



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

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

November 20, 2017

Solon Phillips, Esq.
Director of Legal and Labor Affairs
Division of Human Resources
Southfield Public Schools
24661 Lahser Road
Southfield, Michigan 48033

Re: OCR Docket #15-16-1150

Dear Mr. Phillips:

This letter is to inform you of the disposition of the above-referenced complaint filed with the U.S. Department of Education (the Department), Office of Civil Rights (OCR), against Southfield Public Schools (the District) on January 14, 2016, alleging that the District's Kennedy Learning Center (also known as John F. Kennedy Elementary School, John W. English Administrative Center, and Tri County Educational Center) (the Center) is inaccessible to individuals with mobility impairments.

OCR enforces 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 by recipients of Federal financial assistance. 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 on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and as a public entity, the District is subject to these laws. Accordingly, OCR had jurisdiction to investigate this complaint.

Based on the complaint allegation, OCR investigated the following legal issues:

- whether qualified persons with disabilities are being excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under the District's programs and activities on the basis of disability in violation of the Section 504 implementing regulation at 34 C.F.R. § 104.4 and the Title II implementing regulation at 28 C.F.R. § 35.130; and
- 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 portions of the Center are inaccessible to and unusable by persons with

disabilities in violation of the Section 504 implementing regulation at 34 C.F.R. §§ 104.21-23 and the Title II implementing regulation at 28 C.F.R. §§ 35.149-151.

Background

The complaint alleged that the Center is inaccessible because: 1) there is a lack of accessible entrances for persons who use wheelchairs; 2) door hardware for opening doors is inaccessible; 3) the doorways into classrooms present barriers; 4) the restrooms are inaccessible; 5) there is no restroom connected to the special education classroom; 6) the playground is inaccessible; 7) the gym, which is also used as the cafeteria, is inaccessible; 8) in an emergency, there is no way to evacuate students with physical disabilities from the classrooms; 9) there is no lift in a changing room; and 10) there is no buzzer to enter the building.

To investigate this complaint, OCR reviewed documentation submitted by the District and conducted an onsite visit to the Center in September 2016. During the onsite, OCR interviewed District personnel and examined the Center's entrances and various rooms, including classrooms, offices, the kitchen, a therapy room, the gym, the meeting room, and restrooms, and the playground and water fountains. Although the complaint allegations did not specifically address parking lot accessibility, OCR examined the Center's parking spaces because of some concerns OCR observed during its onsite visit. OCR also provided the Complainant with the opportunity to respond to information obtained during its investigation, but the Complainant did not provide any additional information.

Based on a careful consideration of the information obtained during its investigation, OCR has determined that there is insufficient evidence to support a finding that the Center's playground and the changing room are inaccessible. However, OCR has determined that there is sufficient evidence to support a finding that the Center's entrances, classrooms, offices, kitchen, gym, meeting room, water fountains, and restrooms do not comply with accessibility requirements of Section 504 and Title II. OCR also has determined that there is sufficient evidence to support a finding that the District fails to have an appropriate emergency evacuation plan for the Center in violation of the Section 504 and Title II. Furthermore, although it was not alleged in the complaint, OCR has determined that there is sufficient evidence to support a finding that the Center's parking is inaccessible in accordance with Section 504 and Title II.

On November 9, 2017, the District signed the enclosed Resolution Agreement (Agreement) that, once implemented, will fully address the the violations found during the investigation. 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.

Applicable Regulatory 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)-(iii); 28 C.F.R. § 35.130(b)(1)(i)-(iii).

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, 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 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 the Title II regulation, 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). Under the Section 504 regulation, a facility will be considered new construction if construction began (ground was broken) on or after June 3, 1977. Under the Title II regulation, the applicable date for new construction is January 26, 1992. 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 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 2010 ADA Standards may also be used as a guide to understanding whether individuals with disabilities can participate in the program, activity, or service.

A playground meets the definition of “facility” under the Section 504 and Title II regulations, 34 C.F.R. § 104.3(i) and 28 C.F.R. § 35.104. A playground facility is comprised of both the structure or equipment installed to provide play activities and the surface surrounding such structure or equipment.

The Title II regulation states that, where structural changes in facilities were to be undertaken to comply with the program accessibility obligations under 28 C.F.R. § 35.150, the changes were to

be made within three years of January 26, 1992, but as expeditiously as possible. 28 C.F.R. § 35.150(c). Public entities employing 50 or more persons were required to develop, within six months of January 26, 1992, a transition plan setting forth the steps necessary to complete such changes. Public entities were required to provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the development of the transition plan by submitting comments. A copy of the transition plan was required to be made available for public inspection. Transition plans are required to, at a minimum:

1. identify physical obstacles in the public entity's facilities that limit the accessibility of its programs or activities to individuals with disabilities;
2. describe in detail the methods that will be used to make the facilities accessible;
3. specify the schedule for taking the steps necessary to achieve compliance with 28 C.F.R. § 35.150 and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and
4. indicate the official responsible for implementation of the plan.

The U.S. Department of Justice (DOJ)'s Title II Technical Assistance Manual provides further guidance on the self-evaluation and transition plan requirements. The manual states that DOJ expected that many public entities would reexamine all their policies and practices even if they had already completed a self-evaluation under Section 504, as programs and functions may have changed significantly since the Section 504 self-evaluation was completed; actions that were taken to comply with Section 504 may not have been implemented fully or may no longer be effective; and Section 504's coverage has been changed by statutory amendment. DOJ's manual further instructed that a public entity's self-evaluation identifies and corrects those policies and practices that are inconsistent with Title II's requirements, and that, as part of the self-evaluation, a public entity should:

1. identify all of the public entity's programs, activities, and services; and
2. review all the policies and practices that govern the administration of the public entity's programs, activities, and services.

This includes, among other things, examining each program to determine whether any physical barriers to access exist and identifying steps that need to be taken to enable these programs to be made accessible when viewed in their entirety.

The Title II regulation, as amended, states that elements that have not been altered in existing facilities on or after March 15, 2012, and that comply with the corresponding technical and scoping specifications for those elements in either the 1991 ADA Standards or UFAS are not required to be modified in order to comply with the requirements set forth in the 2010 ADA Standards. However, as stated above, the regulations require recipients 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 includes services, programs and activities (such as recess) that are provided on playgrounds. The methods used to provide program access must be effective in providing overall access to the service, program, or activity. Furthermore, any

alterations made by a recipient to a playground in order to remedy a denial of program access would need to comply with the 2010 ADA Standards.

