

ADA Issue and Proposed Complinnace

The current library has numerous issues related to accessibility as described in the following documents. The main entrance of the building is accessed via a set of steps to a walkway that then takes you to another set of steps to the entry porch. It is then necessary to manipulate a large heavy door and navigate an eight inch step to enter the main vestibule. The current accessible entrance is in the back of the building and requires navigating a sloping parking area and entering via the employee entrance. The only available accessible parking cannot meet the cross slope requirements due to the existing grade of the parking area.

Once in the building, the limited size and level changes makes navigation around the spaces difficult and, in the case of the Children's Room on the second floor, impossible, as there is no elevator. There are no fully accessible restroom facilities available in the building.

The new design relocates the main entry to the side street. The entry and its approach will be at grade and will be fully accessible. The current main entrance will be abandoned. Once in the building, all levels will be accessible via an elevator. Counters, desks, racks, computers and stacks will meet all the current accessibility requirements.

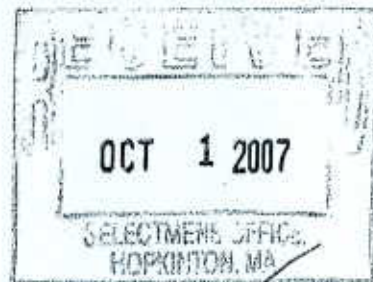
Accessible restroom facilities will be provided for both employees and the public. As part of the design and construction, a new parking area will be provided. In the new parking area a number of accessible parking spaces will be provided with direct access to an accessible route to the main entry.



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

33 ARCH STREET, SUITE 900
BOSTON, MASSACHUSETTS 02110-1491

SEP 28 2007



*cc: RPS
Library Trustees
ADN Committee*

Muriel E. Kramer, Chair
Hopkinton Board of Selectmen
Hopkinton Town Hall
18 Main Street
Hopkinton, Massachusetts 01748-3209

Re: Complaint No. 01-06-4024

Dear Chairperson Kramer:

The Office for Civil Rights (OCR) of the U.S. Department of Education has concluded its investigation in the above-referenced complaint against the Hopkinton Public Library (Library). The Complainant alleged that the Children's Room of the Library is not accessible to persons with mobility impairments. Based on interviews with the Complainant, Town of Hopkinton (Town) and Library staff, and an on-site visit to the Library, OCR identified a number of compliance concerns that the Town and the Library Trustees agreed to address in the enclosed voluntary Resolution Agreement (Agreement). The bases for our findings are set forth in detail below.

Jurisdiction

This investigation was conducted pursuant to Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35 (Title II), which prohibits discrimination on the basis of disability by a public entity. To determine whether the Library is a public entity for purposes of Title II, OCR considered four factors: a) whether it is operated with public funds; b) whether its employees are considered government employees; c) whether it receives significant assistance from the Town by provision of property or equipment; and d) whether it is governed by an independent board selected by the members of a private organization or governed by elected or appointed officials.

The Library was established as a private non-profit corporation under the direction of a seven member self-perpetuating Board of Trustees. The Town funds all or a substantial portion of operating costs related to salaries, books and other reading materials, supplies and various other operating expenses. In this case, therefore, OCR found that three of the four factors support that the Library is a public entity, and only the last factor, whether the Library is operated by a private organization, suggests that it is a private entity. Accordingly, OCR determined that the Library is a public entity and thus is subject to Title II.

Issue

Based on the Complainant's allegation, OCR investigated the following legal issue:

Whether the Library is discriminating against persons with mobility impairments, on the basis of disability, by failing to provide access to its programs, services and activities, in violation of 28 C.F.R. Sections 35.149, 35.150 or 35.151.

Legal Standards

Accessibility requirements for state and local government public entities are addressed by the Title II implementing regulation at 28 C.F.R. Sections 35.149 through 151.

The regulation implementing Title II at 28 C.F.R. Section 35.149 requires that no person with a disability shall, because a local government 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 service, program, or activity to which Title II applies.

