



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

915 2ND AVE., SUITE 3310
SEATTLE, WA 98174-1099

June 2, 2016

REGION X
ALASKA
AMERICAN SAMOA
GUAM
HAWAII
IDAHO
MONTANA
NEVADA
NORTHERN MARIANA
ISLANDS
OREGON
WASHINGTON

Ms. Sherri Ybarra
Superintendent of Public Instruction
Idaho Department of Education
P.O. Box 83720
Boise, Idaho 83720-0027

Re: Idaho Department of Education
OCR Reference No. 10161094

Dear Superintendent Ybarra:

The Office for Civil Rights (OCR) of the U.S. Department of Education (Department) is discontinuing its investigation of the above-referenced complaint filed against the Idaho Department of Education (Idaho DOE) on February 8, 2016. The complaint alleges that Idaho DOE is discriminating, on the basis of disability, because certain pages on its web site are not accessible to persons with disabilities. These web pages include the:

- Home page at <http://www.sde.idaho.gov>;
- About web page at <http://www.sde.idaho.gov/about.html>;
- Special Education Dispute Resolution web page at <http://www.sde.idaho.gov/sped/dispute>; and
- Anti-Discrimination (Section 504) web page at <http://sde.idaho.gov/topics/504/index.html>.

OCR accepted the complaint for resolution under the authority of section 504 of the Rehabilitation Act of 1973 (Section 504), and title II of the Americans with Disabilities Act of 1990 (Title II). Section 504 and that statute's implementing regulations at 34 CFR Part 104 prohibit discrimination on the basis of disability in programs and activities of recipients of federal financial assistance. Title II and that statute's implementing regulations at 28 CFR Part 35 prohibit discrimination on the basis of disability in programs, services, and activities of public entities. As a recipient of federal financial assistance from this Department and as a public entity, Idaho DOE is required to comply with these federal civil rights laws.

Access to Idaho DOE web sites is covered by Section 504 and Title II. The requirement for Idaho DOE to provide equal opportunities and equal treatment, and the obligations for Idaho

DOE to engage in effective communications and make modifications to avoid disability-based discrimination, are part of the general non-discrimination requirements of Section 504 and Title II. See 34 CFR 104.4 and 28 CFR 35.130 (prohibiting recipients of federal financial assistance and public entities from excluding qualified persons with disabilities from programs, services, and activities); see also 28 CFR 35.160(a) (requiring public entities to ensure communications with applicants, participants, companions, and other members of the public with disabilities are as effective as communications with others). In particular, Idaho DOE is required to provide reasonable accommodations or modifications so that persons with disabilities can acquire the same information, engage in the same interactions, and enjoy the same programs, services, and activities as non-disabled persons with substantially equivalent ease of use. Stated differently, all Idaho DOE programs, services, and activities—whether in a “brick and mortar,” on-line, or other “virtual” context—must be operated in a manner that complies with Section 504 and Title II.

OCR’s evaluation of the allegation to date indicates that there may be barriers on Idaho DOE’s web site that deny persons with disabilities access to programs, services, and activities offered on its web site and may impede Idaho DOE’s communications with persons with disabilities.

In accordance with Section 302 of OCR’s Case Processing Manual a complaint may be resolved at any time when, before the conclusion of an investigation, the institution expresses an interest in resolving the complaint. In such a case, the provisions of an agreement to resolve the complaint must be aligned with the complaint allegation or any information obtained during the discontinued investigation and be consistent with applicable regulations. Here, Idaho DOE requested to resolve the complaint prior to the conclusion of OCR’s investigation. Subsequent discussions with Idaho DOE resulted in Idaho DOE signing the enclosed Resolution Agreement (agreement) which, when fully implemented, will resolve the issues raised by this complaint.

The actions Idaho DOE will take under the agreement include:

- notice on its web site to persons with disabilities about how to request access to on-line information or functionality that is currently inaccessible, and information instructing people how to file a formal grievance with Idaho DOE through the procedural requirements of the Section 504 and Title II implementing regulations;
- policies and procedures to ensure that all new, newly-added, or modified on-line content and functionality will be accessible to persons with disabilities;
- an audit of all web site content and functionality;
- a corrective action plan to address all inaccessible content and functionality identified during the audit; and,
- annual web site accessibility training to appropriate personnel.

OCR considers that the enclosed agreement, when fully implemented by Idaho DOE, will resolve the issues raised by the complaint. OCR will monitor Idaho DOE’s implementation of the agreement, and when OCR concludes Idaho DOE has fully implemented the terms of the agreement, OCR will terminate its monitoring and close the case. If Idaho DOE fails to implement the agreement, OCR may resume the investigation.

Thank you for the assistance Idaho DOE and its counsel extended to OCR in resolving this complaint. We look forward to receiving Idaho DOE's first reports on its implementation of the agreement by June 24, 2016. If you have any questions, please contact Noel Nightingale, Lead Attorney, by telephone at (206) 607-1632, or by e-mail at noel.nightingale@ed.gov.

Sincerely,

Paul Goodwin
Team Leader

Enclosure: Resolution Agreement

cc: Deputy Attorney General