With regard to parking, DOJ has stated that, when an ADA-covered entity restripes a parking lot, it must provide accessible parking spaces as required by the 2010 ADA Standards, and that failure to do so would violate the ADA. The 2010 ADA Standard at 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. The required accessible spaces 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 at 502.2 requires accessible car parking spaces be at least 96” wide. The 2010 ADA Standard at 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 at 502.4 allows for a maximum slope in any direction of 1:48. Additional 2010 ADA Standard specifications are provided as relevant in the sections below.

The regulation implementing Title II at 28 C.F.R. § 35.130(b)(7) also requires public institutions to make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability.

Summary of OCR’s Investigation and Analysis

The District reported that the Center was originally constructed in 1964, although it was not clear when the Center’s playground was originally built. According to the District’s director of special education, the building was originally constructed by the District, and served as its John F. Kennedy Elementary School for several decades. The school was closed in 2008 due to declining student population in the community. After the school closed, the building was leased to neighboring Berkeley School District for an adult education program (Tri County Education Center) from 2009 until June 2015. Since the District determined that there was enough need for a center-based special education program in the area, the building has been used as the Kennedy Learning Center to provide center-based special education programs since July 2015. The District uses the building to house its special education offices, student registration office, and various administrative offices, and to provide center-based educational programs to District-enrolled students. The District offices are located at the north end of the building.

The District reported that the Center is staffed with a nurse, para-educators, and teachers. During the 2015-2016 school year, there were 18 students with severe cognitive impairments and/or multiple impairments attending the District’s center-based program at the Center, with a total of four classrooms operating (two classrooms for high school students up to 26 years old; two classrooms for students 3-5 years old).

For the 2016-2017 school year, the special education director reported that the Center was operating one classroom for high school students with severe cognitive impairments and/or multiple impairments, and two classrooms for students 18 to 26 years of age with severe cognitive and/or multiple impairments. These classes were held in the east side of the building. The

director stated that the early childhood education classes were relocated to another District location, the Bussey Center. The director reported that the Center also offers two classes for 18-to-26-year-old students with limited cognitive skills through the “Next Step” program (Step stands for Southfield Transition Employability Program) in the west side of the building. The director reported that the students who attend this program are more independent and do not require nursing care.

With regard to building changes and renovations, the District reported a portion of the building, specifically the southeast part of the building, including six classrooms, two restrooms, and two single user restrooms, were renovated in spring 2015. The District reported that some portions of the Center building, sidewalks, and parking lots were renovated during a period from July 2015 to September 2016. The District also renovated the playground by installing the current play structures in July 2015. OCR’s onsite observations revealed that the ground surface of the playground appeared, because of condition and quality, to have been installed at the same time as the play structures, in July 2015. OCR determined that the portions renovated in 2015 and 2016 are alterations under Section 504 and Title II, and remaining portions without changes are existing facilities.

The Center is a large, rectangular, one-level building with parking on two sides—the north and west sides, with hallways/corridors arranged in an H-pattern layout. There are two long hallways/corridors that run parallel to each other, with a connecting hallway positioned about mid-distance. The two long hallways/corridors run north/south, with one on the eastern side of the building, and one on the western side of the building. Most rooms in the center of the building have doors connecting the spaces to both hallways. Rooms in the center of the building include a gymnasium, a meeting/conference room, offices, a lunch room, and a few classrooms. There is only one elevation change in the building, which is that the meeting/conference room in the center of the building is sunken several feet. To access the meeting/conference room from the west hallway, there is a ramp down into the space. To access the meeting/conference room from the east hallway, there are two doors, at either end of the room, with four steps down into the room.

The District originally reported that it used ANSI as a design standard to ensure accessibility to persons with disabilities when the alterations/renovations described above were made, but it later clarified that ANSI was utilized for the installation of the playground only. It was not clear why the District would have used ANSI, as the entire playground, including the ground surface, was new construction in 2015. The District did report that it used the 2010 ADA Standards when it installed the current structures on the playground in July 2015. With the exception of the playground and the structures in the playground, the District failed to identify an accessibility design standard that it used for all other alterations or renovations made to the Center since the original construction. However, all of the renovations detailed by the District occurred after March 15, 2012; therefore, the District was to have followed the 2010 ADA Standards to the maximum extent feasible with respect to these portions of the facility. Any portions of the Center that were deemed to be existing facilities as not being altered or renovated since the original construction were reviewed to determine if the programs and activities the District provides are, when viewed in their entirety, readily accessible to individuals with disabilities. In making this determination, OCR used the 2010 ADA Standards as a guide.

- **Alleged Inaccessibility of the Center’s Entrances**

The complaint alleged that the Center’s entrances are not accessible to individuals with mobility impairments, and stated that there is only one building entrance with access for students/individuals using wheelchairs, at the back of the building. The complaint further stated that there is no emergency egress and there is no automatic door opener. The complaint also alleged that there is no buzzer to enter the building.

The District reported that there are six entrances to the building and they are all accessible, although three entrances are currently closed and not in use. During OCR’s site visit, the District reported that two entrances located at the northeast and southwest of the Center are used, while the southeast entrance may be used to access the Center’s playground. OCR examined all the entrances that were in use at the Center at the time of its visit for accessibility.

- Northeast Entrance (District Administrative Offices/Pupil Registration)

The northeast entrance is primarily used for access to the District’s student registration office and special education and other administrative offices. The District reported that, for security purposes, only this entrance remains unlocked during business hours from Monday through Friday. The District reported that no changes were made to the Center’s northeast entrance since the original construction in 1964. OCR staff observed and measured various features associated with this entrance (e.g., clear width, door hardware, surrounding slopes, and threshold).

The entrance has double doors equipped with handles on the outside and push-bars on the inside. The doors are divided with a door frame in the center. The clear door opening width is 34 inches for the doorways and the threshold at the doorway is ½-inch high. The opening hardware for the door is mounted at 38½ inches above the finished floor.

OCR identified accessibility concerns with this entrance when it considered the 2010 ADA Standards in its review. The force required for pulling or pushing the doors to open for both sides is between 10-24 pounds, which can present a barrier to individuals with disabilities. While the 2010 ADA Standards do not specifically provide a maximum opening force allowed for exterior doors, OCR notes that the doors must have the minimum opening force allowable by the appropriate administrative authority (e.g., the local fire marshal) if the doors serve as fire doors. In addition, there is no posted sign bearing the International Symbol of Accessibility to mark this entrance as a designated accessible entrance. While the District indicated that all entrances in the Center were designed to be accessible, some of the entrances that provide the shortest route from accessible parking spaces are not in use. OCR notes that any entrance that the District designates as an accessible entrance should have the sign bearing the International Symbol of Accessibility posted. *See* the 2010 ADA Standards at 216.6.

