



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS
SOUTHERN DIVISION, DALLAS OFFICE

October 12, 2007

Ref: 06071046

[REDACTED]
[REDACTED]
Childress, TX [REDACTED]
[REDACTED]

The U.S. Department of Education, Office for Civil Rights (OCR), Southern Division, Dallas Office, has reached a determination regarding the above-referenced complaint, received in OCR on October 31, 2006, against the Childress Independent School District (CISD), Childress, Texas. In the complaint, you, hereinafter referred to as the complainant, alleged that the CISD discriminates against persons with disabilities in violation of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (amended 1992), and its implementing regulation at 34 C.F.R. Part 104 (2006), and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35 (2006), which prohibit discrimination based on disability.

Specifically, the complainant alleged that the CISD discriminates against persons with disabilities by failing to make its facilities accessible to or usable by persons with mobility impairments. The alleged deficiencies identified by the complainant are as follows:

- Football Stadium (accessible parking, accessible seating, accessible concessions stand)
- Baseball Field (accessible parking, accessible seating, accessible concessions stand)
- Jr. High School (accessible entrance to the Jr. High School building, accessible parking for the gymnasium, including curb ramps leading from the parking lot to the accessible entrance to the gymnasium, and an accessible entrance to the stage in the Jr. High School building)
- Elementary School (curb ramps leading from the parking lot to the accessible entrance, accessible routes of travel to the accessible entrance)
- Administration Building (accessible parking, accessible routes of travel to the entrance and an accessible entrance)
- Alternative Education Building (accessible parking)
- Special Education Building (accessible parking)

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Our mission is to ensure equal access to education and to promote educational excellence throughout the nation.

This agency is responsible for determining whether organizations that receive or benefit from Federal financial assistance, either from the U.S. Department of Education or an agency that has delegated investigative authority to the Department, are in compliance with Section 504, which states in part:

No otherwise qualified individual with a disability in the United States . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance

OCR is also responsible for enforcing Title II, which states in part:

[N]o qualified individual with a disability shall, by reason of such disability, 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 such entity.

Under Title II, OCR has jurisdiction over complaints alleging disability discrimination against public entities, such as public preschools, elementary and secondary education systems and institutions, public institutions of higher education and vocational education (other than schools of medicine, dentistry, nursing and other health-related schools), and public libraries.

OCR has determined that the CISD is a recipient of Federal financial assistance from the U.S. Department of Education. Therefore, OCR had jurisdiction to investigate this complaint under Section 504. In addition, the CISD is a public entity, and thus, OCR had jurisdiction to investigate this complaint under Title II.

OCR has determined that, based upon information provided by the CISD, the CISD Football Stadium, Baseball Field, Jr. High School, Elementary School, Administration Building, Alternative Education Building and Special Education Building were built prior to 1977. The information further establishes that the Administration Building, however, was renovated in 1986. OCR has determined that, pursuant to the Section 504 and Title II regulations, the Administration Building, based on the date of its renovations, is subject to the American National Standards Institute (ANSI) accessibility requirements. OCR has further determined that all of the other facilities qualify as "existing construction", and are subject to the "program accessibility" standard. In other words, these facilities, to be in compliance with Section 504 and Title II, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. With respect to the facilities subject to the "program accessibility" standard, the CISD is not necessarily required to make structural changes where other methods are effective in achieving compliance with Section 504 and Title II program accessibility requirements.

In response to a data request sent to the CISD on December 29, 2006, the CISD provided OCR an independent accessibility assessment completed by Harper Perkins A/A

Architects, Inc., which contains information supporting the complainant's allegations, though it does not address the alleged accessibility problems at the Baseball Field and Special Education Building. On April 10-11, 2007, OCR conducted an on-site visit at the CISD to assess all of the alleged accessibility problems identified by the complainant. During the on-site visit, OCR confirmed the existence of compliance concerns with respect to accessible parking, ramps, accessible seating, concessions stands, and thresholds and doors in the buildings listed above.

