



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

August 2, 2018

Ray McBride
Library Director
Beaufort County Libraries
311 Scott Street
Beaufort, SC 29022

RE: OCR Complaint No. 11-18-4035
Resolution Letter

Dear Mr. McBride:

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 February 26, 2018 against Beaufort County Library - Beaufort Branch (the Library). The complaint alleges that the Library discriminates against individuals with disabilities. Specifically, the Complainant alleges that the interior door entering/exiting the Library is not accessible, in that there is no handicap accessible push button and the door is too narrow for a wheelchair.

OCR 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 libraries, regardless of whether they receive Federal financial assistance from the Department. Because the Library is a public entity, OCR has jurisdiction over it pursuant to Title II.

Background

The Beaufort County Library system has five different branches located throughout the area, including the Library. The Library opened in August of 1992 and had a formal dedication on February 14, 1993. The main entrance to the Library consists of two exterior doors on the west-side of the building that lead into a vestibule. Patrons wishing to enter the Library must then use two interior doors that, upon entering, flank the Library's circulation desk. The latter doors are at issue in this complaint.

Legal Standard

The Title II regulation, at 28 C.F.R. § 35.149, provides that no qualified individual with a disability shall be excluded from participation in, denied the benefits of, or otherwise subjected

to discrimination in a library's programs or activities because the library's facilities are inaccessible to or unusable by individuals with disabilities.

The regulations implementing Title II include two standards for determining whether a library's programs, activities, and services are accessible to individuals with disabilities. One standard applies to facilities existing at the time of the publication of the regulations and the other standard applies to facilities constructed or altered after the publication dates. The applicable standard depends on the date of construction and/or alteration of the facility. 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 Title II standards.

For existing facilities, the Title II regulation, at 28 C.F.R. § 35.150, require a library to operate each service, program, or activity so that, when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. The Library may comply with this requirement through the reassignment of programs, activities, and services to accessible buildings, alteration of existing facilities, or any other methods that result in making each of its programs, activities and services accessible to persons with disabilities. In choosing among available methods of meeting the requirements, a library must give priority to methods that offer programs, activities and services to persons with disabilities in the most integrated setting appropriate.

With respect to newly constructed facilities, the Title II regulation, at 28 C.F.R. § 35.151(a), requires that the Library design and construct the facility, or part of the facility, 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, the Title II regulation, at 28 C.F.R. § 35.151(b), requires that, to the maximum extent feasible, the Library alter the facility in such a manner that each altered portion is readily accessible to and usable by individuals with disabilities.

The new construction provisions of the Title II regulations also set forth specific architectural accessibility standards for facilities constructed or altered after particular dates. Under the Title II regulation, libraries had a choice of adopting either the Uniform Federal Accessibility Standards (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 libraries had a choice of complying with either UFAS, ADAAG, or the 2010 ADA Standards for Accessible Design (2010 Standards). The Title II regulation provides that libraries are required to comply with the 2010 Standards for construction or alterations commencing on or after March 15, 2012. The 2010 Standards consist of 28 C.F.R. § 35.151 and the 2004 ADAAG, at 36 C.F.R. Part 1191, appendices B and D.

Analysis

According to the Complainant, the Library's interior entrance is not accessible to individuals with physical disabilities. Specifically, the inside doors to the Library do not have automated door openers, they are difficult for people in wheelchairs to open, and the door's width is too narrow. Moreover, the Complainant told OCR that this issue is known to the Library, but the

door remains inaccessible. Before OCR completed its investigation, the Library expressed a willingness to resolve the complaint on June 22, 2018.

Pursuant to Section 302 of OCR's *Case Processing Manual*, the Library signed the enclosed Resolution Agreement on July 30, 2018, which, when fully implemented, will resolve the allegation raised in this complaint. The provisions of the Agreement are aligned with the allegation and issues raised by the Complainant and the information obtained during OCR's investigation, and are consistent with applicable law and regulation. OCR will monitor the Library's implementation of the Agreement until the Library has fulfilled the terms of the Agreement. Failure to implement the Agreement could result in OCR reopening the complaint.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the Library's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. 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 Library 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.

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 Library's cooperation in the resolution of this complaint. If you have any questions, please contact Tracey Solomon, the OCR investigator assigned to this complaint, at 202-453-5930 or tracey.solomon@ed.gov, and Eugene Sowa, the OCR attorney assigned to this complaint, at 202-453-6869 or eugene.sowa@ed.gov.

Sincerely,

David Hensel
Team Leader, Team III
District of Columbia Office
Office for Civil Rights

Enclosure

cc: XXXX