- Southwest Entrance - Kennedy Learning Center

The District reported that this entrance is used as the main entrance to the Center, and that this entrance is mostly used by students attending educational programs at the Center and remains locked at all times. The District reported that users may gain entrance by using a buzzer located

at the entrance to summon staff in the building. While the District reported that a change was made by installing a new sidewalk ramp in the parking lot near this entrance during the 2015-2016 renovations, it did not report that any changes were made to the entrance itself. Therefore, OCR examined this entrance under the program access standard.

The entrance has double-width doors which are equipped with handles on the outside of the doors and push-bars on inside of the doors, providing a sufficient clear opening width of 35½ inches. OCR found accessibility concerns regarding this entrance when it reviewed for program access using the 2010 ADA Standards as a guide. For instance, a call buzzer on an outside wall at the entrance is mounted at 55 inches above the pavement, which could be a barrier with respect to the height needed to reach the buzzer. *See* the 2010 ADA Standards at 308.3 (allowing up to 48 inches as the maximum height for reach range). The running slope of the pavement, a part of the accessible route, near the buzzer is too steep with a running slope at 3.7 degrees. *See* the 2010 ADA Standards at 402 and 403 (allowing up to 2.86 degrees as the maximum slope). Like the northeast entrance, the force required to open one of the two entrance doors at this entrance can be a barrier to individuals with disabilities, with one of the doors requiring 21 pounds of force to open. Also, there is no posted signage bearing the International Symbol of Accessibility to mark the entrance as a designated accessible entrance. *See* the 2010 ADA Standards at 216.6.

- Southeast Building Entrance – Playground

The District reported that this entrance was altered by having new doors, doorframes, and door handles installed in July 2015. Therefore, OCR examined the accessibility of this entrance as an alteration applying the 2010 ADA Standards.

OCR found accessibility violations regarding this entrance. The entrance has double doors, equipped with pull handles outside and push-bars inside. The height of the outside door handles is 32½ inches above the pavement. *See* the 2010 ADA Standards at 404.2.7 (requiring 34 inches as the minimum height). Furthermore, the height of the buzzer mounted on the outside wall is 57 inches above the pavement. *See* the 2010 ADA Standards at 308.2.1 and/or 308.3.1 (allowing up to 48 inches as the maximum height for reach range). The running slope near the buzzer is 3.0 degrees. *See* the 2010 ADA Standards at 402 and 403 (allowing up to 2.86 degrees as the maximum slope). The force required for pulling the left door open from outside is 15 pounds, which could present a barrier to individuals with disabilities.

- Conclusion

Based on the information above, OCR finds that the Center's usable entrances are not accessible to individuals with mobility impairments, in violation of the Section 504 and Title II.

- **Alleged Inaccessibility of Classrooms and Offices**

The complaint alleged that several rooms in the building are inaccessible as some of the doors present barriers or have only door knobs as operating hardware for opening doors. Furthermore, the complaint alleged that there is no way to evacuate students with physical disabilities from the classrooms and there is no lift in a changing room. During the onsite, OCR inspected classrooms,

a therapy room, offices, a kitchen, the gymnasium, a conference/meeting room, and a changing room for accessibility.

- Main Office

The District reported that this area has not been altered since the original construction in 1964, so OCR reviewed the space as existing construction. There are two ingress/egress doors for this office space; one is located in the west hallway and the other is located in the east hallway.

OCR found an accessibility concern regarding the office area when it reviewed the space for program access using the 2010 ADA Standards as a guide. OCR measured both doors for accessibility and found that the door opening forces required for these doors was between 8 pounds and 14 pounds. *See* the 2010 ADA Standard at 404.2.9 (allowing up to 5 pounds as the maximum force for an interior hinged door).

- Other Offices

OCR examined several rooms that the Center uses for its administrative offices, specifically Rooms 101 (special education director’s office) and 105 (pupil registration office). The District reported that these rooms have not been altered since the original construction in 1964. Therefore, OCR inspected the rooms as existing construction.

OCR found also accessibility concerns regarding these rooms using the 2010 ADA Standards as a guide. For instance, the entrance door of Room 101 is equipped with door knobs on both sides, which require tight grasping or twisting of the wrist. *See* the 2010 ADA Standards at 309. The door opening force required for both rooms is 13 pounds. *See* the 2010 ADA Standard at 404.2.9 (allowing up to 5 pounds as the maximum force for an interior hinged door).

- Rooms 124 and 126 (Classrooms for “New Step” Program)

The District reported that these rooms are presently being used for the “New Step” Program (18-to-26-year-old students). The District reported that these rooms were altered by having new exit door ramps installed in or after July 2015. Therefore, OCR reviewed the rooms as existing construction, except for the new exit door ramps, which OCR measured for accessibility applying the 2010 ADA Standards.

OCR examined the exit ramps added in 2015 outside the classrooms of the Center and determined that these ramps, by all appearances, are identical to each other. OCR specifically measured the exit located in Room 129, which is further discussed below.

OCR found some accessibility concerns regarding the Room 124 & 126 classrooms when it reviewed for program access using the 2010 ADA Standards as a guide. For instance, both classroom doors are equipped with door knobs that require tight grasping or twisting of the wrist. *See* the 2010 ADA Standards at 309. The light switch located in the Room 124 is mounted at 50 inches above the floor. *See* the 2010 ADA Standards at 308 (allowing up to 48 inches as the maximum height for reach range). The crown of the threshold at the emergency exit door rises to

2 inches above the floor. *See* the 2010 ADA Standards at 404.2.5 (allowing up to 1/2 inch as the maximum height for non-beveled threshold and up to 3/4 inch for beveled threshold).

- Room 129 (Unused Classroom)

The District originally reported to OCR that this room was being used for high school students with severe cognitive and physical disabilities, but later clarified that this classroom is not in use and is empty, which OCR confirmed during its site visit. The District reported that this room was altered by having a new exit door ramp and new egress door hardware installed in July 2015. Therefore, OCR measured the accessibility of these altered features using the 2010 ADA Standards, and reviewed all other unaltered features as existing construction, using the 2010 ADA Standards as a guide.

