



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

1350 EUCLID AVENUE, SUITE 325  
CLEVELAND, OH 44115-1812

REGION XV  
MICHIGAN  
OHIO

July 8, 2022

**Via E-mail Only to:**

Jessica K. Philemond, Esq.  
Scott Scriven, LLP  
250 East Broad Street, Suite #900  
Columbus, Ohio 43215

Re: OCR Docket #15-17-1576

Dear Ms. Philemond:

This letter is to notify you of the disposition of the above-referenced complaint filed on September 5, 2017, with the U.S. Department of Education (Department), Office for Civil Rights (OCR), against Madison Plains Local School District (the District) alleging discrimination on the basis of disability. Specifically, the complaint alleged that the District's football stadium is inaccessible to individuals with mobility impairments as follows:

1. the parking lot with designated accessible parking, used for football games, is not on the shortest possible route.
2. the grade of the pathway from the designated accessible parking, used for football games, to the stadium is too steep.
3. the surface grade of the parking lot with designated accessible parking, used for football games, is uneven.
4. the parking lot with designated accessible parking, used for football games, lacks sufficient accessible parking spaces.

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.

Based on the complaint allegations, OCR opened an investigation into 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 Section 504's implementing regulation at 34 C.F.R. §§ 104.21-23 and the Title II implementing regulation at 28 C.F.R. §§ 35.149-151.

To reach its determination, OCR reviewed information provided by the Complainant. OCR also reviewed information and documentation provided by the District. In addition, OCR spoke with members of District staff. OCR was unable to reach the Complainant to provide them an opportunity to respond to the information obtained from the District.

OCR's investigation found sufficient evidence of a violation of Section 504 and Title II with respect to Allegation #2. Specifically, OCR found that the football stadium is inaccessible to individuals with mobility impairments from the East Lot because the grade of the pathway from the accessible parking in the parking lot, that is used for football games and athletic events, to the football field is too steep. OCR found insufficient evidence to support a violation of Section 504 and Title II with respect to Allegations ##s 1, 3 & 4. A summary of the applicable legal standards, OCR's investigation, and the bases for OCR's determination are presented below.

### **Summary of OCR's Investigation**

All of the District's school buildings are located on one campus on Linson Road in London, Ohio. The football stadium on the site was constructed in 1977 and is situated between two parking lots. The combined intermediate school, elementary school, and administration building sits to the east of the football stadium. There is a large parking lot (East Lot) serving these buildings. This lot is also used during football games and for other events. This lot was originally constructed in 1957 and was expanded in 2015. It has a north side and a south side and serves north and south entrances to the building. An event parking lot (West Lot) is located on the west side of the football stadium. This lot was constructed in 2016. Both parking lots are maintained with sealing and restriping on a regular basis.

### **Accessibility Standards**

The Section 504 implementing regulation at 34 C.F.R. § 104.21 and Title II implementing regulation at 28 C.F.R. § 35.149 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. The regulations reference standards for determining whether an entity's programs, activities, and services are accessible to individuals with disabilities depend 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 the Title II regulation, existing facilities are those for which construction began on or before January 26, 1992.

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 is considered new construction if construction began (ground was broken) on or after June 3, 1977. Under the Title II regulation, a facility is considered new construction if the construction was commenced after January 26, 1992.

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. With regard to parking, the U.S. Department of Justice has stated that, when an ADA-covered entity restripes a parking lot, it must provide accessible parking spaces as required by the ADA Standards, and that failure to do so would violate the ADA.<sup>1</sup>

As set forth above, the Title II regulations require alterations that affect access to an area that contains a primary function to be made such that the route, including sidewalks, parking areas, and entrances, are readily accessible. Thus, the regulations require that alterations to the routes and parking at issue in this complaint should have been made to comply with the 2010 ADA Standards.

### **Allegation 1**

The Complainant alleged that the District’s football stadium is inaccessible to individuals with mobility impairments because the parking lot with designated accessible parking spaces, used for football games, are not on the shortest possible route to the football field.

The 2010 ADA Standards at 208.3.1 require that accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance. Where buildings have multiple accessible entrances with adjacent parking, the accessible parking spaces must be dispersed and located closest to the accessible entrances. Accessible parking spaces may be clustered in one or more lots if equivalent or greater accessibility is provided in terms of distance

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<sup>1</sup> <http://www.ada.gov/restripe.htm>

from the accessible entrance. A maximum travel distance is not specified in the 2010 ADA Standards.

The District reported that there is designated accessible parking near the football field in both the East Lot and the West Lot. It reported that accessible parking spaces are positioned in each lot so that they are the closest spaces to the football field entrance gates at either end of the field. Photographs provided by the District show that both parking lots have accessible parking spaces positioned near the entrances to the football field.

