on-site visit confirmed the designation of two accessible parking spaces outside of the school's front

⁴ If the fields were constructed before June 4, 1977 (i.e., the effective date of Section 504/ANSI), Parks and Recreation could satisfy the program accessibility standard for existing facilities by scheduling games at another location. OCR has seen no indication that such a procedure is in place. If the fields were built or alterations made after June 4, 1977, ANSI would require that there be an accessible route to the fields.

entrance, the existence of an access aisle between the two spaces, and appropriate signage. These spaces are sufficiently close to the gate leading to the ball fields. However, the sidewalk route between those parking spaces and the ball fields is not accessible. For example, there is no curb ramp or crosswalk from the sidewalk to the path to the ball fields and the only curb ramp from the spaces to the sidewalk is to the left of one space. (See photos 1124 and 1127.) Wheelchair users could only access the fields by maneuvering through the parking lot, including behind parked vehicles, which is not preferred.

The compliance concern identified regarding the number of accessible spaces is addressed in the Resolution Agreement. We encourage the Division to locate the new accessible spaces next to the gate leading to the ball fields and to ensure that accessible routes do not require travel behind parked vehicles.

Swift Creek Middle School

The Division reported that Swift Creek Middle was constructed in 1979 and renovated most recently in 2009 using a state building code.

The Complainant reported the lack of designated accessible parking in close proximity to the ball fields and the lack of an accessible route to the fields due to the lack of a defined path or walkway. The Division reported a total of 199 parking spaces with 18 designated accessible spaces located in close proximity to the school office area. The Division further reported a gravel dust path leading to the soccer/football fields. In addition, the Division reported that the ball fields are designated for Parks and Recreation use.

OCR applied ADAAG when analyzing parking because we assume that all parking lots have been altered (restriped) at least once since the effective date of Title II. OCR's on-site visit confirmed the lack of any designated accessible parking in close proximity to the ball fields, including in the parking lot behind the school and the bus loop parking lot. OCR's visit confirmed the existence of a path to the soccer and football fields from the bus loop parking lot, but the surface is gravel dust and there is no curb cut from the parking lot to access the path. There is no accessible route to the baseball/softball fields from any parking lots. It is not clear when these fields were most recently altered, but each accessibility standard in effect since the school's initial construction in 1979 requires an accessible route. Compliance concerns related to the lack of accessible parking serving the ball fields and the lack of an accessible route to either the soccer/football or baseball/softball fields are addressed in the Resolution Agreement. If the Division believes that Parks and Recreation is responsible for remedying any compliance concerns, it must take steps to obtain compliance from Parks and Recreation or terminate its assistance.

Conclusion

As discussed above, OCR had concerns regarding the Division's compliance with Section 504 and Title II at nine schools. To resolve these concerns, the Division voluntarily entered into the attached Resolution Agreement, signed on May 30, 2014. Once the Resolution Agreement is fully implemented, the Division will be in compliance with Section 504 and Title II with respect

to the issues addressed herein. OCR will monitor the Division's progress in implementing the Resolution Agreement. Failure to implement the Resolution Agreement could result in OCR's reopening the complaint investigation.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the Division'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 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 Division may not retaliate against an individual who asserts a right under a law enforced by OCR or who files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR.

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 seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciate the Division's cooperation during the resolution of this complaint, most notably that of Kimberly Smith, Counsel for the Division. If you have any questions, feel free to contact the attorneys assigned to the complaint: Sarah Morgan (at 202-453-5922 or sarah.morgan@ed.gov) or Betsy Trice (at 202-453-5931 or Betsy.Trice@ed.gov).

Sincerely,

/s/

Alessandro Terenzoni
Team Leader
District of Columbia Office
Office for Civil Rights

Enclosures: Appendix and Resolution Agreement

cc: Kimberly F. Smith, School Board Attorney