The entrance door has handles and levers on both sides. OCR found accessibility concerns related to some features in or near this classroom that were not altered since the original construction, when it reviewed program access using the 2010 ADA Standards as a guide. The beveled threshold of the emergency exit door is 2 inches high. *See* the 2010 ADA Standards at 404.2.5 (allowing up to ¾ inch as the maximum height for beveled threshold).

OCR also found accessibility concerns related to some features outside this classroom. The room has an emergency exit door with a force required to open the emergency exit door of 14 pounds, which can present a barrier to individuals with disabilities. Outside the emergency exit door, there is a metal ramp installed at the end of the concrete pad for transition to level pavement. The running slope of this ramp is 11.4 degrees, which is steeper than the 4.76 degrees (equivalent to 1:12) maximum slope allowed by the 2010 ADA Standards at 405.2. In addition, the sidewalk near the ramp is cracked and uneven in places.

- Rooms 119 and 121 (Classrooms)

The District reported that these rooms are used for students 18-26 years of age with severe cognitive impairments and/or multiple impairments. The rooms are located side by side and each of these rooms has one entrance door in the east hallway, as well as an emergency exit door on the east outside wall. The District reported that these classrooms were altered by having new door hardware and new exit door ramps installed in July 2015. Therefore, OCR measured the accessibility of these altered features applying the 2010 ADA Standards and reviewed all other unaltered features as existing construction.

For both classrooms, the entrance doors are equipped with door handles. The emergency exit doors for these classrooms are also equipped with door handles. The force required to open the entrance doors is 13 pounds, which is more than the 5 pounds allowed as maximum force for interior hinged doors by the 2010 ADA Standards at 404.2.9. The force required to open the emergency exit doors is 18 pounds, which can present a barrier to individuals with disabilities. OCR notes that if these emergency exit doors are fire doors, they must have a minimum opening force allowable by the appropriate administrative authority. Outside the emergency exit door of each classroom, there is a metal ramp installed at the end of the concrete pad outside the door for transition to level pavement. The concrete pads outside of the doors measures 72 inches by 43

inches. The running slopes of these ramps are 11.7 degrees for Room 119 and 11.8 degrees for Room 121, which are steeper than the 4.76 degrees (equivalent to 1:12) maximum slope allowed by the 2010 ADA Standards at 405.2.

In these classrooms, OCR found accessibility concerns related to some features that have not been altered since the original construction, using the 2010 ADA Standards as a guide. Specifically, the beveled thresholds at the emergency exit doors of both classrooms are higher than $\frac{3}{4}$ inch, which is the maximum change in threshold height allowed by 2010 ADA Standards at 404.2.5.

- Room 127 (Physical Therapy and Occupational Therapy Room)

The District reported that this room is currently used for physical therapy and occupational therapy and was altered by having new door hardware and a new exit door ramp installed in July 2015. The District also reported that this room is used by students of ages from 6 to 26. Therefore, OCR measured the accessibility of these altered features using the 2010 ADA Standards and reviewed all other unaltered features as existing construction.

There is a sink and a drinking fountain installed in a counter with a lower cabinet, various physical therapy tools, and two restrooms (which are separately addressed below). During OCR's site visit, the District explained that the current layout of this room, including the sink, drinking fountain, and restrooms, is original from when the building originally served as an elementary school building.

OCR found that the new emergency exit door ramp for this classroom was installed in the same manner as the other exit door ramps installed for other classrooms (e.g., Rooms 119 and 121) in violation of the 2010 ADA Standards at 404.2.5 and 405.2 discussed above.

In this classroom, OCR found accessibility concerns related to some features that were not altered since the original construction, using the 2010 ADA Standards as a guide. For instance, the paper towel dispenser is equipped with a hand crank that requires tight grip and rotating action to dispense paper toweling, and the spout for the drinking fountain is located too far from the edge of the fountain, as it measured 8 inches in from the front edge of the counter. *See* the 2010 ADA Standards at 602.5 (allowing up to 5 inches as the maximum distance from the front edge of the counter).

- Changing Room

The complaint alleged that there is no lift in the changing room. The Complainant did not provide an explanation as to what sort of lift they believed was needed for this room or why. This room was indicated as an "ESL" room in the information the District provided to OCR, but the special education director stated that it is currently used as a changing room, which OCR confirmed during the site assessment. The District reported that this room was altered by having new door hardware installed in July 2015. Although the Complainant asserted that this area had been renovated from a closet into a changing room, the District did not confirm this, and OCR's site observation did not reveal any apparent alterations other than the door hardware. Therefore, OCR measured the program accessibility of the features other than the door hardware by applying the 2010 ADA Standards as a guide.

The entrance door to this room is equipped with door handles/levers of accessible design. The doorway has a clear width opening of at least 32 inches. OCR observed a moveable wheeled floor lift located outside of the room, in the hallway, at the time of its visit. Based on the evidence obtained, OCR finds insufficient evidence to support a finding that the changing room is inaccessible.

- Life Skills Room

This room was indicated as “closed” in the information the District originally provided to OCR, but during the onsite assessment OCR found that the area is currently used as a Life Skills Room. The special education director stated that this room is currently used by students for eating, relaxing, and doing some activities. The Life Skills Room has two separate entrances—one located in the east hallway providing access to and from a kitchen and one in the west hallway. The District reported that this room has not been altered since the original construction of the building. Therefore, OCR reviewed the room as existing construction.

OCR found accessibility concerns with the space using the 2010 ADA Standards as a guide. For example, each entrance door is equipped with door knobs on both sides requiring tight grasp and twisting of the wrist. The door opening force for the entrance door from the west hallway was measured at 9 pounds, which is greater than the 5 pounds maximum allowed for an interior hinged door under the 2010 ADA Standards at 404.2.9.

- Kitchen

The information provided by the District indicated that this room was not in use, but during OCR’s site visit, it was observed in use as a kitchen. The District reported that “Next Step” students (highly functional students of ages 18-26) eat lunch in this room. The District reported that this room was altered by having new egress door hardware, a new countertop, a new sink, and new appliances (microwave and stove) installed in July 2015. Therefore, OCR measured the accessibility of this room using the 2010 ADA Standards.

OCR found accessibility concerns in the kitchen. The entrance door to the kitchen from the east hallway requires a force to open the door of 13-14 pounds, which is more than the 5 pounds maximum force allowed by the 2010 ADA Standards at 404.2.9. On the south wall of the kitchen, there are upper and lower cabinets with a sink and a dishwasher. The storage cabinets and drawers do not have any opening/closing hardware (operable parts¹), which present a barrier to individuals with mobility impairments in opening the cabinet doors or drawers. Section 804.5 of the 2010 ADA Standards requires at least 50% of shelf space in storage facilities shall comply with the height requirement set forth by Section 308. OCR found that some portions of the upper cabinet storage are in use, with signage indicating contents of some of the cabinets, and the height from the floor to the bottom of the upper cabinet in use measures 60 inches, higher than the 48 inches allowed as the maximum reach range by the 2010 ADA Standards at 308 and 811.3.