In the East Lot, there are six designated accessible parking spaces that are positioned in different places so that they serve the school and administration building as well as the football field. There are two accessible parking spaces very close to the fence entrance to the football field. There are also two accessible parking spaces near the football field entrance but closer to the north entrance to the school and administration building. One of these spaces is configured for van accessibility. The other two accessible parking spaces in the East Lot are further away and are sited to serve a south entrance to the school and administration building. The two accessible parking spaces that are the closest to the entrance gate to the football field at the East lot are 34 feet from the entrance gate.

The District modified its accessible parking in the West Lot in August 2021, but this change served to position the four accessible parking spaces even closer to the entrance gate to the football field. The spaces were shifted just north of where they had been positioned. This shift kept the accessible parking spaces in the same row as originally located. The four marked accessible parking spaces, including one configured for van accessibility, are in a row along the fence on the west side of the football field. These spaces are immediately at the entrance gate to the football field and, therefore, are as close as possible to the entrance.

The East Lot has two accessible parking spaces at the entrance to the football field. There are two other accessible spaces that are also nearby. The West Lot has four accessible parking spaces at the entrance to the football field. The East Lot serves the school and administration building and the athletic facility from the eastern end. The 2010 ADA Standards at 208.3 require that where parking serves multiple entrances or purposes at a facility, accessible parking spaces must be dispersed. Thus, not all the designated accessible parking spaces in the East Lot are positioned nearest to the football field. The spaces are dispersed to provide access to the school and administration building as well as the football stadium, including the two accessible parking spaces positioned nearest to the football field. All of the designated accessible parking in the West Lot are positioned nearest to the football field.

OCR concludes that the accessible parking for the East Lot and West Lot complies with the 2010 ADA Standards regarding that accessible parking be provided on the shortest accessible route.

**Allegation 2:**

The Complaint alleged that the District's football stadium is inaccessible to individuals with mobility impairments because the grade of the pathway from the designated accessible parking, used for football games, to the stadium is too steep.

The Complainant reported that the pathway from the East Lot to the football field is inaccessible. Specifically, the Complainant asserted that access to the football field from this lot is down a steep pathway with a slope greater than allowed by the ADA.

The 2010 ADA Accessibility Standards at 405.2, requires that ramp runs shall not have a running slope steeper than 1:12.

The District reported that access to the football field from the East Lot requires travel down a 45-foot-long paved path to the field. The District does not dispute that this path is inaccessible under accessibility standards. The District provided photos of the path at issue. It also included measurements of the slope at several points along the paved path. The District's measurements show that at one point on the path, the slope is as great as 1:34.91. The path is too steep to be deemed accessible under the 2010 ADA Accessibility Standards at 405.2, which requires that ramp runs shall not have a running slope steeper than 1:12.

Based on the foregoing, OCR concludes that the evidence is sufficient to support a finding that the football stadium is inaccessible to individuals with mobility impairments because the grade of the pathway from the East Lot to the stadium is too steep in violation of Section 504 and Title II.

**Allegation 3**

The complaint alleged that the District's football stadium is inaccessible to individuals with mobility impairments because the surface grade of the parking lot with designated accessible parking, used for football games, is uneven.

The Complainant reported that the parking in the West Lot is flat and uneven. The 2010 ADA Accessibility Standards at 302.1 require that floor and ground surfaces shall be stable, firm, and slip resistant.

The District reported that its parking lots are in good repair and are regularly maintained; this included recent maintenance in summer 2021 by a paving contractor. The District provided photographs of the accessible parking spaces in 2017 and 2021. The photographs show that the parking lot surface condition in both the East Lot and the West Lot was very good in 2017, at the time the complaint was filed and, most recently, in 2021. Also, the pavement is level and in good condition in both lots.

OCR attempted to reach the Complainant by email on September 14, 2020, and on November 16, 2021, to obtain clarification on the allegation, as the evidence does not support that the surface grade of the parking lots is uneven. He did not respond to OCR's attempts to contact him.

Based on the foregoing, OCR concludes that the evidence is insufficient to support a finding that the surface grade of the parking lots makes them inaccessible to individuals with mobility impairments in violation of Section 504 and Title II.

#### **Allegation 4**

The Complaint alleged that the District's football stadium is inaccessible to individuals with mobility impairments because the parking lot with designated accessible parking, used for football games, lacks a sufficient number of accessible parking spaces

The Complainant reported that there is not enough accessible parking for the football field. The 2010 ADA Standards at 208.2 require one accessible space for every 25 parking spaces in a parking facility. The standards further require that one of every six accessible spaces must be van accessible, with a minimum of one van accessible space in any lot.

The District reported that the East Lot has 171 total parking spaces with six designated as accessible. One of the six designated accessible spaces is designated as van accessible. The East Lot serves the school and administration building and the athletic field. The six accessible parking spaces in the East Lot are disbursed throughout the lot, with four spaces near the entrance gate to the football field and two other spaces situated near the south entrance to the school and administration building. The District reported that the West Lot has 83 total parking spaces with four designated as accessible, which are all located near the entrance gate to the football field. One of the four designated accessible spaces in the West Lot is designated as van accessible. The District provided photos of the accessible parking spaces in both parking lots.

