



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

Mr. Todd Martin
Superintendent
Colonel Crawford Local Schools
2303 Ohio 602
North Robinson, Ohio 44820

Re: OCR Docket #15-15-1133

Dear Mr. Martin:

This letter is to notify you of the disposition of the above-referenced complaint that was received by the U.S. Department of Education's Office for Civil Rights (OCR) on January 20, 2015, against Colonel Crawford Local School District (the District). The complaint alleged discrimination on the basis of disability. Specifically, the complaint alleged that portions of the District's high school football stadium (the stadium) are inaccessible to individuals with mobility impairments because the stadium does not have accessible spectator seating and does not have a sufficient number of accessible parking spaces.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104. Section 504 prohibits discrimination based on disability by recipients of federal financial assistance from the U.S. Department of Education. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. Title II prohibits discrimination on the basis of disability by public entities and their instrumentalities. The District is a public entity that receives Federal financial assistance from the U.S. Department of Education. It is, therefore, subject to the requirements of Section 504 and Title II, and OCR had jurisdiction to investigate this complaint.

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Based on the complaint allegation, OCR investigated the legal issue of whether qualified persons with disabilities are being denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the District's programs and activities because the District's facilities are inaccessible to and unusable by persons with disabilities, in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.21 and the Title II implementing regulation at 28 C.F.R. § 35.149.

To investigate this complaint, OCR corresponded with the Complainant, interviewed you, reviewed documents submitted by the District, and conducted an onsite inspection of the stadium at issue on June 25, 2015. Based on careful consideration of the information obtained, OCR has determined that the District's high school football stadium does not meet the accessibility requirements of Section 504 and Title II. However, the District signed the enclosed agreement, which, once implemented, will fully address the compliance issues in accordance with Section 504 and Title II. A summary of the applicable legal standards, OCR's investigation, the bases for OCR's determinations, and the terms of the agreement are presented below.

Background

The complaint alleged that the parking and seating at the District's stadium are inaccessible. The stadium is located in Bucyrus, Ohio, in a rural area of central Ohio. The stadium is in a traditional long oval shape and a running track surrounds the entire grassy football field. The District did not provide OCR with documents establishing the specific dates when the field, stadium, and relevant structures were constructed. However, the District represented that it constructed the stadium and home-side spectator seating in 1962. There was no visitor side seating until 2013 when the District installed aluminum spectator bleacher seating.

According to the District, the stadium is used exclusively for the District's high school and middle school football games and track meets, which is consistent with the Complainant's allegations. The Complainant stated that the stadium is used at least five times during September and October for home football games and at least six times during April and May for home and invitational track meets. According to the Complainant, the stadium is used for county or conference track meets as well. The Complainant stated, and the District confirmed, that the athletic events are very well attended.

The stadium is fenced in, and is located adjacent to the District's high school and baseball field. It is bordered by facilities and fencing, including exterior and interior fencing surrounding the playing field. As noted, the stadium includes "home" and "away" sides, a ticket booth at the entrance of the outer fencing, and restrooms and concession stands on only the home side of the stadium. The two sides of the stadium are connected via a running track inside a gated fence that abuts the football field and a paved pathway abutting the exterior of the fence.

The complaint indicated that the stadium provides only two designated accessible parking spaces, which are usually occupied at least an hour before an athletic event. The Complainant also asserted said that the stadium does not include accessible seating because the stadium is accessed by traversing stairs, there are no ramps, and the steps are narrow and difficult to climb for individuals who have mobility impairments.

Applicable Legal Standards

The Section 504 implementing regulation at 34 C.F.R. § 104.4(a) provides that no qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that benefits from or receives federal financial assistance. Title II's implementing regulation contains a similar provision for public entities at 28 C.F.R. § 35.130(a). Prohibited discrimination by a recipient or public entity includes denying a qualified person with a disability the opportunity to participate in or benefit from the aids, benefits, or services offered by that recipient or public entity; affording a qualified person with a disability an opportunity to participate in or benefit from aids, benefits, or services that is not equal to that afforded others; and providing a qualified person with a disability with aids, benefits, or services that are not as effective as those provided to others. 34 C.F.R. § 104.4(b)(1)(i)-(iv); 28 C.F.R. § 35.130(b)(1)(i)-(iv). Pursuant to Section 504, recipient school districts must also provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford students with disabilities an equal opportunity for participation in such services and activities. 34 C.F.R. § 104.4(b)(2).