Also during the on-site visit, OCR discovered that two of the complainant's allegations: lack of accessible parking and lack of an accessible route to the accessible entrance at the CISD's Administration Building, are outside the scope of OCR's jurisdiction. OCR has been informed that both the parking area and the routes leading to the Administration Building are the exclusive property of the City of Childress, Texas. As such, the CISD has no obligation under either Section 504 or Title II to make the parking area and routes accessible. To the extent that the parking area and routes are indeed inaccessible, the U.S. Department of Justice would likely have jurisdiction under Title II to address the issues.

During a conversation with CISD staff and counsel on August 2, 2007, OCR reviewed the complainant's allegations and the information obtained by OCR that supports the validity of the allegations, and was informed by the CISD that it acknowledged the existence of the compliance concerns and wished to resolve them. In an effort to resolve the compliance concerns in question, the CISD submitted to OCR the enclosed Voluntary Resolution Agreement (Agreement), signed by the CISD Superintendent (subject to CISD Board of Trustees approval) on October 12, 2007. The Agreement provides that the CISD will take specific steps to address each of the identified compliance concerns and thereby ensure that persons with disabilities are not denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under any programs and activities held on CISD campuses. With regard to certain compliance concerns in the "existing construction" facilities, OCR was informed that the CISD has deemed it infeasible or otherwise impractical to undertake nonstructural changes to establish compliance with the "program accessibility" standard. As an alternative, the CISD has elected to modify such facilities in accordance with a "new construction" standard, and with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) (Appendix A to 28 C.F.R. Part 36) in particular. OCR has determined that modifications made using a "new construction" standard will be sufficient to satisfy the requirements of both Section 504 and Title II. OCR has also determined that the Agreement, when formally approved by the CISD Board of Trustees, and if fully performed, will resolve the allegations in this complaint. OCR will monitor implementation of the Agreement. Therefore, progress reports with supporting documentation should be submitted as indicated in the Agreement. Failure to comply with any provision of the Agreement, including the reporting requirements, could result in OCR reopening its investigation.

Effective the date of this letter, OCR is closing the complainant's allegations regarding accessible parking and accessible routes at the CISD's Administration Building, and

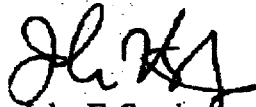
regarding the complainant's remaining allegations, OCR is closing the investigative portion of this case. This letter is not intended, nor should it be construed, to cover any issues that are not specifically discussed herein.

Under OCR procedures we are obligated to advise you that intimidation or retaliation against a complainant is prohibited by regulations enforced by this agency. Specifically, the regulations enforced by OCR, directly or by reference, state that no recipient or other person shall intimidate, threaten, coerce or discriminate against any individual for the purpose of interfering with any right or privilege secured by regulations enforced by OCR or because one has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing held in connection with a complaint.

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.

If you have questions concerning this letter, please contact me at (214) 661-9651 or Relesia Gray of my staff at (214) 661-9618.

Sincerely,



John F. Stephens
Compliance Team Leader
Office for Civil Rights
Southern Division - Dallas Office

Voluntary Agreement

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Voluntary Agreement**Childress Independent School District (CISD)****OCR Complaint #06072016**

The CISD submits to the U.S. Department of Education, Office for Civil Rights (OCR), this Voluntary Agreement (Agreement) to resolve the compliance issues in the above-referenced complaint. The CISD assures OCR that it will make its programs and activities accessible to persons with disabilities in compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794 (amended 1992), and its implementing regulation at 34 C.F.R. Part 104 (2006), and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12132, and its implementing regulation at 28 C.F.R. Part 35 (2006).

All structural changes or modifications to the facilities indicated below, whether made now or in the future, and any construction of new facilities will be in accordance with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) (Appendix A to 28 C.F.R. Part 36). New and altered facilities (or the identified new or altered part(s) of the facilities) will be readily accessible to and usable by individuals with disabilities.