¹ The 2010 ADA Standards at 106.5 defines the operable part as a component of an element used to insert or withdraw objects, or to activate, deactivate, or adjust the element.

On the west wall of the kitchen, there are also upper and lower cabinets, with a stove, microwave (over the range), and refrigerator. These storage cabinets and drawers also do not have any opening/closing hardware installed. The countertop surface is 35½ inches above the floor, which is higher than the 34 inches allowed as the maximum height by the 2010 ADA Standards at 804.3.2. The microwave oven is installed 65 inches above the floor, which is higher than the 48 inches maximum height allowed by the 2010 ADA Standards at 308. The light switch located near the east hallway door is mounted at 50 inches above the floor, which is higher than the 48 inches allowed as the maximum reach range by the 2010 ADA Standards at 308.

Furthermore, the kitchen does not provide a work surface positioned for a forward approach as required by the 2010 ADA Standards at 804.3. It also does not provide a clear floor space centered on the kitchen work surface with knee and toe clearance complying with 306.

- Gym

The District reported that high school students with severe cognitive impairments and/or multiple impairments eat lunch in the gym. At the time of OCR’s site visit, the room had a sign posted stating it to be “Multi-Use.” The District reported that this room has not been altered since the original construction. Therefore, OCR reviewed the room as existing construction.

The gym has two entrances from the east hallway and two entrances from the west hallway. The entrances have double doors equipped with door handles (outside) and push-bars (inside) with closers. The gym has a stage at one end. From the inside of the gym, there are only stairs to get up onto the stage. There is an entrance in the west hallway that provides access to the stage via a ramp. The District reported that the stage is not in use, but a ramp is available from the west hallway to access the stage.

OCR examined the ramp to the stage and found an accessibility concern with the ramp, using the 2010 ADA Standards as a guide. Specifically, the running slope of the ramp measures 14 degrees (equivalent to 1:4), which is steeper than the maximum 4.76 degrees (equivalent to 1:12) slope allowed by the 2010 ADA Standards at 405.2.

- Conference/Meeting Room

During OCR’s site visit, the District reported that the Center’s meeting room is used for workshops and teacher conferences. The room is situated at a level lower than all rooms in the building, between the east and west hallways, in the center of the building. The District reported that this room has not been altered since the original construction. Therefore, OCR reviewed this room as existing construction.

There are three entrances to this room. There is an entrance from the west hallway located at the southwest corner of the room that has a ramp for access into the room. There are two entrances located in the east hallway, at the northeast and southeast corners of the room, which require negotiating four stairs each to enter and exit the room.

OCR found some accessibility concerns with these entrance doors and the ramp, using the 2010 ADA Standards as a guide. For example, all of the entrance doors are equipped with door knobs that require tight grasp and twisting of wrist. The running slope of the ramp at the southwest entrance is steep, at 6.1 degrees (equivalent to 1: 9.5), which is steeper than 4.76 degrees (equivalent to 1:12) maximum slope allowed by the 2010 ADA Standards at 405.2.

- Conclusion

Based on the information obtained, OCR has determined that, except for the changing room, there is sufficient information to find that some of the Center’s classrooms and offices, gym, and kitchen do not fully meet the accessibility requirements of Section 504 and Title II.

- **Alleged Inaccessibility of Restrooms**

The complaint alleged that the restrooms in the Center are not accessible because they are “not barrier free.” Specifically, it alleged that one restroom is equipped with two inaccessible traditional toilet stalls, and the urinals are not accessible.

The District reported to OCR that not all restrooms at the Center are accessible. The District reported that it designated four restrooms as accessible in the Center. These include a women’s restroom located near the northeast entrance, men’s and women’s restrooms located across from Room 119, and one of the restrooms located in the Room 127 (Physical Therapy and Occupational Therapy Room).

During the site visit, OCR found that not all restrooms designated as accessible have signs bearing the International Symbol of Accessibility as required by 2010 ADA Standards at 216.8. Only the women’s restroom located near the northeast entrance (pupil registration) has a sign, while the women’s and men’s restrooms across from Room 119 do not have signs. Also, the restrooms that are not designated as accessible do not provide directional signs indicating the location of the nearest accessible restroom. *See* the 2010 ADA Standards at 216.8.

- Men’s Restroom (near Gym)

The restroom is located near the entrance to the gym, in the west hallway. The District reported that this restroom is mostly used by the “Next Step” students and that this restroom has not been altered since the original construction. OCR staff did not assess the details of this restroom, as the District reported that it is not designated as an accessible restroom.

- Men’s Restroom (across from Room 119)

The restroom is located in the east hallway, across from Room 119, and is close to the classrooms used for students with severe cognitive impairments and/or multiple impairments. The District reported that this restroom is designated as an accessible restroom and was completely renovated in July 2015 by moving an entrance door out for proper clearance and access and by having one new sink, one new urinal, one new toilet, one new mirror, and new partitions installed. Therefore, OCR measured the accessibility of this restroom using the 2010 ADA Standards.

There is a short corridor to pass through, which requires navigating through two door openings, in order to enter the restroom. The special education director reported that the door to the room was relocated to its current location to provide more access space to get into the room. The clear width of the doorway with the door measures 33 inches. There are three sinks, two paper towel dispensers, one toilet stall, and two urinals in this restroom.

OCR found accessibility problems in this restroom. This restroom does not have a sign bearing the International Symbol of Accessibility as required by 2010 ADA Standards at 216.8. The force required for pulling the door open is 14 pounds, which is more than the maximum force of 5 pounds allowed by the 2010 ADA Standards at 404.2.9. Both paper towel dispensers are equipped with hand cranks requiring tight grasp and rotating actions in order to dispense towels, in violation of the 2010 ADA Standards at 309.4.