The Section 504 and Title II regulations also state that no qualified person with a disability shall, because a covered entity'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 of the entity's programs or activities. 34 C.F.R. § 104.21; 28 C.F.R. § 35.149. The regulations reference standards for determining whether an entity's programs, activities, and services are accessible to individuals with disabilities, depending upon whether the facilities are determined to be existing construction, new construction, or alterations. The applicable standard depends upon the date of construction or alteration of the facility.

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 compliance standard is referred to as "program access." This standard does not necessarily 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. Under Title II, existing facilities are those for which construction began on or before January 26, 1992.

To provide program access in existing facilities, an institution may use such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of health, welfare, or other social services at alternative accessible sites, alteration of existing facilities, construction of new facilities, or any other methods that result in making its program or activity accessible to persons with disabilities. A recipient is not required to make structural changes in existing facilities where other methods are effective in providing program access. However, in choosing among available methods for providing program access, 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). Where programs or activities cannot or will not be made accessible using alternative methods, structural changes may be required in order for recipients to comply.

For support facilities for a program in an existing facility being viewed in its entirety, such as restrooms, telephones, water fountains, and parking spaces, it should be determined whether sufficient numbers exist that are reasonably convenient, usable in inclement weather, and appropriate to the use of the facility, with the focus being on whether access to the program is unreasonably limited by the lack of accessible support facilities.

The Section 504 regulation also requires a recipient to adopt and implement procedures to ensure that interested persons can obtain information as to the existence and location of services, activities, and facilities in existing construction that are accessible to and usable by persons with disabilities. 34 C.F.R. § 104.22(f).

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 an entity covered by Section 504, new construction and alterations 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). New construction and alterations between January 18, 1991, and January 26, 1992, must conform to the Uniform Federal Accessibility Standards (UFAS). Compare 45 C.F.R. § 84.23(c) (1977) and 34 C.F.R. § 104.23(c) (1981), with 34 C.F.R. § 104.23(c) (2012). New construction and alterations after January 26, 1992, but prior to March 15, 2012, must conform to UFAS or the 1991 Americans with Disabilities Act (ADA) Standards for Accessible Design (the 1991 ADA

Standards) or equivalent standards. However, the Section 504 regulation provides, at 34 C.F.R. § 104.23(c), that departures from particular technical and scoping requirements of UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided.

The U.S. Department of Justice (DOJ) published revised regulations for Titles II and III of the 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, public entities must comply with the 2010 ADA Standards.

In reviewing program access for an existing facility, the ADA Standards or UFAS may also be used as a guide to understanding whether individuals with disabilities can participate in the program, activity, or service.

With regard to parking, when a covered entity restripes a parking lot it must provide accessible parking spaces as required by the accessible design standards.

With respect to stadium seating, being an integral part of the seating plan means that people using wheelchairs will not be isolated from other spectators or their friends or family. Dispersed seating means that wheelchair seating locations must be dispersed throughout all seating areas and provide a choice of admission prices and views comparable to those for the general public.

Integration has to do with both the appearance of normalcy of wheelchair locations in relation to other seating areas, as well as with the availability of opportunities for occupants of wheelchair locations to socially interact with other patrons that are the same or similar to those available to individuals sitting in nearby rows.

Summary of OCR's Investigation and Analysis

The District did not indicate which accessible design standards it had used in providing accessibility at its facilities. OCR analyzed the elements of the stadium at issue using the 2010 ADA Standards.