Action Items

Based upon information provided by the CISD, the CISD Football Stadium, Baseball Field, Jr. High School, Elementary School, Administration Building, Alternative Education Building and Special Education Building were built prior to 1977. OCR was also informed that the Administration Building, however, was renovated in 1986. As previously explained to the CISD, pursuant to the Section 504 and Title II regulations, the Administration Building, based on the date of its renovations, is subject to the American National Standards Institute (ANSI) accessibility requirements. All of the other facilities qualify as "existing construction", and are subject to the "program accessibility" standard. In other words, these facilities, to be in compliance with Section 504 and Title II, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. OCR informed the CISD that, with respect to the facilities subject to the "program accessibility" standard, the CISD is not necessarily required to make structural changes where other methods are effective in achieving compliance with Section 504 and Title II program accessibility requirements.

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With regard to certain compliance concerns in the "existing construction" facilities, the CISD has deemed it infeasible or otherwise impractical to undertake nonstructural changes to establish compliance with the "program accessibility" standard. As an alternative, the CISD has elected to modify such facilities in accordance with a "new construction" standard. OCR has determined that modifications made using a "new construction" standard will be sufficient to satisfy the requirements of both Section 504 and Title II.

Parking

A. By November 30, 2007, the CISD will take the following actions with regard to the parking lots that service the CISD's Alternative School and Jr. High School:

1. For any lots with undefined, unpainted parking spaces, determine the total number of available parking spaces, and based on that number determine the number of accessible and van-accessible parking spaces (at least one) required by ADAAG 4.1.2(5)(a) and (b); and designate the appropriate number of accessible parking spaces.
2. Designate the required number of accessible parking spaces with appropriate access aisles and curb ramps (if needed due to change in levels), on the shortest accessible route of travel from the adjacent accessible parking to an accessible entrance of each facility, as required by ADAAG 4.6 and 4.7. A minimum of one parking space will be designated van-accessible in each lot, with an appropriate access aisle, as required by ADAAG 4.1.2(5)(b).
3. Designate the accessible and van-accessible parking spaces as reserved for the disabled by a sign showing the international symbol of accessibility, which will be of an appropriate height so as not to be obscured by a vehicle parked in the space, as required by ADAAG 4.6.4.
4. Ensure that the ground surface of all accessible parking spaces and paths of travel from the accessible parking areas to the accessible entrance of each facility, and, if applicable, to concessions and seating areas, is stable, firm, and slip-resistant in compliance with ADAAG 4.5.1.

B. By August 31, 2008, the CISD will take the following actions with regard to the parking lots that service the CISD's Baseball Field, Special Education Building, and Football Stadium:

1. For any lots with undefined, unpainted parking spaces, determine the total number of available parking spaces, and based on that number determine the number of accessible and van-

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accessible parking spaces (at least one) required by ADAAG 4.1.2(5)(a) and (b); and designate the appropriate number of accessible parking spaces.

2. Designate the required number of accessible parking spaces with appropriate access aisles and curb ramps (if needed due to change in levels), on the shortest accessible route of travel from the adjacent accessible parking to an accessible entrance of each facility, as required by ADAAG 4.6 and 4.7. A minimum of one parking space will be designated van-accessible in each lot, with an appropriate access aisle, as required by ADAAG 4.1.2(5)(b).
3. Designate the accessible and van-accessible parking spaces as reserved for the disabled by a sign showing the international symbol of accessibility, which will be of an appropriate height so as not to be obscured by a vehicle parked in the space, as required by ADAAG 4.6.4.
4. Ensure that the ground surface of all accessible parking spaces and paths of travel from the accessible parking areas to the accessible entrance of each facility, and, if applicable, to concessions and seating areas, is stable, firm, and slip-resistant in compliance with ADAAG 4.5.1.

C. By November 30, 2007, the CISD will take the following actions with regard to the parking lots that service the CISD's Elementary School:

1. Remove the designated accessible parking spaces located on the east side of the Elementary School building.
2. Resurface the accessible parking spaces located on the south side of the Elementary School building to ensure that the ground surface and all paths of travel from the parking area to the facility's accessible entrance is stable, firm, and slip-resistant in compliance with ADAAG 4.5.1.
3. Designate the accessible and van-accessible parking spaces located on the south side of the Elementary School as reserved for the disabled by a sign showing the international symbol of accessibility, which will be of an appropriate height so as not to be obscured by a vehicle parked in the space, as required by ADAAG 4.6.4.

