



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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May 11, 2016

Mr. David Lykins, Superintendent  
Sedona-Oak Creek Unified School District  
221 Brewer Rd.  
Sedona, AZ 86336

Re: Sedona-Oak Creek Unified School District #9  
Case Number: 08-16-1061

Dear Superintendent Lykins:

We are notifying you of our decision in this case. The Complainant alleged that the Sedona-Oak Creek School District (District) discriminates against students on the basis of disability. Specifically, the complaint alleged that the District at West Sedona Elementary School (School) denies students with disabilities access to School programs and activities by (1) failing to provide accessible routes between buildings 300 and 400; (2) failing to provide an accessible ramp joining the elementary section of the campus to the junior high section; (3) failing to provide classroom doors that are within allowable opening force requirements; and (4) failing to maintain an accessible feature (automated door opener at the main accessible entrance).

We conducted our investigation under the authority of Section 504 and its implementing regulation, at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs or activities that receive Federal financial assistance from the Department, and Title II and its implementing regulation, at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability in programs or activities of a public entity. As a public entity that receives Federal financial assistance, the District is subject to these legal requirements.

We investigated whether the District discriminates against individuals with disabilities by not providing program access to existing elements and not ensuring a barrier-free environment in newly constructed or altered elements in violation of Section 504 and Title II.

#### Facts

The West Sedona Elementary School serves students from grades Kindergarten through 8<sup>th</sup> grade. The District reported that the portion of campus which includes grades that are typically at the junior high level (6<sup>th</sup> – 8<sup>th</sup> grades) was originally constructed in 1987. In 2008 the District constructed additional buildings along the periphery of the original campus, including building 100 (the main administration building housing the nurse's office and which acts as the main entrance); and buildings 300 and 400. In addition to adding buildings in 2008, the District added new portions of routes (sidewalks) in the newly constructed section to routes in the existing section.

During an OCR site visit conducted on March 10, 2016, OCR assessed the route the District identified as the accessible route that joins all components and facilities of the campus, including ramps along the designated route. Additionally, OCR checked the opening force of interior doors located in buildings 300 and 400 and the automatic door opener located at the accessible entrance to building 100.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Regarding the designated accessible route, OCR found that for the portion of the route located behind building 600, that was constructed in 2008 and which connects building 300 to 400; the section has a cross slope greater than 2% and a running slope at points greater than 5%. In addition to this section of the route, there are two ramps located on the route, that were constructed in 1987, that connect the junior high section to the rest of the campus (Ramp #1) and the junior high section to the special education bus loading/unloading area (Ramp #2). For Ramp #1, OCR found that the ramp (1) does not include handrails; (2) has a slope greater than 8.33% near the top section of ramp extending approximately 5 feet; and (3) at the lower landing contains a change in level greater than ½". Ramp #2 does not include handrails.

Regarding the opening force of interior doors in buildings 300 and 400, which were constructed in 2008; OCR found that each classroom door exceeded the maximum amount of force of 5 pounds, averaging between 6 and 9 pounds for each.

Last, as it relates to the automatic door opener that the Complainant asserted was not operational; the door opener was fully functional on the day of OCR's site visit. Therefore, there is no concern regarding the automatic door opener at the main entrance to the campus (located at building 100).

### Analysis and Conclusion

The program accessibility and architectural accessibility requirements of the Section 504 implementing regulation are found at 34 C.F.R. §§ 104.21 – 104.23. Comparable sections of the Title II implementing regulation are found at 28 C.F.R. §§ 35.149 – 35.151. Both 34 C.F.R. § 104.21 and 28 C.F.R. § 35.149 provide generally that no qualified individual with a disability shall, because a District's facilities are inaccessible to or unusable by disabled individuals, be 1) excluded from participation in, or denied the benefits of services, programs or activities, or 2) otherwise be subjected to discrimination by the District.

The regulations implementing Section 504 and Title II contain two standards for determining whether a District's programs, activities, and services are accessible to individuals with disabilities. One standard applies to existing facilities, the other covers new construction and alterations. Which standard applies depends upon the date of construction or alteration of the facility.

For those District facilities constructed or altered after the effective date of Section 504 and Title II, the District will ensure that its facilities are readily accessible to and usable by persons with disabilities. C.F.R. § 104.23; 28 C.F.R. § 35.151. Depending on the date of construction, we evaluated whether the District's facilities complied with the applicable new construction/alteration standard:

- American National Standards Institute (ANSI) Standards A117.1-1961 (re-issued 1971);
- Uniform Federal Accessibility Standards (UFAS);
- 1991 ADA Standards for Accessible Design (1991 ADA Standards); or
- 2010 ADA Standards for Accessible Design (2010 ADA Standards).

We found areas added or altered during construction in 2008 (routes and door opening force) do not meet the applicable accessibility standard and thus are not accessible to or usable by persons with disabilities, under Section 504 and Title II. We also found that - with respect to facilities and elements constructed in 1987 (ramps) – do not meet the applicable accessibility standard and thus are not accessible to or usable by persons with disabilities under Section 504 and Title II.

In summary, we find that the District did not comply with Section 504, Title II, and their implementing regulations because routes and interior doors were inaccessible to individuals with disabilities.

We thank the District for voluntarily entering into an Agreement to resolve the accessibility issues. OCR is closing the investigative phase of this case effective the date of this letter. The case is now in the monitoring phase. The monitoring phase of this case will be completed when OCR determines that the District has fulfilled all of the terms of the Agreement. When the monitoring phase of this case is complete, OCR will close Case Number 08-16-1061 and will send a letter to the District, copied to the Complainant, stating that this case is closed.

This letter sets forth OCR's determination in an individual OCR cases. 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.

OCR routinely advises recipients of Federal funds that Federal regulations prohibit intimidation, harassment, or retaliation against those filing complaints with OCR and those participating in a complaint investigation. Complainants and participants who feel that such actions have occurred may file a separate complaint with OCR.

Please also note the Complainant may have the right to file a private suit in Federal court whether or not OCR finds a violation.

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.

Thank you for the courtesy and cooperation you and your staff extended to us during the investigation of this case. If you have any questions or concerns, please feel free to contact XXXX, Equal Opportunity Specialist and primary contact for this case, at XXXX or by email at XXXX, or me at XXXX.

Sincerely,

Thomas M. Rock  
Supervising General Attorney

Enclosure – Resolution Agreement

cc: Honorable Diane Douglas  
Superintendent of Public Instruction