



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

October 18, 2018

Dr. Kimberly Elliott
Superintendent
Jackson County Public Schools
398 Hospital Road
Sylva, NC 28779

Re: OCR Complaint No. 11-18-1304
Resolution Letter

Dear Dr. Elliott:

This letter is to advise you of the outcome of the complaint that the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) received on April 25, 2018, against Jackson County Public Schools in North Carolina (the District). The Complainant alleged that the District is discriminating against patrons of baseball games at Smoky Mountain High School (the School) on the basis of disability. This letter is to confirm that the District has voluntarily submitted a Resolution Agreement (Agreement) to resolve this complaint.

Specifically, the Complainant alleged that the District fails to:

1. provide accessible parking for patrons with disabilities attending baseball games at the School; and
2. provide accessible bathrooms and an accessible path of travel to the bathrooms for patrons with disabilities attending baseball games at the School.

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) 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) 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 District receives Federal financial assistance from the Department and is a public entity, OCR has jurisdiction over it pursuant to Section 504 and Title II.

On May 25, 2018, OCR sent notification letters to the District and the Complainant, including a data request to the District. OCR reviewed the District's data response and additional information provided in response to OCR's supplemental request. OCR also obtained

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

information from the Complainant, the District's Assistant Superintendent (School's former principal), Director of Personnel, Director of Operations, Director of Student Support Services (Section 504 Coordinator; ADA Compliance Officer) and the School's current principal.

Prior to the completion of OCR's investigation, the District expressed an interest in engaging in a voluntary resolution agreement pursuant to Section 302 of OCR's *Case Processing Manual* (CPM), which states: *[a]llegations and issues under investigation may be resolved at any time when, prior to the conclusion of the investigation, the recipient expresses an interest in resolving the allegations and issues and OCR determines that it is appropriate to resolve them with an agreement during the course of an investigation.*¹

On October 16, 2018, the District signed an Agreement (copy enclosed) that, when fully implemented, will resolve the allegations and issues in this investigation. The provisions of the Agreement are aligned with the allegations and issues raised by the Complainant and the information obtained during OCR's investigation, and is consistent with applicable law and regulation. The agreement requires the Division to provide adequate designated accessible seating², parking spaces, bathroom(s) and an accessible route of travel between the accessible seating, parking spaces and bathroom(s) on both the top level and the field level of the School's baseball facility for patrons with disabilities attending baseball games at the School. The agreement also requires that these areas will have appropriate signage, including directional signage, ground and floor surfaces, and access isles as required by the 2010 ADA Standards for Accessible Design. Please review the enclosed Agreement for further details.

OCR considers this complaint resolved effective the date of this letter and will monitor the District's implementation of the Agreement. When OCR concludes the District has fully implemented the terms of the Agreement, OCR will close the complaint. If the District fails to carry out the Agreement, OCR may resume the investigation.

This letter 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. 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 District must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an 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 retaliation complaint with OCR.

¹ OCR's *Case Processing Manual* may be accessed at <https://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.pdf>

² During the investigation, OCR also identified concerns that the School was not providing adequate accessible seating for patrons with disabilities attending baseball games at the School.

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 District's cooperation in the resolution of this complaint, in particular, Dr. Kimberly Elliott, the District's Superintendent and XXXX, the District's attorney in this matter. If you have any questions, please contact Jan D. Gray, the OCR attorney assigned to this complaint, at 202-453-6028 or Jan.Gray@ed.gov.

Sincerely,

Kristi Harris
Supervisory Attorney, Team IV
District of Columbia Office
Office for Civil Rights

Enclosure

cc: XXXX (via email)