



U.S. Department of Justice

Office of Justice Programs

Office for Civil Rights

Washington, D.C. 20531

January 24, 2023

Annette Chambers-Smith
Director
Ohio Department of Rehabilitation and Correction
4545 Fisher Rd. Ste. D
Columbus, OH 43228

Re: Notice of Investigatory Findings and Closure
[REDACTED] v. Ohio Dep't of Rehab. and Corr. (OCR # 21-OCR-1321)

Dear Director Chambers-Smith:

On August 18, 2022, the Office for Civil Rights (OCR), Office of Justice Programs, U.S. Department of Justice (DOJ) notified you of the above referenced administrative complaint (Complaint) filed against the Ohio Department of Rehabilitation and Correction (Respondent). [REDACTED] (Complainant), an incarcerated person at the [REDACTED], alleged that the Respondent discriminated against him on the basis of disability. Specifically, the Complainant alleged that the paths of travel between his housing unit and buildings containing common areas were in a state of disrepair so as to be considered inaccessible paths of travel.

After careful review of the information obtained during this investigation, the OCR has determined that the Respondent has taken action sufficient to remedy any compliance concerns raised in this Complaint. The relevant facts gathered, and analysis, are set forth below.

The Respondent receives DOJ funding through the Office of Justice Programs. Specifically, the OCR has identified the Respondent as a current recipient of the following DOJ awards:

1. 15PBJA-21-GG-04014-PFSH (Second Chance Act Pay for Success Initiative);
2. 15PBJA-21-GG-04470-BWCX (Body Worn Camera Policy and Implementation);
3. 15PBJA-21-GG-04274-JRIX (Justice Reinvestment Initiative);
4. 15PBJA-21-GG-02787-PREA (PREA Program Strategic Support for PREA Implementation);
5. 2018-SM-BX-0005 (Innovations in Supervision Initiative);
6. 2018-AR-BX-K003 (Comprehensive Opioid Abuse Site-based Program);
7. 2020-ULWX-0005 (Public Safety Partnership and Community Policing Grants).

As a state entity and recipient of federal financial assistance, the Respondent is subject to the requirements of Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, and their implementing regulations. Specifically, Section 504 provides that, "no otherwise qualified individual with a disability . . . 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.” 29 U.S.C. § 794(a). Similarly, under the ADA, “no 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.” 42 U.S.C. § 12132. A qualified individual with a disability is, “an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.” 42 U.S.C. § 12131(2); *see also* 28 C.F.R 42.540 (l). In *Penn. Dep’t of Corr. v. Yeskey*, 524 U.S. 206 (1998), the U.S. Supreme Court explicitly held that Title II applies to incarcerated individuals in state correctional facilities.

The Complainant, during the relevant period of review, was incarcerated at the [REDACTED], a prison facility that is part of the Respondent’s operations. In his Complaint to the OCR, he alleges that the path of travel between his housing unit [REDACTED] and common areas, such as the commissary, “chow hall”, inmate health services, and library, are not accessible for persons with mobility impairments. As described in the complaint, the concrete pathway allegedly contains significant damage, creating trip or slip and fall hazards for those with vision impairments. The Complainant’s original complaint does not assert that he injured himself or was unable to use the path identified. The Respondent submitted information to the OCR affirming that “no visually impaired incarcerated adults reported injuries concerning mobility issues of facility conditions” between 2021 and 2022.

The OCR also reviewed documents, including photographs and maps, that show the common open-air area located between the facility that includes housing unit [REDACTED] and the common areas, known as “[REDACTED]”. At the time the Respondent submitted documents to the OCR, photographs showed visible cracks in the concrete walkway near the entrance and exit from the facility that contains housing unit [REDACTED] to the rest of “[REDACTED]” and the common areas.

During the course of investigation, the Respondent subsequently provided the OCR with evidence that it took steps to re-pave the path at issue. The OCR reviewed the information provided and has concluded that, regardless of whether the previous state of the paths constituted non-compliance, the actions taken are sufficient to resolve the issue, as alleged, and there is no indication of any ongoing compliance concern requiring continued investigation or remedial action.

The OCR is administratively closing this Complaint at this time. Please be advised that the closure of this Complaint is limited to the specific facts of the matter and does not preclude the DOJ from taking additional appropriate action to evaluate a recipient’s compliance with any of the laws enforced by the DOJ. Additionally, closing this Complaint does not affect the Respondent’s requirement to comply with all applicable federal laws and regulations, provided that the Respondent remains subject to such laws and regulations.

Federal law also protects persons who participated in the OCR’s investigation from retaliation for having provided information not the OCR. The OCR will notify the Complainant about the

prohibition against retaliation and the result of this investigation. The OCR will initiate an investigation if it should receive credible evidence of reprisal. The OCR will also share this letter with the Complainant and notify him of his right to file future complaints with the OCR if he experiences retaliation or other discrimination in the future.

Based on the foregoing, the OCR is administrative resolving this Complaint. Thank you for your cooperation; specifically to Lindsay Sestile and her staff for their cooperation and prompt attention to this matter.

Sincerely,

X 

Michael L. Alston
Director
Signed by: MICHAEL ALSTON

cc: Lindsay Sestile, Legal Counsel
Ohio Department of Rehabilitation and Correction