Both urinals are wall mounted. The urinal on the left side has its rim mounted at 13 inches above the floor but the urinal on the right side has its rim mounted at 21 1/2 inches above the floor, which is higher than the maximum allowed height of 17 inches allowed by the 2010 ADA Standards at 605.2. There is only one toilet stall in this restroom. The door handle is mounted at 33 inches above the floor, which is lower than the 34 inch minimum height required by the 2010 ADA Standards at 404.2.7. There are three grab bars around the toilet: two side wall grab bars (horizontal and vertical) and one rear wall grab bar. The horizontal side wall grab bar is 37 inches long, which is shorter than the 42 inches minimum length required by the 2010 ADA Standards at 604.5.1. Pursuant to 2010 ADA Standard 604.5, there should not be a vertical grab bar on the side wall. The rear wall grab bar is 32 inches long, which is shorter than 36 inches, the minimum length required by the 2010 ADA Standards at 604.5.2. The seat height of the toilet is 16 1/2 inches above the floor, which is lower than the 17 inch minimum height required by the 2010 ADA Standards at 604.4. The centerline of the toilet from the side wall is 19 inches, which is further than the 18 inch maximum distance allowed by the 2010 ADA Standards at 604.2 for wheelchair accessible toilet. Furthermore, the toilet paper dispenser is mounted behind the toilet on the left side, in violation of the 2010 ADA Standards at 604.7, which requires toilet paper dispensers to be located 7 inches minimum and 9 inches maximum in front of the toilet measured to the centerline of the dispenser.

- Women's Restroom (across from Room 119)

This restroom is located across from Room 119 and is close to the classrooms used for students with severe cognitive impairments and/or multiple impairments. The District reported that this restroom was completely renovated in July 2015 by having one new sink, one new toilet, one new mirror, and new partitions installed. Therefore, OCR measured the accessibility of this restroom using the 2010 ADA Standards.

OCR found accessibility violations in this restroom. This restroom does not have a sign bearing the International Symbol of Accessibility as required by 2010 ADA Standards at 216.8. This restroom has three sinks, two soap dispensers, one paper towel dispenser, and three toilet stalls. The paper towel dispenser is equipped with a hand crank requiring tight grasp and rotating actions to dispense towels. Among the three sinks, OCR measured the far right sink, which is mounted higher than other two sinks, for accessibility. The pipe under the sink was insulated, but the knee

clearance from the edge of the sink to the pipe is only 8 1/2 inches, which is shorter than the 11 inch minimum depth required by the 2010 ADA Standards at 306.3.

Since only one of the three toilet stalls has grab bars, OCR measured this toilet stall for accessibility. There are four grab bars; one rear wall grab bar, two side wall grab bars, and one front wall grab bar. The rear wall grab bar measures 31 inches long, which is shorter than the 36 inch minimum length required by the 2010 ADA Standards at 604.5.2. The horizontal side wall grab bar is 37 inches long, which is shorter than the 42 inch minimum length required by the 2010 ADA Standards at 605.5.1. There should not be a vertical side wall grab bar, and this one is installed in a manner so that it obstructs use of the horizontal grab bar. The seat height of the toilet is 16 1/2 inches above the floor, which is shorter than the 17 inch minimum height required by the 2010 ADA Standards at 604.4. The toilet paper dispenser is mounted behind the toilet on the right side of the toilet user, in violation of the 2010 ADA Standards at 604.7, which requires toilet paper dispensers to be located 7 inches minimum and 9 inches maximum in front of the toilet measured to the centerline of the dispenser. There is a sanitary napkin disposal box next to the toilet on the left, which is mounted at 29 1/2 inches above the floor, within the range of 15-48 inches allowed by the 2010 ADA Standards at 604.7.

- Women's Restroom (near the Pupil Registration Entrance)

This restroom is located near the Center's pupil registration entrance. The District reported that this restroom has not been altered since the original construction. Therefore, OCR inspected the restroom as existing construction.

The restroom entrance door is marked with the International Symbol of Accessibility, indicating that it is designated as an accessible restroom. There are four sinks, one paper towel dispenser, one soap dispenser, and one toilet stall in this restroom. Among the four sinks, two sinks are mounted higher than the others.

OCR found several accessibility concerns in this restroom, using the 2010 ADA Standards as a guide. For example, both sinks have exposed pipes below the sinks and the pipes are not insulated. *See* the 2010 ADA Standards at 606.5. The sink on the left does not provide sufficient knee clearance, providing only 9 inches from the edge of the sink to the pipe. *See* the 2010 ADA Standards at 306.3. The force required to open the door is 17 pounds from the outside and 11 pounds from the inside. *See* the 2010 ADA Standards at 404.2.9. The width of the toilet stall is 42 inches when measured perpendicular to the side wall and may not provide sufficient maneuvering space. *See* the 2010 ADA Standards at 604.3. The toilet stall has only one horizontal side wall grab bar, which is 38 inches long, and does not have any rear wall grab bar. *See* the 2010 ADA Standards at 604.5. The seat height of the toilet above the finished floor is 16 1/2 inches. *See* the 2010 ADA Standards at 604.4. The toilet paper dispenser is mounted on the right side of the toilet and the reach from the toilet to the dispenser is 29 inches. The coat hook is mounted at 64 inches above the floor. *See* the 2010 ADA Standards at 308.2 or 308.3.

- Men’s Restroom (near the Pupil Registration Entrance)

This restroom is also located near the Center’s pupil registration entrance. The District reported that this restroom has not been altered since the original construction and is not designated as an accessible restroom. The District stated that it is considering whether to make this restroom an accessible unisex restroom.

- Restrooms in Room 127 (Physical Therapy and Occupational Therapy Room)

Room 127 contains two restrooms inside the space, which are located across from each other on the north wall. The District reported that one of the restrooms is accessible for elementary students due to its size and equipment; however, the District also reported that students of ages from 6 to 26 used Room 127 and the restroom.

One of the restrooms in Room 127 is marked on the door with a sign that reads “GIRLS.” The District reported that one of the restrooms (on the right side when looking towards the restrooms) was renovated by having a new sink and toilet installed in July 2015 while the other restroom with the “GIRLS” sign has not been altered since the original construction. Therefore, OCR measured the accessibility of the newly renovated restroom using the 2010 ADA Standards, and examined the restroom marked with the sign “GIRLS” as existing construction.

OCR found accessibility violations in the renovated restroom. The renovated restroom has an entrance door with door knobs on both sides, which require tight grasping or twisting of the wrist, in violation of the 2010 ADA Standards at 309.4. The force required to open the door is 13 pounds, more than the 5 pounds maximum force allowed by the 2010 ADA Standards at 404.2.9. There are 3 grab bars surrounding the toilet. The rear wall grab bar is 20 inches long, which is shorter than the 36 inch minimum length required by the 2010 ADA Standards at 604.5.2. The side wall grab bar is 38 inches long, which is shorter than 42 inches, the minimum length required by the 2010 ADA Standards at 604.5.1. There should not be a vertical side wall grab bar, and the one installed obstructs use of the horizontal grab bar. The sink for the restroom is set in from the space, and has travertine type floor tile underneath it that is at least 1/2 inch higher than the rest of the floor in the restroom with no bevel at the edge.