Title II applies a dual legal standard to determine accessibility, differentiating between "existing facilities" and "new construction." Under Title II, facilities constructed prior to January 26, 1992, the effective date of its implementing regulation, are considered "existing facilities" and must meet a program access standard. Facilities that are constructed, or parts of facilities that are altered, on or after the regulation's effective date, are considered "new construction" and must meet a facility access standard.

When we look at the accessibility of a program in an existing facility, we look at general accessibility features, such as entrances, parking and bathrooms, as well as the specific locations where the program is held. To determine the accessibility of the programs, we use the Americans with Disabilities Act Accessibility Guidelines (ADAAG) as a guide. We do not require strict adherence to these standards as long as any deviation does not render the programs, activities or services inaccessible to or unusable by persons with disabilities. Under the program access standard, an entity is not required to make every part of an existing facility accessible to persons with disabilities; however, the program as a whole must be accessible. In addition, an entity is not required to make structural changes in existing facilities where other methods are effective in achieving compliance. The entity may comply with the program accessibility standard through the alteration of the existing facility in compliance with the requirements of 28 C.F.R. Section 35.151, the redesign or relocation of equipment, the reassignment of programs and services, the provision or assignment of aids, changes in policies and procedures, or other methods that

result in making each of its services, programs, and activities accessible to persons with disabilities. In choosing among available methods, an entity is required to give priority to those methods that offer services, programs, and activities to persons with disabilities in the most integrated setting appropriate to the needs of persons with disabilities. An entity should not implement a method that would result in segregating persons with disabilities in a single setting.

Factual Findings and Analysis

OCR found that the Library building was built in 1895, and that a similarly antiquated church building was annexed to the Library in 1967, effectively doubling the library space. Accurate information concerning the date of construction of the ramp to the back entrance of the annex was not readily available. Based on the date of construction of the Library, OCR determined the Library to be an "existing facility" under Title II, and applied a program access standard to determine compliance with Title II.

OCR considered whether when viewed in their entirety, the programs, activities and services in the Library are accessible to and usable by persons with disabilities as required by 28 C.F.R. Section 35.150. We found that the following programs and activities are provided by the Library:

First floor:

- (1) access to and use of the collection of books, CDs, audio tapes, DVDs, videotapes and periodicals
- (2) museum passes for loan
- (3) access to and use of personal computers
- (4) space used for community events

Second floor:

- (1) access to and use of the collection of books, audio books on cassette and compact disc, magazines, as well as a puzzle table, a puppet theater with several puppets, a toy box, a cassette player for listening to audio books, a computer with educational software games;
- (2) disbursement of personal library cards (accompanied by book-bags and bookmarks) to children who are at least five years old;
- (3) regular and special events, including toddler story time (twice weekly), preschool story time (twice weekly), holiday and school vacation craft activities, and a summer performance in July (music, storytelling, magic, or puppets, with audience participation); and
- (4) State-sponsored summer reading program.

OCR looked at general accessibility features at the Library in order to determine whether accessibility problems or deviations from ADAAG were significant

enough to affect access to the Library's programs, activities and services. OCR identified the following accessibility concerns:

Parking

The accessible parking space lacks an access aisle that is demarcated, and the space has an excessive slope that makes it too steep.

Accessible Entrance

The exterior door has a doorknob that requires a grabbing and twisting motion, and is therefore not useable by some persons with disabilities. The entryway alcove is too small for persons in wheelchairs to maneuver, especially because the inside door opens into the alcove between the interior and exterior door, which makes the space between the doors unusable for some persons with mobility impairments. This inside door also has a doorknob. The narrow size of the alcove, the swing of the inner door, and the lack of single effort hardware on the doors, all restrict access to programs and activities and services at the Library for customers who have mobility impairments, especially those using wheelchairs.

