



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

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CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

Lee P. Geiger, Esq.
Graydon Head & Ritchey LLP
7759 University Drive, Suite A
West Chester, Ohio 45069

Re: OCR Docket #15-16-4009

Dear Mr. Geiger:

This letter is to notify you of the disposition of the complaint filed on October 28, 2015, with the U.S. Department of Justice (DOJ) and referred by DOJ on December 10, 2015, to the U.S. Department of Education's Office for Civil Rights (OCR), against the Oxford Lane Public Library (the Library), alleging discrimination on the basis of disability. Specifically, the complaint alleged that the accessible parking spaces for the Library's parking lot are not located on the shortest accessible route to the building's accessible entrance and the parking spaces have access aisles that are only three feet wide.

OCR is responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, with respect to, among other entities, libraries. Title II prohibits discrimination on the basis of disability by public entities. As a public entity, the Library is subject to Title II. Therefore, OCR had jurisdiction to investigate this complaint.

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 any Library program or activity because the Library's facilities are inaccessible to or unusable by persons with disabilities, in violation of the regulations implementing Title II at 28 C.F.R. §§ 35.149-151.

OCR investigated the complaint by reviewing documentation obtained from the Library and by conducting a site visit on May 16, 2016.

Summary of OCR's Investigation

According to the written complaint, the Complainant asserted that accessible parking spaces for the Library's parking lot are not located on the shortest accessible route to the building's accessible entrance, because there are parking spaces designated for fuel-efficient vehicles that are closer to the accessible entrance. The Complainant also alleged that the access aisles for the accessible spaces are only three feet wide.

The Library provided a position statement stating that the Library had been built in 2015. The statement also indicated that the spaces reserved for fuel-efficient spaces vehicles are closer than the designated accessible spaces to the main, accessible entrance. The statement further indicated that there is a step up from the fuel-efficient spaces to the sidewalk leading to the entrance. In contrast, there is no step up from the accessible spaces to the sidewalk.

OCR reviewed a diagram provided by the Library, which identifies the main entrance as the accessible entrance. The diagram indicates that the fuel-efficient spaces are north of the designated accessible spaces. The diagram also represents that there are 98 spaces in total.

During the May 16, 2016, site visit, OCR measured the parking spaces designated as accessible as well as the accessible route to the designated accessible entrance and noted the following:

- The parking spaces closest to the designated accessible entrance to the library are regular car spaces that have been reserved for fuel-efficient cars, and no accessible route was constructed from these spaces to the accessible entrance.
- The access aisles for the designated accessible parking spaces were 96.5 inches and 60 inches wide.
- All four designated accessible spaces were less than 96 inches wide and bore signage stating that they were van accessible.
- On the route from the designated accessible spaces, OCR took two measurements of the cross-slope near the fuel-efficient spaces, of 1:36 and 1:42.
- OCR also measured the cross-slope on the ramp on the route at two points, which measured 1:31 and 1:29.

Applicable Regulatory Standards

The Title II implementing regulation provides that no qualified individual with a disability shall, because a public entity's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity. 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. 28 C.F.R. § 35.151. The applicable standard depends upon the date of construction or alteration of the facility.

For facilities for which construction commenced after January 26, 1992, each facility or part of a facility constructed by, on behalf of, or for the use of a public entity shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. 28 C.F.R. § 35.151(a). For a public entity covered by Title II, to meet this requirement, new construction commencing after March 15, 2012, must conform to the 2010 ADA Standards for Accessible Design (the 2010 ADA Standards). 28 C.F.R. § 35.151(c)(3).

The 2010 ADA Standards at Section 208 require 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. For a parking lot with 76 to 100 spaces, the table requires a minimum of 4 accessible spaces. Spaces required by the table need not be provided in the particular lot; rather they may be provided in a different location if equivalent or greater accessibility, in terms of distance from an accessible entrance, cost, and convenience is ensured.

In addition, the 2010 ADA Standards at Section 208.2.4 require that for every six or fraction of six accessible parking spaces required by 208.2, at least one shall be a van accessible parking space.

The 2010 ADA Standards at Section 208.3.1 require that accessible spaces shall be located on the shortest accessible route from parking to an accessible entrance. Accessible parking spaces must be located on the shortest accessible route to an accessible entrance, relative to other spaces in the same parking facility.