- **Parking**

The parking for the stadium includes a parking lot adjacent to the high school, which is a considerable distance from the stadium, and grassy areas along a driveway leading to a much smaller paved area immediately outside the stadium that the District indicated was used primarily as a drop-off point for students on game days. The District did not have an estimate of the total number of parking spaces available when all areas for parking were in use. The Complainant estimated that on game days approximately 200 vehicles are parked in the grassy area leading into the stadium.

Several days prior to OCR's site visit on June 25, 2015, the District designated eight parking spaces as accessible, and the District had just restriped this parking area immediately outside the fenced perimeter of the stadium and added the international symbol of accessibility to each of the parking spaces. The parking area is now reserved exclusively for individuals with disabilities and includes eight parking spaces. These parking spaces are on the shortest possible route into the stadium, and provide the only parking immediately abutting the stadium.

The two spaces are designated with one sign between the spaces, on the wall of the field house, above the access aisle. The sign does not specifically identify the spaces as van accessible but the access aisle is clearly marked with bright yellow striping. The spaces are also designated with the universal sign of accessibility on the ground surface of the parking spaces. The spaces meet the 2010 ADA Standards with respect to depth, width, and slope, as does the access aisle between the spaces.

The remaining six parking spaces, which share four access aisles, are marked on the ground surface and access aisles are all clearly marked with bright yellow striping but there is no additional signage indicating that they are accessible parking spaces.

These six parking spaces are near the field house and gated entrance into the stadium but require traversing a paved area between the spaces and the entrance that could possibly be in the line of traffic. The paved area is presently a drop-off point for cars and buses on busy or rainy game nights. The 2010 ADA Standards indicate at Section 502.3 that, in parking facilities where the accessible route must cross vehicular traffic lanes, marked crossings enhance pedestrian safety, particularly for people using wheelchairs and other mobility aids.

The parking spaces closest to the grassy area (to the west, toward the high school building) share the same width, length, and rise-to-run ratios. Both spaces are 108 inches wide, 216 inches deep, and have cross slopes that, in areas, exceed the maximum permissible rise-to-run ratio set forth in the 2010 ADA Standards at 502.4. The southwest space has cross slopes with rise-to-run ratios that are consistently either 1:48 or greater, and the northwest space has a cross slope at one point, in the center of the space, that exceeds the 1:48 rise-to-run ratio and measured 1.3 degrees. These spaces have an access aisle to the west that is not sufficiently wide, but they also have an access aisle to the east that is shared with the next two spaces. The District should provide some markings or signage to indicate that the area to the west is not an access aisle.

The two spaces immediately next to the access aisle and sharing the access aisle, to the east of the above-described spaces, are 106 inches wide, 216 inches deep, and neither of these two spaces have slopes or cross slopes that exceed a rise-to-run ratio of 1:48. The access aisle between these four spaces is 96 inches wide, thus rendering the four spaces abutting it sufficiently wide pursuant to the 2010 ADA Standards at 502.2. It has no appreciable slope or cross slope. The access aisle between these four spaces is 96 inches wide, 216 inches deep, is well marked with yellow striping, and, with one exception, does

not have any sloping that exceeds the permissible ratio of rise to run. OCR did measure one area where the access aisle had a slope of 1.5 degrees, which is greater than the 1:48 permissible slope. It was near the center of the aisle, and was only in one isolated small area.

The remaining two parking spaces and the access aisle between them are 108 inches wide each, either 204 or 216 inches deep, and do not have slopes that exceed the maximum permissible rise-to-run ratio. These two spaces also abut an area that has markings indicating that it is an access aisle, but that does not meet all of the 2010 ADA Standards, such as width requirements, to sufficiently serve as an access aisle. As noted above, this area should be clearly marked to avoid misunderstanding.

- **Route from Parking to Outside Stadium Fencing**

The route leading from the parking into the stadium is paved and, although it is relatively smooth and slip resistant, there are areas of cracks and depressions. The area along the route is flat with the slope reaching a maximum of 2.5 degrees from the parking spots to the fence and the ticket booth, which is still under the maximum permissible rise-to-run ratio for routes of 1:20, pursuant to section 402.2.