Bathroom

There are two bathrooms in the Library, neither of which is readily accessible to and usable by persons with disabilities. The doorway to the public bathroom is too narrow to allow most wheelchairs to pass through and has a five inch step down from the entrance to the floor. Additionally, the size of the bathroom is too small to allow adequate maneuverability by a person using a wheelchair. As a result, the public bathroom cannot be entered, used or exited independently by a person using a wheelchair. The staff bathroom could not be designated for use by individuals who use wheelchairs because the doorway is too narrow for most wheelchairs and the floor dimensions are too small to allow adequate maneuverability. The lack of accessible toilet facilities, which are an essential accessibility feature of the Library, restrict the access of persons with mobility impairments, especially those using wheelchairs, and effectively denies access of persons with mobility impairments to all of the programs, activities and services of the Library.

Children's Room

At the start of the investigation, all programs for children in the Children's Room were located on the second floor. There are 17 steps with two interim landings between the first and second floors. The steps make physical access to the Children's Room and all programs, activities and services located there impossible.

The Library staff stated that all of the programs, activities and services on the second floor in the Children's Room could be relocated to the main floor, upon request. Additionally, during OCR's December 15, 2006 onsite visit to the Library, we observed notices on several library doors informing library customers that they may request relocation of children's programming. OCR also found that the notice was posted on the Library's website. Specifically, the notice stated, "Please let us know if you need help accessing the Children's Room for story hours or events." Currently the statement on the website reads: "Please let us know if you need any help accessing the Children's Room!" [emphasis original] which is more comprehensive, covering the primary service or program of the Children's Room: access to books.

During the course of the investigation, the Library revised its relocation notice from one that included only relocation of the Children's Room story hour events to include all of its programs, activities and services. On August 28, 2007, the Town informed OCR that Children's Room events, such as story hour, routinely now are held on the first floor, eliminating the need for relocation of these activities.

Title II requires that all programs, activities, and services, when viewed in their entirety, be readily accessible to persons with disabilities. Relocation to an accessible location is one potential acceptable method to achieve program access. However, the relocation site must be accessible. Based on the compliance concerns regarding the first floor of the Library, OCR found that the Library Children's Room programs, activities and services are currently not readily accessible to persons with mobility impairments. Once the accessibility problems are corrected, as outlined in the Agreement, the Library's relocation notice will be adequate.

Conclusion

OCR found that when viewed in their entirety, the Library's programs, activities and services are not readily accessible to persons who have mobility impairments, as required by Title II at 28 C.F.R. Section 35.150. The lack of accessible parking, an accessible entrance and an accessible restroom render all of the programs, activities and services, including those of the Children's Room, inaccessible to or unusable by some persons with mobility impairments. Based on all of the above findings, OCR concluded that there are compliance concerns under Title II requiring remedial action.

During our discussions with the Town and Library, OCR shared its list of accessibility concerns. On August 28, 2007, the Town and Library Trustees submitted a signed Agreement that addresses the compliance concerns identified by OCR during this complaint investigation. Additionally, on September 27, 2007, the Town committed to completing the proposed actions by September

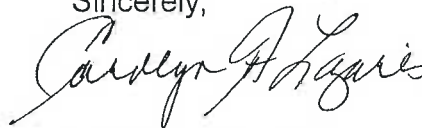
30, 2009. As a result of the steps identified in the Town's Agreement, OCR is closing the investigative phase of this case effective the date of this letter.

As is our standard practice, we will monitor the Town's implementation of the enclosed agreement. The Town shall submit to OCR a Monitoring Report by January 31, 2008, which details (1) progress made on the commitments in the Agreement and (2) a schedule of completion dates for any outstanding modifications. Upon OCR's approval of this first Monitoring Report, OCR and the Town will establish a schedule for remaining progress reports. By fulfilling the terms of the Agreement, OCR will consider the Town and Library to be in compliance with Title II with respect to the issues raised in this investigation.

The determinations contained in this letter are not intended and should not be construed to cover any other issues regarding compliance with the regulation implementing Title II that may exist but are not discussed herein. Please note that a Complainant may file a private suit in court pursuant to Section 203 of the Americans with Disabilities Act.