The 2010 ADA Standards at Section 502.2 require accessible car parking spaces be at least 96 inches wide and van parking spaces be at least 132 inches wide (except that they may be at least 96 inches wide where the access aisle is 96 inches minimum). The 2010 ADA Standards at Section 502.3 require accessible parking spaces to include a 60-inch-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 Standards at Section 206.1 require that accessible routes be provided in accordance with 206 and comply with Chapter 4. Section 403.3 of Chapter 4, in turn, requires that the running slope of walking surfaces that are part of an accessible route not be steeper than 1:20 and that the cross slope of walking surfaces not be steeper than 1:48. Chapter 4 also requires at Section 405.3 that the cross-slope of a ramp on an accessible route not be steeper than 1:48, although under Section 405.2, the running slope of a ramp may be as steep as 1:12.

The 2010 ADA Standards at Section 502.6 require parking space identification signs to include the International Symbol of Accessibility, and signs identifying van parking spaces to contain the designation "van accessible."

Analysis

Given that the Library was built after January 26, 1992, OCR determined that the Library is new construction under Title II. Furthermore, because the construction commenced after March 15, 2012, OCR applied the 2010 ADA Standards, as appropriate, in its accessibility assessment of the Library parking area at issue.

With regard to the allegation that the accessible parking spaces are not on the shortest accessible route, the 2010 ADA Standards require that these spaces be closer than non-accessible spaces to the accessible entrance. Accordingly, OCR found sufficient evidence to conclude that the Library's designated accessible spaces are not on the shortest accessible route to the entrance, in violation of the Title II regulation.

With regard to the allegation that the access aisles are only three feet wide, OCR's measurements reflect that the access aisles are 96.5 inches and 60 inches wide, respectively. These are sufficiently wide under Section 502.3.1 of the 2010 ADA Standards. Accordingly, there is insufficient evidence to conclude that the Library's access aisles are too narrow. Therefore, OCR is closing this allegation effective the date of this letter.

However, OCR found other aspects of the parking area were in violation of the Title II regulation:

- All four designated accessible spaces were narrower than the 96 inches required under 2010 ADA Standards Section 502.2. Accordingly, none of the spaces was sufficiently wide to be a van-accessible space, under Section 502.2, even though all four spaces had signage representing that the spaces were van accessible.
- The cross-slope of the accessible route was steeper than permitted under Sections 206.1 and 403.3. Additionally, the cross-slope of the ramp (in front of the northernmost accessible space) included in the accessible route was steeper than permitted under Sections 206.1 and 405.3.

Voluntary Resolution

On September 13, 2016, the Library signed the enclosed resolution agreement (Agreement), which, once implemented, will fully address OCR's compliance findings in accordance with the Title II regulation. Under the terms of the Agreement, the Library will submit for OCR's review and approval a plan to ensure that accessible parking spaces at the Library comply with the 2010 ADA Standards, including those at Sections 208.3.1 (location along the shortest accessible route), 208.2.4 (sufficient van accessible spaces); 502.2 (vehicle spaces); 502.3 (access aisles); 403.3 (cross-slope of accessible route); and 405.3 (cross-slope of ramp on accessible route).

OCR will monitor the implementation of the Agreement. If the Library does not fully implement the Agreement, OCR will take appropriate action to ensure the Library's compliance with Title II.

Conclusion

Based on the information above, OCR is closing this complaint effective the date of this letter. This concludes OCR's investigation of the complaint and should not be interpreted to address the Library's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that the Library 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.

The Complainant may have the right to file a private suit in federal court, whether or not OCR finds a violation.

OCR appreciates the Library's cooperation during the investigation and resolution of this complaint. If you have any questions about this letter or OCR's resolution of this case, please contact Sacara Martin at (216) 522-7640 or by e-mail at Sacara.Martin@ed.gov.

For questions about implementation of the Agreement, please contact Aubrie Wancata at (216) 522-4711, or by e-mail at Aubrie.Wancata@ed.gov, who will be monitoring the Library's implementation of the Agreement. We look forward to receiving the Library's first monitoring report by October 14, 2016. Should you choose to submit your monitoring reports electronically, please send them to Ms. Wancata's e-mail address above.

Sincerely,

/s/

Meena Morey Chandra
Regional Director

Enclosure