



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

1350 EUCLID AVENUE, SUITE 325  
CLEVELAND, OH 44115

REGION XV  
MICHIGAN  
OHIO

Dr. Catherine J. Ash  
Superintendent  
Okemos Public Schools  
4406 N. Okemos Road  
Okemos, Michigan 48864-1792

Re: OCR Docket #15-16-1190

Dear Dr. Ash:

This letter is to inform you of the disposition of the above-referenced complaint filed against Okemos Public Schools (the District) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), on xxxxxx xx xxxx, alleging discrimination on the basis of disability. Specifically, the complaint alleged that certain identified pages on the District's website are not accessible to individuals with vision and print disabilities, reading disabilities, physical disabilities, and cognitive impairments. These include the following web pages:

- <http://www.okemoschools.net/education/district/district.php?sectionid=1;>
- <http://www.okemoschools.net/education/components/scrapbook/default.php?sectiondetailid=714&linkid=nav-menu-container-1-61357;>
- [http://www.okemoschools.net/education/page/download.php?sectiondetailid=17144&fileitem=68810;](http://www.okemoschools.net/education/page/download.php?sectiondetailid=17144&fileitem=68810) and
- [http://www.okemoschools.net/education/components/scrapbook/default.php?sectiondetailid=714&pagecat=89.](http://www.okemoschools.net/education/components/scrapbook/default.php?sectiondetailid=714&pagecat=89)

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35,

which prohibit discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance and as a public entity, the District is subject to these laws. Accordingly, OCR had jurisdiction to investigate this complaint.

Based on the complaint allegations, OCR opened an investigation of the following issues:

- Whether the District, on the basis of disability, excluded qualified persons with disabilities from participation in, denied them the benefits of, or otherwise subjected them to discrimination in its programs and activities based on disability, in violation of the regulation implementing Section 504 at 34 C.F.R. § 104.4 and the regulation implementing Title II at 28 C.F.R. § 35.130.
- Whether the District failed to take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others, in violation of 28 C.F.R. § 35.160(a).

### **Applicable Regulatory Standards**

The regulation implementing Section 504, at 34 C.F.R. § 104.4(a), provides that no qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance. In this usage, “program or activity” encompasses a broad variety of operations associated with the receipt of Federal financial assistance from the Department, including all operations of a local education agency or a college or university, as well as all of the operations of department, agency, or other instrumentality of a State or local government or the entity of such a State or local government that distributes such assistance and each such department or agency to which the assistance is extended.

The regulation implementing Section 504, at 34 C.F.R. § 104.4(b), further prohibits discrimination on the basis of disability in the provision of any aid, benefit, or service, directly or through contractual, licensing, or other arrangements. A recipient may not deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service; afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others; provide a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others; or otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

The regulation implementing Title II, at 28 C.F.R. § 35.130, has requirements similar to those in the regulation implementing Section 504. Additionally, the regulation implementing Title II has specific requirements for communication, which, in pertinent part, require that public entities take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are

as effective as communications with others. 28 C.F.R. § 35.160(a)(1). Entities subject to Title II are required to provide equally effective communication, regardless of the medium chosen for their communication. Communication includes the transfer of information and encompasses information conveyed through computer-related applications and online environments.

OCR and the U.S. Department of Justice, Civil Rights Division, issued a Dear Colleague Letter on June 29, 2010 (June 2010 DCL), on access to emerging technologies for individuals with disabilities. OCR then issued another Dear Colleague Letter on May 26, 2011 (May 2011 DCL), along with a questions and answers document (FAQ), in follow-up to the June 2010 DCL. The FAQ clarifies that students with disabilities, especially visual impairments, are to be afforded “the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as sighted students.” The FAQ also clarifies that an accommodation or modification that is available only at certain times will not be considered “equally effective and equally integrated” where other students have access to the same information at any time and any location, as is the case with a website or other online content. The May 2011 DCL states that online programs are also covered and stresses the importance of planning to ensure accessibility from the outset.

