

Summary of OCR's Investigation

The Complainant told OCR that the District provides free parking for high school football games at and around the District's football stadium, but that the only accessible parking spaces were located within a paid parking lot adjacent to the stadium (the stadium lot), access to which generally cost \$20.00 per football season.

The District provided OCR with information about the three parking lots it owns and which are used for events at the football stadium: the stadium lot, the high school lot, and the board of education lot. The District confirmed to OCR that it uses the stadium lot as a paid parking lot during football games. During OCR's on-site investigation, OCR learned that the stadium lot has 139 parking spaces, five of which are designated as accessible parking spaces, and that the stadium lot was restriped during the summer of 2012. OCR observed that none of the five designated accessible parking spaces in the stadium lot had signage designating them as accessible parking spaces other than a painted symbol on the asphalt, and one of the five parking spaces was not along an accessible route to the entrance of the football stadium. OCR also observed that the District's high school lot and the board of education lot contain 280 and 41 parking spaces, respectively. In order to reach the football stadium from either of these lots, individuals must cross a city street and navigate down stairwells. The routes from the high school and board of education lots to the football stadium required the crossing of a city street and use of stairwells.

Applicable Legal and Regulatory Standards

The Section 504 implementing regulation, 34 C.F.R. § 104.21, states that no qualified person with a disability shall, because a recipient's facilities are inaccessible to or unusable by persons with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which Section 504 applies. . The Title II regulation contains a similar provision for public entities at 28 C.F.R. § 35.149.

The Section 504 and Title II regulations contain standards for determining whether a school's programs, activities, and services are readily accessible to and usable by individuals with disabilities, depending on whether the facilities are determined to be existing construction, new construction, or altered construction. The applicable standard depends on the date of construction or alteration of the facility and the nature of any alternation.

For existing facilities, the regulations require an educational institution 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. This standard does not require that the institution make each of its existing facilities or every part of a facility accessible if alternative methods are effective in providing overall access to the service, program, or activity. 34 C.F.R. §104.22(a); 28 C.F.R. § 35.150(a). Under the Section 504 regulation, existing facilities are those for which construction began before June 3, 1977. The

applicable date under the Title II implementing regulation is January 26, 1992. In choosing among available methods for meeting the program access requirement for existing facilities, the institution is required to give priority to those methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate. 34 C.F.R. § 104.22(b); 28 C.F.R. § 35.150(b).

For new construction, the facility or newly constructed part of the facility must itself be readily accessible to and usable by persons with disabilities. 34 C.F.R. § 104.23(a); 28 C.F.R. § 35.151(a). With regard to alterations, each facility or part of a facility that is altered by, on behalf of, or for the use of an institution after the effective dates of the Section 504 and/or Title II regulation in a manner that affects or could affect the usability of the facility or part of the facility must, 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. 34 C.F.R. § 104.23(b); 28 C.F.R. § 35.151(b).

For entities covered by Section 504, alterations made after June 3, 1977, but prior to January 18, 1991, must conform to the American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped (ANSI). Alterations made between January 18, 1991, and January 26, 1992, must conform to the Uniform Federal Accessibility Standards (UFAS). Under the ADA, alterations after January 26, 1992, must comply with either UFAS or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (the 1991 ADA Standards).

The U.S. Department of Justice published revised regulations for Titles II and III of the Americans with Disabilities Act (ADA) on September 15, 2010. These regulations adopted revised, enforceable accessibility standards called the 2010 ADA Standards for Accessible Design (the 2010 ADA Standards). The 2010 ADA Standards went into effect on March 15, 2012, although entities had the option of using them for construction or alterations commencing September 15, 2010, until their effective date. For new construction and alterations as of March 15, 2012, such as the resurfacing or restriping of parking lots, public entities must comply with the 2010 ADA Standards.

The 2010 ADA Standard 208 requires that where parking spaces are provided, parking spaces shall be provided in each parking area in conformity with the 2010 ADA Standard Table 208.2. Spaces required by the table need not be provided in the particular lot; rather they may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost and convenience is ensured. The 2010 ADA Standard 208.2.4 requires at least one van parking space for every six designated spaces or fraction of six parking spaces. The 2010 ADA Standard 502.2 requires accessible car parking spaces be at least 96” wide and van parking spaces be at least 132” inches wide.

The 2010 ADA Standard 502.3 requires accessible parking spaces to include a 60”-wide access aisle, and that parking spaces be along accessible routes. The 2010 ADA Standard Advisory to Standard 502.3 requires accessible routes to connect parking spaces to

accessible entrances. The 2010 ADA Standard 502.4 allows for a maximum slope in any direction of 1:48.

The 2010 ADA Standard 502.6 requires parking space identification signs to include the International Symbol of Accessibility, and signs identifying van parking spaces to contain the designation “van accessible.” Signs shall be at least 60” above the finish floor or ground surface measured to the bottom of the sign.

Analysis and Conclusion

Based on the information obtained during OCR’s investigation, OCR determined the District controls 460 total parking spaces that are utilized for football games at the District’s football stadium. Pursuant to the 2010 ADA Standards, for 460 total parking spaces, the District is required to provide nine designated accessible parking spaces, two of which are to be designated as van accessible parking spaces. Currently, the District has five designated spaces close to the stadium, in the stadium lot, none of which comport with the 2010 ADA Standards. Specifically, none of the spaces have appropriate signage, and at least one of the parking spaces is not along an accessible route. Accordingly, OCR has determined that the District has failed to provide appropriate accessible parking spaces for its high school football games.

Based on the foregoing, on March 14, 2014, the District provided OCR with the enclosed signed agreement to resolve the complaint. The agreement requires the District to modify its existing stadium lot parking spaces to comply with the 2010 ADA Standards. Specifically, the agreement requires the District to add four new accessible parking spaces in the stadium lot, for a total of nine accessible parking spaces, two of which must be designated as van accessible parking spaces. Additionally, the agreement requires the District to post signage ensuring that guests are made aware that free accessible parking is available in the stadium lot.

In light of the agreement, OCR finds that the complaint allegation is resolved, and OCR is closing its investigation of this complaint effective the date of this letter. OCR will monitor the District’s implementation of the agreement. Should the District fail to fully implement the agreement, OCR will reopen the case and resume its investigation.

This concludes OCR’s investigation of the complaint and 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.

Please be advised that the District may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the Complainant 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, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

The Complainant may file a private suit in federal court whether or not OCR finds a violation.

We look forward to receiving the District's monitoring report by September 1, 2014. If you have any questions, please contact me at (216) 522-7627 or at Daniel.Scharf@ed.gov.

Sincerely,

Daniel Scharf
Acting Team Leader

Enclosure