OCR also found accessibility concerns with the restroom marked “GIRLS” using the 2010 ADA Standards as a guide. For example, the entrance door of this restroom has door knobs on both sides. *See* the 2010 ADA Standards at 309.4. The clear opening width of the door is 29 inches. *See* the 2010 ADA Standards at 404.2.3. The toilet does not have any grab bars installed. *See* the 2010 ADA Standards at 604.5. The sink has twist-style faucet fixtures requiring tight grasp and rotating actions to turn on the water faucet. *See* the 2010 ADA Standards at 309.4.

- Conclusion

Based on information obtained, OCR has determined that the Center’s accessible restrooms do not fully meet the accessibility requirements of Section 504 and Title II.

- **Alleged Inaccessibility of Playground**

The complaint alleged that the Center’s playground is inaccessible. OCR found that the Center has a small playground with play structures outside of the southeast entrance (rear) of the building. The District reported that the students at the Center do not use this playground, and that young children may use the playground, but it generally sees little use. The District reported that the current playground, including play structures, was installed at the Center in July 2015, which requires compliance under the 2010 ADA Standards.

The Center’s playground surface is composed of stable, firm and rubber-like material. At the playground, there are three ground-level play components. In the middle of the playground, there is a gliding structure manufactured by Sway Fun®, which sways from side to side. It has fixed benches on both sides, and there is a play table installed on the right side. The table top is 28½ inches high above the platform surface and is equipped with moveable rollers for play. This play component is accessible via a ramp from the sidewalk. The ramp is 42½ inches wide and is equipped with handrails on either side of the ramp. Each handrail has three continuous, parallel, horizontal bars, providing access at both adult and child heights. *See* 2010 ADA Standard 505.4 and Advisory 505.4. The top handrail measures 34 inches above the ramp surface. The lower handrail is 9 inches lower, at 25 inches, above the ramp surface. The lowest handrail is at 16 inches above the ramp surface. as required under Advisory 505.4. The running slope of the ramp is 3.5 degrees, which is permitted by the 2010 ADA Standards at 1008.2.5.1. Besides the gliding structure, there are two (2) stationary game stations at the playground. These stations are accessible from the sidewalk. On the left, the game station contains sixteen (16) rollers (4 rollers x 4 rows) with instructions that state “TAKE TURNS TO MATCH THREE IN A ROW TO WIN.” The lowest row of rollers is 26 inches from the ground surface, and the highest row of rollers is 34 inches from the ground surface. On the right, there is a structure into which a xylophone is integrated. This xylophone feature is 27.8 inches above the ground surface.

Based on the information obtained during OCR’s inspection, OCR finds insufficient evidence to support that the Center’s playground and its ground-level play components are inaccessible.

- **Emergency Evacuation Plan**

The complaint alleged that there is no way to evacuate students with physical disabilities from the classrooms in the event of an emergency.

During OCR’s onsite visit, the District reported that each classroom has an emergency exit door, and that new emergency exit door ramps were installed at each classroom in 2015. On January 11, 2017, the District provided OCR with a copy of the evacuation plan for the Center. The evacuation plan indicates that the Center designated two wheelchair exits, six ambulatory exits, and several exit pathways. The District designated the building entrance near Room 128 as one of the wheelchair user exits, although the District had previously indicated to OCR this entrance was not in use. There is also another wheelchair user exit located outside Room 131, which is not clear on the plan as to how it would be used. Three ambulatory exits in the plan are the same ones that the District originally reported to OCR were not in use, and the District reported one of these entrances (entrance near Room 102) remained locked. Also, this plan did not indicate that

the emergency exit doors for each classroom would be used, which doors the District reported would be used during OCR's site visit.

On January 13, 2017, OCR spoke with the District's general counsel and asked for clarification about the emergency evacuation plan that it submitted on January 11, 2017. After this telephone call, OCR asked the District to provide the issuance date of the evacuation plan, and requested additional information about the plan and any related training(s) for staff on the plan. On February 12, 2017, the District responded and reported that the evacuation plan was revised on February 1, 2017, and it did not provide the original date the plan was issued. The revised evacuation plan indicates that the emergency exit door located in each classroom will be used, but the plan does not clearly designate which exit doors are wheelchair accessible, as it eliminated all the wheelchair exit signs originally included in its January 11, 2017 emergency evacuation plan. Given that the new emergency exit door ramps that the District installed in 2015 for its classrooms do not comply with the 2010 ADA Standards at 405.2, the District's revised emergency evacuation plan raises a compliance problem. Furthermore, the direction pointing north on the plan is not accurately reflected in both of the evacuation plans that the District submitted to OCR; both evacuation plans indicate north, where the actual indicated direction is supposed to be south.

In its February 12, 2017, response, the District stated that the personnel working at the Center regularly reference evacuation procedures in compliance with the evacuation plan during staff meetings and administrative meetings. The District also provided OCR with copies of documents regarding June 29-30, 2015, trainings. The District stated that these trainings were formal trainings that were conducted related to the Center's evacuation procedures. These documents included a copy of sign-in sheets, agendas, and an addendum to June 29-30, 2015, training agendas. The addendum indicated that the training agenda pertained to "[b]uilding level training for evacuation drills (fire, tornado, lock downs)" and "training to address evacuation procedures and protocol to access nurse assistant," but it was not clear from the documentation as to what evacuation procedures were trained on, and whether the District's evacuation plan was used or meaningfully addressed during the training; for example, the addendum indicated that "areas of concerns" included "[b]uilding level training for evacuation drills (fire, tornado, lock downs)" and "specific needs defined" included "training to address evacuation procedures and protocol to access nurse assistant." Other than these documents, the District did not provide any training materials or documentation indicating that the District provided training on evacuation procedures.

The District provided OCR with a narrative about the exit doors, but the narrative merely described the number of emergency exits and locations. It did not specifically address whether all the exit doors would be used as accessible evacuation exits, or which exit door(s) would be used as accessible evacuation exits if not all doors are to be used. Further, the narrative did not provide any details or specific action steps as to how the District would individually assess and meet the needs of persons with disabilities for their safe evacuation at the time of emergency.