The route from the parking to the ticket booth leads to a fenced walkway between the ticket booth and the fence, which is between 48 and 52 inches wide along a 19-foot path. This passage is smooth, slip resistant, and has no slope or cross slope that exceeds the permissible rise-to-run ratio of 1:20, although the threshold from the parking area into this fenced-in route is greater than the permissible one-half inch.

The route inside the ticket gate leading to the football field and stadium seating is relatively smooth and slip resistant but there are areas along the route with cracks and slopes as high as 4.5 degrees, with rise-to-run ratios, thus exceeding the maximum permissible 1:20. An alternative route into the stadium is a larger gated area that is for vehicle access but could also be traversed by an individual using a wheelchair.

- **Route Inside the Stadium**

There are two routes around the stadium connecting the home side and visitor side, one that runs along the inside of the interior stadium fencing, and one that runs along the exterior of that fencing. Presently the District has signage for an accessible route abutting the exterior of the fence. This route is paved but is not consistently smooth and flat around the stadium. The District's running track provides another route around the stadium on the interior of the fence, abutting the football field. This route provides a smooth, slip-free, flat surface for transit around the field to reach the visitor side seating. The running track, upon viewing, appears to have a synthetic latex surface that is flush with the route leading to the track and is slip free (the OCR site visit was conducted on a

wet day and the track was stable and slip-free when wet). The District indicated that the inside running track could be used as the accessible route around the stadium. OCR was unable to obtain information concerning the date of the most recent resurfacing of this track but it appeared to be relatively new, with bright markings.

The gate on the interior fencing leading to the visitor side seating from the running track is 52 inches wide and the slope at the threshold from the inside track through the gate to the seating is 4 degrees, with a ratio of rise to run of 1:14, which exceeds the maximum permissible slope.

- **Ramp and Seating on Visitor Side**

As noted, the District installed the ramp and stadium seating on the visitor side of the stadium in 2013. The District indicated that the visitor side seating structure has a seating capacity of 500. The ramp is 31 feet, 8 inches (380 inches) in length and 52 inches wide. It is constructed of aluminum and the walking surface has ridges cut into it at regular intervals to create a slip-free surface. OCR observed that the ramp has an incline that ranges from 4.8 degrees to 5.2 degrees, which is more than the maximum permissible slope pursuant to Section 405.2 of the 2010 ADA Standards, which allows a maximum ratio of 1:12, or 4.76 degree slope.

The cross slope along the ramp ranges from 0.6 degrees to 0.9 degrees, and therefore at no point exceeds the maximum permissible cross slope steeper than 1:48 pursuant to Section 405.3 of the 2010 ADA Standards.

The handrails on both sides of the ramp run the entire length of the ramp. The handrails are 35 inches from the ground to the top of the handrail and thus are in compliance with Section 505.4 of the 2010 ADA Standards, which requires of height of between 34 inches and 38 inches. Each handrail is seven inches in circumference. There is a space of less than half an inch between the handrail and the fence on either side of the handrail (the adjacent surface), which does not meet the requirement set forth in Section 505.5 of the 2010 ADA Standards that the handrail have a 1½-inch clearance from the adjacent surface. OCR staff observed that it was difficult to grasp the handrail because it was set so close to the fence. The handrails are circular and have a perimeter of seven inches. While OCR does not have the cross section dimensions for the handrail, the 2010 ADA Standards have a standard for the cross section, and the perimeter measurements suggest a cross section that exceeds the maximum permissible pursuant to the 2010 ADA Standards at 505.7. The handrails are firmly in place and do not rotate within their fittings.

The handrails include edge protection at the foot of the ramp and the ramp has a landing that extends well beyond the ramp at the bottom. The top of the ramp is a flat surface extending the length of the seating structure. At the time of the site visit, on a rainy day, there was no pooling of water at the foot of the ramp.

