

November 23, 2016

Jan Jehring
Superintendent
Florida Union Free School District
S.S. Seward Memorial Building
51 North Main Street
Florida, New York 10921-0757

Re: Case No. 02-16-1380
Florida Union Free School District

Dear Superintendent Jehring:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), regarding the above-referenced complaint filed against the Florida Union Free School District (the District). The complainant alleged that the District is discriminating on the basis of disability because certain pages of the District's website are not accessible to individuals with disabilities.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities receiving financial assistance from the U.S. Department of Education (the Department). OCR also is responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35. Under the ADA, OCR has jurisdiction over complaints alleging discrimination on the basis of disability that are filed against certain public entities. The District is a recipient of financial assistance from the Department and is a public elementary and secondary education system. Therefore, OCR has jurisdictional authority to investigate this complaint under both Section 504 and the ADA.

This letter summarizes the applicable legal standards, the information gathered during the investigation, and how the investigation was resolved.

Regulatory Authority

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 that receives federal financial assistance. The regulation implementing the ADA, at 28 C.F.R. § 35.130(a), extends this prohibition to public entities.

The regulations implementing Section 504 and the ADA, at 34 C.F.R. § 104.4(b) and 28 C.F.R. § 35.130(b), respectively, further prohibit discrimination on the basis of disability in the provision of any aid, benefit, or service, directly or through contractual, licensing, or other arrangements. Covered entities 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.

Additionally, the regulation implementing the ADA 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).

Investigation and Findings

During the course of the investigation, OCR examined a number of pages on the District's website to determine whether they are accessible to persons with disabilities. These web pages included, but were not limited to:

- Homepage (<http://www.floridaufsd.org>);
- "Pupil Services/CSE" Page (<http://www.floridaufsd.org/domain/27>);
- "My School Bucks" Page (<http://www.floridaufsd.org/domain/291>); and
- "Free and Reduced Price Meals" Page (<http://floridaufsd.org/site/Default.aspx?PageID=236>).

OCR evaluated the above-listed pages and determined that important images were missing text descriptions, called "alt tags," that describe the images to blind and low-vision users who use special software; there was lack of sufficient contrast between text and background, which could impede readability by individuals with visual impairments; and PDF documents were created in a way that makes them unreadable for many people who use assistive technology, including people who are blind who use screen readers. These barriers deny persons with disabilities access to programs, services, and activities offered on the website and may impede the District's communications with persons with disabilities.

Based on the foregoing, OCR determined that the District violated the regulation implementing Section 504, at 34 C.F.R. §§ 104.4, and the regulation implementing the ADA, at 28 C.F.R. §§ 35.130 and 35.160(a)(1), by maintaining a website that excludes qualified persons with disabilities from its online programs, activities, aids, benefits and services. Specifically, the District does not afford individuals with disabilities the same ease of use, completeness of information, or functionality through its website as is provided to individuals without disabilities.

Resolution Agreement

The District submitted a signed Resolution Agreement to OCR on November 16, 2016. The District committed to take actions such as:

- Making its new website and all new website content and functionality accessible to people with disabilities;
- selecting an auditor who has the requisite knowledge and experience to identify barriers to access on the District's website and conducting a thorough audit of new online content and functionality;
- developing a corrective action plan to prioritize the removal of any online barriers presented on the new website over a 6-month period;
- developing an interim corrective action plan to prioritize the removal of online barriers presented on certain pages of the District's existing website, and to remedy all visual contrast issues that currently exist throughout the District's existing website, over a 1-month period;
- posting a notice to persons with disabilities about how to request access to online information or functionality that is currently inaccessible; and
- providing website accessibility training to all appropriate personnel.

This letter 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. OCR will monitor the District's implementation of the Resolution Agreement. When OCR concludes the District has fully implemented the terms of the Resolution Agreement and is in compliance with the statutes and regulations at issue in the case, OCR will terminate its monitoring and close the case. If the District fails to implement the Resolution Agreement, OCR may seek compliance with the federal civil rights laws through any means authorized by law, including to enforce the specific terms of the Resolution Agreement.

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. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

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 should occur, the complainant may file a separate complaint alleging such harassment or intimidation.

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, OCR will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, please contact Eboné Woods, Compliance Team Attorney, at (646) 428-3898 or ebone.woods@ed.gov; or Michael Goldberg, Compliance Team Investigator, at (646) 428-3817 or michael.goldberg@ed.gov.

Sincerely,

/s/

Timothy C.J. Blanchard

Encl.

cc: XXX