Based on the foregoing information, OCR has determined that the District lacks an appropriate emergency evacuation plan for Center students in violation of the Section 504 and Title II regulations at 34 C.F.R. § 104.4 and 28 C.F.R. § 35.130.

- **Accessibility of the Center’s Parking Spots, Aisles, Ramps, and Routes**

Although the complaint did not allege that the Center’s parking is inaccessible, OCR examined the parking lots and routes from the parking areas to the building for accessibility, as OCR observed some issues during the site visit.

The Center has two parking lots, one on the north side of the building and a much larger lot on the west side of the building. The District reported that there are a total of 109 parking spaces between the two lots, six of which are designated as accessible spaces. The District reported that on the north side of the building there are a total of 32 parking spaces, two of which are designated as accessible spaces. The District also reported that on the west side of the building, there a total of 77 parking spaces, four of which are designated as accessible spaces. The District also reported that both the north and west parking lots were restriped in July 2015 and September 2016, respectively. Therefore, OCR measured the accessibility of these parking lots using the 2010 ADA Standards. OCR finds that the parking lots fail to meet the 2010 ADA Standards for the reasons explained below:

1. The 2010 ADA Standards at 208.2 require that if the total number of parking spaces provided in parking facility is between 101 and 150, at least five spaces must be provided as accessible parking spaces. The 2010 ADA Standards at 208.3.1 require that accessible parking spaces be located on the closest accessible route to the accessible entrance(s). During the site visit, OCR found that not all of the accessible parking spaces provided the closest accessible route to the Center’s accessible entrances. Two of the building’s entrances providing the closest accessible route to 67% of all accessible parking spaces are not in use. Furthermore, one of the parking spaces designated as accessible, which is located near the unused entrance on the north parking lot, does not meet the standards as to the minimum width required for a parking space as set forth in 502.2.
2. The 2010 ADA Standards at 208.2.4 require that at least one spot be a van accessible parking space for every six or fraction of six accessible parking spaces. The 2010 ADA Standards at 502.6 require that signs identifying van accessible spaces shall contain the designation “van accessible.” There was no signage or indication that any of six accessible parking spaces was designated as a van accessible space, although three of the parking spaces (one located near the pupil registration entrance, one near the southwest entrance that is currently in use, and one near the northwest entrance that is not currently in use) met the other specifications for van accessible spaces.
3. The 2010 ADA Standards at 502.6 require that accessible spaces must be identified with a sign that shows the International Symbol of Accessibility. Neither of the parking spaces designated as accessible spaces in the west parking lot were identified with signage as required by 502.6.
4. The 2010 ADA Standards at 403.3 require that the running slope of walking surfaces must be no steeper than 1:20 (equivalent to 2.86 degrees). The walkway serving as the accessible route from the accessible aisle to the southwest building entrance has a running slope of 7.3 degrees.

5. The 2010 ADA Standards at 405.2 require that the running slope of a curb ramp be no steeper than 1:12 (equivalent to 4.76 degrees). The running slopes of all curb ramps located near accessible aisles in both north and west parking lots are steeper than the maximum slope allowed by 405.2. The running slopes in the west parking lot are 5.7 degrees near the unused entrance (north end) and 5.1 degrees near the open entrance (south end). The running slope near the pupil registration entrance in the north parking lot is 4.9 degrees.
6. The 2010 ADA Standards at 502.2 require that an accessible car parking space shall be 96 inches wide minimum. The designated accessible parking space located near the unused entrance on the north side of the Center measures 90 inches wide.
7. The 2010 ADA Standards at 302.1 require that an accessible route must be stable, firm and slip-resistant. In the north parking lot, the route connecting the designated accessible parking to the pupil registration entrance is cracked and uneven. Also, the route connecting the accessible parking to the unused entrance on the north side of the Center is uneven, with height change in pavement surfaces measuring as much as 1 inch between adjoining walkway surfaces.

Based on the information obtained and summarized above, OCR finds that the District has failed to provide accessible parking with accessible routes, as required by Section 504 and Title II.

Resolution and Conclusion

Based on the above information, OCR concludes there is insufficient evidence that the Center's changing room or playground are inaccessible. However, OCR concludes the Center lacks accessible parking, ramps, routes and building entrances and that it maintains inaccessible rooms, offices, facilities, and restrooms for individuals with mobility impairments. Therefore, OCR concludes that the District has failed to fully comply with the 2010 ADA Standards and provide program access to individuals with mobility impairments with respect to its programs and activities in violation of Section 504 and Title II. OCR also concludes that the District's failure to have an appropriate emergency evacuation plan for the Center is a violation of Section 504 and Title II.

The District has signed the enclosed resolution agreement (the Agreement), which, when fully implemented, will resolve the violations of Section 504 of Title II found by OCR and outlined herein. In summary, the Agreement requires the District to modify the Center's facilities, including its parking lots, to conduct a self-evaluation of the Center, develop a transition plan, and provide for program accessibility for its existing facilities in compliance with the 2010 ADA Standards. The Agreement also requires the District to develop and implement a detailed plan (the interim plan) for how it will make its programs, services, and activities at the Center, when viewed in their entirety, accessible to and usable by persons with disabilities participating in the programs, services and activities housed at the Center pending the completion of the self-evaluation and transition plan, and adopt and implement procedures to ensure that interested persons, including persons with mobility impairments, can obtain information as to the existence and location of services and activities that are accessible to and usable by persons with disabilities

at the Center and how to request relocation of programs, services, and activities that are not accessible, including an appropriate District contact person. Finally, the Agreement requires the District to draft and implement emergency evacuation procedure for the Center to include specific notification and evacuation procedures for students with disabilities, including students with mobility impairments, notify all parents, teachers, and staff of the procedures, and develop and implement an individualized written emergency response plan for each student with disabilities attending the Center to the extent appropriate to the student's individual needs.

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 harmed individual 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, OCR 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.

OCR appreciates the assistance provided to OCR by you and the District during the course of this investigation. The OCR contact person for the monitoring of the agreement is xxxxxxxxxx xxxxxxxxxx, who may be reached (216) xxx-xxxx or by e-mail at xxxxxx.xxxxxxx@ed.gov. OCR looks forward to receiving the District's first monitoring report by **December 1, 2017**, which should be directed to xxxxxxxx. If you have questions regarding this letter, please contact xxxxxxxxxx xxxxxxxxxx, Supervisory Attorney/Team Leader, at (216) xxx-xxxx.

Sincerely,

/s/

Meena Morey Chandra
Regional Director

Enclosure