While the May 2011 DCL and FAQ focused primarily on electronic book readers, the principles articulated in the documents apply to all forms of information technology. Though the DCL and FAQ discussed students as the affected population, recipients and public entities must ensure equal access to the educational benefits and opportunities afforded by the technology and equal treatment in the use of the technology for individuals with disabilities in any populations the recipient engages with its programs or activities, including students and members of the public.

### **Information Obtained to Date and Resolution**

The complaint alleged that the District’s website is not in compliance with Section 504 and Title II because it is inaccessible to individuals with vision and print disabilities, reading disabilities, physical disabilities, and cognitive impairments. The Complainant identified specific web pages on the District’s website alleged to be inaccessible—the home page, the “Special Education” page, the “Section 504 Information” page, and the “Student Handbook PDF.”

To date, OCR has investigated this complaint by reviewing information provided by the Complainant and conducting a preliminary assessment of the accessibility of several pages from the District’s website. OCR did not review the District’s Student Code of Conduct PDF document, because the link for that document was no longer active when OCR sought to access it. OCR’s preliminary assessment identified potential concerns with keyboard controls skipping over content on multiple pages, which may make navigating those web pages difficult for keyboard users. Also, keyboard controls were not visually apparent as keyboard controls did not place a box around text to indicate

where on the page the user's tab bar rests. As another example, the home page contained links without alternative text/tags, such that a screen reader may not convey to a user that the website contains such links.

On June 21, 2016, prior to the completion of OCR's investigation, the District asked to resolve this complaint pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). According to Section 302 of OCR's CPM, a complaint may be resolved before the conclusion of an OCR investigation if a recipient asks to resolve the complaint and signs a resolution agreement that addresses the complaint allegations. Such a request does not constitute an admission of liability on the part of the District, nor does it constitute a determination by OCR that the District has violated any of the laws that OCR enforces. The provisions of the resolution agreement are to be aligned with the complaint allegation(s) or the information obtained during the investigation and consistent with applicable regulations. OCR has determined that it is appropriate to resolve the complaint allegations prior to the completion of its investigation. Accordingly, on June 27, 2016, the District submitted the enclosed signed resolution agreement (the Agreement) to OCR. The Agreement requires the District to:

- Develop a procedure to ensure information provided through the District's website(s) (online content) is accessible to students, prospective students, employees, guests, and visitors with disabilities.
- Implement a corrective action strategy to make its online content accessible to individuals with disabilities, particularly students with visual, hearing, or manual impairments or who otherwise require the use of assistive technology to access the online content.
- Provide website accessibility training to all appropriate personnel.

The provisions of the Agreement are aligned with the complaint allegations and the information obtained to date during the investigation and consistent with applicable regulations. When fully implemented, the Agreement will resolve the allegations in the complaint.

In light of the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will, however, monitor the District's implementation of the Agreement. Should the District fail to fully implement the Agreement, OCR will reopen the complaint and take appropriate action to ensure the District's compliance with the Section 504 and Title II regulations.

This concludes OCR's investigation of the complaint and should not be interpreted to address the District's compliance with any other regulatory provision or to address any issues other than those 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.

Please be advised that the District 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, the harmed individual may file a complaint alleging such treatment.

The Complainant may file a private suit in federal court, whether or not OCR finds a violation.

Thank you for working with OCR to resolve this complaint. OCR looks forward to receiving the District’s first monitoring report by December 1, 2016. When possible, please submit monitoring reports electronically. For questions about implementation of the Agreement, please contact xxxxxxx xxxxxxx, who will be monitoring the District’s implementation, by e-mail at xxxxxx xxxxxxx or by telephone at Xxx xxxx xxxxx. Monitoring reports may be submitted directly to xx xxxxxxx. For questions about this letter, please contact xxxxxxx xxxxxxx, xxxxxxx xxxxxxx, at xxx xxxx xxxxxxx or by e-mail at xxxxxxxxxxxxxxxxx.

Sincerely,

/s

XXXXXXXXXXXXXXXXXX  
XXXXXX XXXXXXXXXXX

Enclosure