We would like to thank Town and Library Trustees and staff for the assistance and cooperation extended to us during this complaint investigation. We especially appreciate the helpfulness of Geri Holland, Executive Assistant. If you have any questions regarding this letter, you may contact Ruth Ricker, Equal Opportunity Specialist, by telephone at (617) 289-0049, or by electronic mail at Ruth.Ricker@ed.gov, or Ralph B. D'Amico, Jr., Compliance Team Leader, by telephone at (617) 289-0044, or by electronic mail at Ralph.Damico@ed.gov, or me at (617) 289-0111.

Sincerely,



Carolyn F. Lazaris
Program/Administrative Manager



TOWN OF HOPKINTON

OFFICE OF THE SELECTMEN

18 Main Street, Hopkinton, Massachusetts 01748-1260
(508) 497-9700 • Fax (508) 497-9702

U.S. DEPT. OF EDUCATION
REGION I
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2007 SEP -6 P 5:25

Ruth E. Ricker
Equal Opportunity Specialist
US Department of Education
Office for Civil Rights
33 Arch Street, Suite 900
Boston, MA 02110

Dear Ms. Ricker,

August 28, 2007

The Hopkinton Board of Selectmen and the Hopkinton Library Board of Trustees are working together to address the ADA accessibility issues identified with the Hopkinton Public Library. As you know the building itself is privately owned, but the library services, salaries, etc are publicly funded. This situation sets up some challenges to address and pay for the necessary work; nonetheless, both Boards are committed to working together to address the accessibility concerns satisfactorily.

At this time, the Trustees are waiting for quotes from a carpenter to have both front and rear doors retrofitted with single-effort hardware as well as reversing the direction of the interior door swing. The Trustees have also hired a local contractor to survey the parking area and provide a topographical plan to address the parking area concerns.

The Library Staff holds all the Children's Programming on the first floor consistent with other programming, so there is access for all interested participants. Information on policies and accessibility assistance is provided before the programs are held to ensure the public understands the accommodations that can be made to insure accessibility.

The bathroom presents the greatest difficulty to address and solutions are being investigated. The Boards are working to explore possible solutions and funding mechanisms; however, we do not at this time have a definitive plan.

The Library Director has also established and posted policy and procedure guidelines, so that anyone in the public that needs help accessing the Library or services can get the assistance they need. Those procedures are attached.

We are jointly committed to addressing accessibility issues at the Library and ensuring that the public can access the services provided by the Library and Staff. Please feel free to contact us at any time if you have additional questions.

Sincerely,


Muriel E. Kramer
Chairman, Hopkinton Board of Selectmen


Linda Kimball
Chairman, Hopkinton Library Board of Trustees

1 Attachment
Library Disability Access Policy Guidelines

Ricker, Ruth

From: Muriel Kramer [muriel.kramer@comcast.net]
Sent: Thursday, September 27, 2007 4:31 PM
To: Ricker, Ruth
Cc: 'Geri Holland'; anthony.troiano@hopkinton.org
Subject: response as requested_Hopkinton, Ma, Public Library

Ms. Ricker,

The BOS and the Trustees have both met and voted; there are no problems with us committing to the date as detailed in the attached letter with the proviso that successful Town Meeting votes are a necessary first step.

Sincerely,

Muriel Kramer
Chairwoman, Hopkinton Board of Selectmen

September 27, 2007

Ms. Ruth E. Ricker
Equal Opportunity Specialist
US Department of Education
Office for Civil Rights
33 Arch Street
Suite 900
Boston, MA 02110

Dear Ms. Ricker:

The Hopkinton Board of Selectmen and the Hopkinton Library Trustees agree to complete the necessary modifications by September 30, 2009; those modifications are detailed in our letter dated August 28, 2007. Please note that this commitment must be in accordance with Town Meeting vote.

Also, in the event that unforeseen circumstances render it impracticable to complete the modifications before September 30, 2009; and if unforeseen circumstances make the proposed action technically infeasible, the Town reserves the right to request that the Office of Civil Rights and the Town re-negotiate the timeframe or the proposed actions, as applicable.

Sincerely,

Muriel Kramer
Chairwoman, Hopkinton Board
of Selectmen

Linda Kimball
Chairwoman, Hopkinton Board of
Library Trustees