



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION I  
5 POST OFFICE SQUARE, 8<sup>th</sup> FLOOR  
BOSTON, MASSACHUSETTS 02109-3921

September 11, 2017

Dr. Catherine Latham  
Superintendent  
Lynn Public Schools  
Via e-mail: [lathamc@lynnschools.org](mailto:lathamc@lynnschools.org)

Re: Case No. 01-17-1288  
Lynn Public Schools

Dear Dr. Latham:

This letter is to inform you of the disposition of the above-referenced complaint filed against Lynn Public Schools (District) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), alleging discrimination on the basis of disability. Specifically, the complaint alleged that certain of the District's webpages are not accessible to students and adults with disabilities, including vision impairments. These webpages include:<sup>1</sup>

- Homepage, available at:  
<http://www.lynnschools.org>;
- Directory, available at:  
[http://www.lynnschools.org/district\\_directory.shtml](http://www.lynnschools.org/district_directory.shtml);
- Food Services, available at:  
[http://www.lynnschools.org/departments\\_foodservice.shtml](http://www.lynnschools.org/departments_foodservice.shtml);
- Special Education, available at:  
[http://www.lynnschools.org/departments\\_specialed.shtml](http://www.lynnschools.org/departments_specialed.shtml);
- Language Support, available at:  
[http://www.lynnschools.org/departments\\_languagesupport.shtml](http://www.lynnschools.org/departments_languagesupport.shtml);
- Lynn Woods Elementary School, available at:  
[http://www.lynnschools.org/ourschools\\_lynnwoods.shtml](http://www.lynnschools.org/ourschools_lynnwoods.shtml);
- Lincoln Vocational Technical Institute, available at:  
[http://www.lynnschools.org/ourschools\\_lvti.shtml](http://www.lynnschools.org/ourschools_lvti.shtml); and
- Online Calendar, available at:  
[http://www.lynnschools.org/classrooms/lvti/lvti\\_newsletters.shtml](http://www.lynnschools.org/classrooms/lvti/lvti_newsletters.shtml).

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<sup>1</sup> As of September 6, 2017, the URLs provided in the complaint for the "Food Services," "Special Education," and "Language Support" pages redirect to the "Directory" page, available at [http://www.lynnschools.org/district\\_directory.shtml](http://www.lynnschools.org/district_directory.shtml). OCR has included above the updated URLs for these pages.

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 Department. OCR is also responsible for enforcing Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35. Under Title II, 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 education system. Therefore, OCR had jurisdictional authority to investigate this complaint under Section 504 and Title II.

Before OCR completed its investigation, the District expressed a willingness to resolve the complaint by taking the steps set out in the enclosed resolution agreement (Agreement). The following is a discussion of the relevant legal standards and information obtained by OCR during the investigation that informed the development of the Agreement.

### **Legal Standards**

Section 504 and Title II prohibit individuals, on the basis of disability, from being excluded from participation in, being denied the benefits of, or otherwise being subjected to discrimination by recipients of federal financial assistance or by public entities. 34 C.F.R. § 104.4; 28 C.F.R. § 35.130. Individuals with disabilities must have equal access to recipients' programs, services, and activities unless doing so would fundamentally alter the nature of the programs, services, or activities, or would impose an undue burden. 28 C.F.R. § 35.164. Both Section 504 and Title II prohibit affording individuals with disabilities an opportunity to participate in or benefit from aids, benefits, or services that is unequal to the opportunity afforded others. 34 C.F.R. § 104.4(b)(1)(ii); 28 C.F.R. § 35.130(b)(1)(ii). Similarly, individuals with disabilities must be provided with aids, benefits, or services that provide an equal opportunity to achieve the same result or the same level of achievement as others. 34 C.F.R. § 104.4(b)(2); 28 C.F.R. § 35.130(b)(1)(iii). An individual with a disability, or a class of individuals with disabilities, may be provided with a different or separate aid, benefit, or service only if doing so is necessary to ensure that the aid, benefit, or service is as effective as that provided to others. 34 C.F.R. § 104.4(b)(1)(iv); 28 C.F.R. § 35.130(b)(1)(iv). Title II also requires public entities to take steps to ensure that communications with people with disabilities are as effective as communications with others, subject to the fundamental alteration and undue burden defenses. 28 C.F.R. § 35.160(a)(1). Programs, services, and activities—whether in a “brick and mortar,” on-line, or other “virtual” context—must be operated in ways that comply with Section 504 and Title II.

### **Factual Background**

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.

The complaint alleged that certain pages on the District's website were not in compliance with Section 504 and Title II because they were inaccessible to individuals with certain disabilities, including, but not limited to, vision impairments. The Complainant used website accessibility

checkers (PowerMapper and WAVE) and reported to OCR that the webpages listed above had accessibility issues for individuals with disabilities. The Complainant then provided OCR with a list of errors copied and pasted from the website accessibility checkers that she used.

OCR conducted a preliminary examination of the webpages identified by the Complainant and found possible compliance concerns as to whether the District's online programs, services, and activities were accessible to individuals with disabilities. For example, on several of the webpages identified by the Complainant, certain images did not have meaningful alternative text and links were not meaningfully labeled. In addition, the webpages lacked a skip navigation link, making it more difficult for users with physical and visual impairments to access website content and functions. Lastly, on several pages, the visual contrast between the background and foreground was low, which affects the readability of the site content for all viewers, including those with color blindness, low vision, and certain cognitive/neurological disabilities.

### **Conclusion**

Pursuant to Section 302 of OCR's *Case Processing Manual*, the District signed the enclosed Agreement on September 6, 2017 which, when fully implemented, will resolve the allegations raised in this complaint. The provisions of the Agreement are aligned with the allegations and issues raised by the Complainant and the information discussed above that was obtained during OCR's investigation, and are consistent with applicable law and regulations. OCR will monitor the District's implementation of the Agreement until the District is in compliance with the statutes and regulations at issue in the case. Failure to implement the Agreement could result in OCR reopening the complaint.

This concludes OCR's investigation of the complaint. 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. 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 must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, assists, or participates in a proceeding under a law enforced by OCR. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, it will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

OCR looks forward to receiving the District's first monitoring report by October 1, 2017. If you have any questions, you may contact Civil Rights Attorney Gillian Thompson at (617) 289-0012 or by e-mail at Gillian.Thompson@ed.gov.

Sincerely,

/s/  
Meena Morey Chandra *W/P AMM*  
Acting Regional Director

Enclosure

cc: Colby C. Brunt, Esq. (cbrunt@scmlp.com)