The visitor side seating has four areas for accessible seating dispersed horizontally throughout the seating structure, all of which are positioned along the bottom row of seats, and are an integral part of the seating plan. A fence in front of the walking aisle is 43 inches in height and does not appear to obstruct the view of those individuals sitting in the bottom row or in the accessible seats. The aisle has a width from the edge of the fence to the first row of seats of 67 inches. The four accessible seating areas each have a width of 66 inches and a depth of 32½ inches to the edge of the first-row bleacher. Each of these areas therefore provides two wheelchair spaces, meeting the width requirements of the 2010 ADA Standards at Section 802.1.2, and providing a sufficient number of spaces pursuant to Section 221.2. The 2010 ADA Standards at Section 802.1.3 require side-entrance wheelchair spaces in assembly areas, such as these spaces, to have a depth of at least 60 inches and require that they do not overlap accessible routes or circulation paths. However, there is an exception to the overlap prohibition at 802.1.5, stating the following:

The term "circulation paths" used in Section 802.1.5 means aisle width required by applicable building or life safety codes for the specific assembly occupancy. Where the circulation path provided is wider than the required aisle width of applicable building or life safety codes for the specific assembly occupancy, the wheelchair space may intrude into that portion of the circulation path that is provided in excess of the required aisle width.

In this instance, the route is 31 inches in excess of the width requirements under the 2010 ADA Standards for accessible routes (36 inches), which, combined with the 32 inches that each of the areas is inset, provides more than 60 inches of depth and therefore meets the depth requirements of the standards, but may not have sufficient depth to meet the exception above, depending upon applicable life safety codes.

Only one of the four areas is marked with signage containing the universal symbol of accessibility.

The home side seating must be accessed by stairs, is not on an accessible route, and therefore is not accessible.

Based on the foregoing, OCR concludes that there is sufficient evidence to support a finding that portions of the District's high school football stadium are inaccessible to individuals with mobility impairments. The visitor side seating and the parking are alterations that are required to meet the 2010 ADA Standards to the maximum extent feasible. OCR determined that these areas do not fully comply with the 2010 ADA Standards, as outlined above. Although the rest of the stadium, according to the information available, is existing construction under the Section 504 and Title II regulations, the stadium is the only existing District facility large enough to hold the events and programs currently located there. Therefore, some of the other options to

provide program access under the regulations are not available. Using the 2010 ADA Standards as a guide, the District is not providing access to its programs at the stadium because the stadium is not readily accessible and usable to persons with mobility impairments in the areas of parking, accessible routes, and accessible seating.

Resolution

In order to resolve the complaint, the District signed the enclosed resolution agreement on July 16, 2015, which, once implemented, will fully address the complaint allegations in accordance with the requirements of Section 504 and Title II. The agreement requires the District to: 1) made modifications to its parking spaces, route into and around the stadium, ramp, and seating, in accordance with the 2010 ADA Standards, by no later than December 1, 2015; 2) include information regarding the location of accessible seating and parking for games in a District newsletter, add the information to the District's website, and include it any articles or posts the District publishes in the local newspaper; and 3) provide training to its stadium and maintenance staff to ensure that accessible routes and facilities are not blocked and kept free of debris, spectators are informed of the revised accessible seating arrangements, and spectators are not permitted to stand in front of and obstruct the view of patrons using wheelchair seating areas.

Conclusion

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. OCR will monitor the District's implementation of the agreement. Should the District fail to fully implement the agreement, OCR will take appropriate action to ensure the District's full compliance with Section 504 and Title II.

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 harmed individual may file a 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.

We appreciate your efforts and those of District staff as we investigated and resolved this complaint. We look forward to receiving the District's first monitoring report by xxxxx. The report should be directed to Tanya Sample, who will be overseeing the District's implementation of the agreement and can be reached at (216) xxx-xxxx or Tanya.Sample@ed.gov. If you have any questions about this letter or OCR's resolution of this case, you may contact Kelly M. Johnson, Supervisory Attorney/Team Leader, at (216) xxx-xxxx.

Sincerely,

/s/

Meena Morey Chandra
Director

Enclosure