

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921



August 10, 2016

Nancy Wood
Library Director
Richmond Memorial Library
15 School Drive
Marlborough, CT 06447

Re: Case No. 01-16-4010
Richmond Memorial Library

Dear Ms. Wood:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR) regarding the above-referenced complaint filed against the Richmond Memorial Library (Library) alleging that its second floor meeting room, where the Library regularly holds events, is not accessible to individuals with mobility impairments. As explained below, the Library agreed to resolve the allegation pursuant to the enclosed resolution agreement during the course of the investigation. Accordingly, OCR is closing this complaint as of the date of this letter.

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 at 28 C.F.R. Part 35. Under Title II, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities. Therefore, OCR had jurisdictional authority to investigate this complaint under Title II.

OCR investigated whether the Library provides persons with disabilities sufficient access to its programs, activities, and services, in accordance with 28 C.F.R. Sections 35.149 and 35.150. Specifically, the complainant, an individual who uses a wheelchair, filed this complaint after being denied access to an event held in the Library's second floor meeting room on November 13, 2015, a space accessible only by stairs.

During its investigation, OCR reviewed documentation submitted by the Library and spoke to you and the complainant. OCR learned that the Library's website advertisement for the event did not include notice to the public describing the limited accessibility of the meeting room or provide a procedure to request accommodations. The complainant told OCR that the date of the event was his first time at the Library, and he did not request accommodations in advance. You explained to OCR that since receiving this complaint, the Library has been diligent about ensuring all flyers for

meeting room events include notice for requesting accommodations. OCR also saw that the Library's event registration page includes a statement about requesting accommodations for meeting room events. You also told OCR that the Library recently moved an event to the senior center to accommodate an individual with a disability, and that this was the first time in your twenty-three years of employment at the Library that the Library had received a request to relocate an event.

Under the Title II regulation at 28 C.F.R. Section 35.149, a public entity may not, because of inaccessible or unusable facilities, exclude individuals with disabilities from participation in or deny them the benefits of its services, programs, or activities or subject them to discrimination. The applicable accessibility standards for determining whether a facility is accessible are based on the facility's construction date. The regulation at 28 C.F.R. Section 35.104 defines an existing facility as one in existence on any given date, without regard to whether the facility may also be considered newly constructed or altered under this part. Read in conjunction with 28 C.F.R. Section 35.151 governing new construction and alterations, an existing facility is one for which no additions or renovations have been made since January 26, 1992. For such a facility, the services, programs, and activities, when viewed in their entirety, must be readily accessible to and usable by individuals with disabilities. Accessibility can be achieved through non-structural means, such as the relocation of programs to accessible locations. Structural changes are only required of existing facilities if there is no other feasible way to make a program accessible and usable. The Library is an existing facility because there have been no additions or renovations to the Library since January 26, 1992.

Prior to concluding the investigation, the Library requested to resolve this complaint and entered in a voluntary resolution agreement. Accordingly, OCR is closing the investigation of this complaint, effective the date of this letter. As detailed in the agreement, the Library will adopt and implement a policy to provide a procedure by which individuals may request the relocation of programs held in the meeting room. The policy will also require all event flyers and advertisements for meeting room events to include notice of how to request accommodations. OCR will monitor the Library's implementation of the agreement.

This letter should not be interpreted to address the Library's compliance with any other regulatory provision or to address any issue other than the issue 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. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please also 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, an 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. If OCR receives such a request, OCR will seek to protect all personal information, to the extent provided by law, that, if released, could constitute an unwarranted invasion of privacy.

If you have any questions, please contact attorney Sandy Lin at (617) 289-0095 or sandy.lin@ed.gov.

Sincerely,

/s/
Diane M. Henson
Regional Director

Enclosure

cc: Amy Traversa, First Selectman