Parking Reporting

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1. By December 14, 2007, the CISD will submit a report to OCR documenting the completion of action items A1-A4 and C1-C3, as they pertain to the Alternative School, Jr. High School and Elementary School. This report will include assessments of the undefined parking lots servicing the Alternative School, Jr. High School and Elementary School buildings and shall also include, as applicable, but without limitation, measurements, photographs, technical drawings, work orders, invoices, reports, and such other documentation as may be necessary to demonstrate compliance with Section 504 and Title II regarding the above-referenced provisions of the Agreement.
2. By September 15, 2008, the CISD will submit a report to OCR documenting the completion of action items B1-B4 with respect to the Baseball Field, Special Education Building, and Football Stadium. This report will include assessments of the undefined parking lots servicing each facility and shall also include, as applicable, but without limitation, measurements, photographs, technical drawings, work orders, invoices, reports, and such other documentation as may be necessary to demonstrate compliance with Section 504 and Title II regarding the above-referenced provisions of the Agreement.

Accessible Seating

D. By August 31, 2008, the CISD will make the following modifications with regard to accessible seating located within its Baseball Field and Football Stadium:

1. Construct an accessible seating area for mobility-impaired persons on the visitor's side of the Football Stadium. The designated seating will be constructed and situated in such manner as to be in compliance with the requirements of ADAAG 4.33.

In the interim, the CISD will continue to provide seating for mobility-impaired persons at the designated space located on the home side of the Football Stadium.

2. Decrease the slope of the ramp attached to the accessible seating area on the home side of the Football Stadium to comply with ADAAG 4.8.
3. Construct an accessible seating area for mobility-impaired persons on both the home and visitor's side of the Baseball Field. The designated seating will be constructed and situated in such manner as to be in compliance with the requirements of ADAAG 4.33.

Accessible Seating Reporting

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its Administration Building:

1. Conspicuously place a notice on the CISD website informing persons with disabilities, and mobility-impaired persons in particular, that they may contact the district if they require assistance in obtaining access to the Administration Building. Such notice shall include, at a minimum, the telephone number(s) of the person(s) designated to provide the assistance.
2. Strategically publish notices in all CISD student handbooks informing persons with disabilities, and mobility-impaired persons in particular, that they may contact the district if they require assistance in obtaining access to the Administration Building. Such notice shall include, at a minimum, the telephone number(s) of the person(s) designated to provide the assistance.
3. Install signage at the front entrance of the Administration Building directing persons to the accessible entrance at the rear of the Building.
4. Install a doorbell at the accessible rear entrance of the Administration Building that will alert CISD staff to the presence of persons needing access to the Building. In addition, install a sign in close proximity to the doorbell directing persons to ring the doorbell for assistance in obtaining access to the Building.
5. Clear a path leading from the accessible rear entrance of the Administration Building to the other interior areas of the Building. The path shall be consistent with the requirements of ADAAG 4.2, 4.3, 4.4, and 4.5.

Accessibility of Administration Building Reporting

1. By January 15, 2007, the CISD will submit a report to OCR documenting the completion of action items H1-H5. The report shall include, as applicable, but without limitation, print-outs of specific pages from the CISD website, copies of CISD student handbooks, photographs, technical drawings, work orders, invoices, reports, and such other documentation as may be necessary to demonstrate compliance with Section 504 and Title II regarding the above-referenced provision of the Agreement.

In addition to completing the steps listed above to achieve program accessibility, the CISD shall, on a continuing basis, identify any barriers that limit accessibility to persons with disabilities or that do not

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comply with Federal accessibility standards, and take corrective action, as necessary, to ensure accessibility.

John C. Wilson 10-12-07

Mr. John Wilson Date

Superintendent

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