The numerical requirements for the number of required accessible spaces and van accessible spaces for parking lots of varying sizes are found at Sections 208.2 and 208.2.4 of the 2010 ADA Standards. General Exception 2 to Section 208.3.1 of the 2010 ADA Standards states that "parking spaces shall be permitted to be located in different parking facilities if substantially equivalent or greater accessibility is provided in terms of distance from an accessible entrance or entrances, parking fee, and user convenience.

In accordance with these standards, there are four accessible spaces in the East Lot that best serve the football field. There are two spaces close to the entrance gate. These spaces each measure 117 inches in width. The shared access aisle between the spaces measures 73 inches in width. There are posted signs at each space that measure 72 inches from the pavement to the bottoms of the signs. The slope measurement is 1:48 for the spaces. The two other accessible spaces that serve the football field are nearby but are also positioned closer to the school and administration building's north entrance. One space, marked as van accessible, measures 101 inches in width and the other measures 116 inches in width. The access aisle between these spaces measures 96 inches in width. There are posted signs at each space that measure 68 inches from the pavement to the center of the sign. The slope measurement is 1:48 for the spaces. The other two accessible spaces in the East Lot each measure 120 inches in width with a shared 120-inch access aisle between them. The posted signs at each of the spaces are 60 inches

from the pavement to the bottoms of the signs. The slope measurement is 1:48 for the spaces.

There are four accessible spaces in the West Lot that serve the football field. All of these spaces are positioned outside the entrance gate. These spaces measure 102 inches, 106 inches, 108 inches and the van accessible space measures 115 inches in width. There is an access aisle adjacent to each space; these measure 82 inches, 100 inches and 115 inches in width. The access aisle adjacent to the van accessible space measures 100 inches in width. There are posted signs at each space that measure 75 inches from the pavement surface to the center of the signs. The cross-slope of each space is less than 1:48.

The 2010 ADA Standards at 502.2 requires that car parking spaces shall be a minimum of 96 inches wide and van parking spaces shall be a minimum of 132 inches wide. The 2010 ADA Standards at 502.3.1 require access aisles for car and van spaces to be 60 inches wide minimum. An exception exists where van parking spaces shall be permitted to be 96 inches wide minimum where the access aisle is 96 inches wide minimum. All standard accessible parking spaces in both the East Lot and West Lot meet the minimum 96-inch width requirement. All van accessible parking spaces meet the 96-inch minimum width requirement since all adjacent access aisles measure over the 96-inch minimum required width.

The 2010 ADA Standards at 502.6 require that parking space identification signs shall include the International Symbol of Accessibility complying with 703.7.2.1. Signs identifying van parking spaces shall contain the designation "van accessible." Signs shall be 60 inches minimum above the finish floor or ground surface measured to the bottom of the sign. Based on these standards, all accessible parking spaces on the property are marked in accordance with the 2010 ADA Standards.

The 2010 ADA Standard at 502.4 allows for a maximum slope in any direction of 1:48 for floor or ground surfaces. Based on information obtained during the investigation, all parking surfaces comply with the 2010 ADA Standards.

Based on this information, the accessible parking spaces in the East Lot and West Lot comply with the 2010 ADA Standards and the District has sufficient accessible parking at the School in compliance with the 2010 ADA Standards. Accordingly, OCR has determined that the evidence is insufficient to support a finding that the football stadium is inaccessible because it lacks sufficient accessible parking in violation of Section 504 and Title II.

### **Resolution and Conclusion**

OCR has determined that regarding Allegation #2, there is sufficient evidence to demonstrate that the District's football stadium is inaccessible to individuals with mobility impairments because the grade of the pathway from the designated accessible parking used for football games is too steep, in violation of Section 504 and Title II. Regarding Allegations #s 1, 3 & 4, the evidence is insufficient to support that the District is in violation of Section 504 and Title II.

On July 7, 2022, the District signed the enclosed Resolution Agreement, which, when fully implemented, will address OCR's non-compliance finding. OCR will monitor the implementation of the Resolution Agreement.

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 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 looks forward to receiving the District's monitoring report by May 1, 2023. For questions about implementation of the resolution agreement, please contact OCR staff member XXXXXXXX XXXXXXXX, who will be monitoring the District's implementation. XX XXXXXXXX can be reached by e--mail at XXXXXXXXXXXXXXX@ed.gov.

For questions about this letter, please contact me by e-mail at [Denise.C.Vaughn@ed.gov](mailto:Denise.C.Vaughn@ed.gov) or by telephone at (216) 522-7574.

Sincerely,

/s/

Denise C. Vaughn  
Supervisory Attorney/Team Leader

Enclosure