



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

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NEW JERSEY  
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August 31, 2017

Pedro P. Bretones  
Superintendent of Schools  
Northfield Community Schools  
2000 New Road  
Northfield, New Jersey 08225

Re: Case No. 02-17-1140  
Northfield Community Schools

Dear Superintendent Bretones:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), with respect to the above-referenced complaint filed against the Northfield Community Schools (the District). OCR investigated the complainant's allegation that the District is discriminating, on the basis of disability, because its website is not accessible to individuals with disabilities.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504), and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs or 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 education system. Therefore, OCR has jurisdictional authority to investigate this complaint under Section 504 and the ADA.

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

Legal Authority:

Section 504 and the ADA prohibit people, 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, respectively. 34 C.F.R. § 104.4 and 28 C.F.R. § 35.130. People with disabilities must have equal access to recipients' programs, services, or 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 the ADA prohibit affording individuals with disabilities an opportunity to participate in or benefit from aids, benefits, and 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). The ADA 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). In sum, 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 the ADA.

#### Investigation:

During the course of the investigation, OCR examined the pages on the District's website that the complainant identified to determine whether these are accessible to persons with disabilities. These webpages included:<sup>1</sup>

- <http://northfield.groupfusion.net;>
- <http://northfield.groupfusion.net/modules/cms/pages.phtml?pageid=7053&sessionid=b8273001b2bb97bc7cb0b587e09b9ae6&sessionid=b8273001b2bb97bc7cb0b587e09b9ae6;>
- <http://northfield.groupfusion.net/modules/cms/pages.phtml?pageid=215972&sessionid=2e79d2bbb15bf8efcdb75fc0f3f65487&sessionid=2e79d2bbb15bf8efcdb75fc0f3f65487;>
- <http://northfield.groupfusion.net/modules/cms/pages.phtml?pageid=246844&sessionid=2e79d2bbb15bf8efcdb75fc0f3f65487&sessionid=2e79d2bbb15bf8efcdb75fc0f3f65487;>

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<sup>1</sup> OCR also examined webpages that were linked from the District's website, including:

- <http://www.studydog.com/schools/logincenter/>
- <https://www.ixl.com/signin/northfield>
- <https://cdn.nwea.org/legacy-support/index.html>
- <https://docs.google.com/forms/d/e/1FAIpQLSeptu64R0OHrdwhV8XGRilxbQVnDcWQtmKvdE9WImcXCppJgg/viewform>
- <https://app.oucoursystems.com/homeworkportal/index/ncs>

- <http://northfield.groupfusion.net/modules/cms/pages.phtml?pageid=7111&sessionid=2e79d2bbb15bf8efcdb75fc0f3f65487&sessionid=2e79d2bbb15bf8efcdb75fc0f3f65487>;
  - <http://northfield.groupfusion.net/modules/cms/pages.phtml?pageid=147125&sessionid=2e79d2bbb15bf8efcdb75fc0f3f65487&sessionid=2e79d2bbb15bf8efcdb75fc0f3f65487>;
- and
- <http://northfield.groupfusion.net/modules/cms/pages.phtml?pageid=7032&sessionid=2e79d2bbb15bf8efcdb75fc0f3f65487&sessionid=2e79d2bbb15bf8efcdb75fc0f3f65487>

OCR evaluated the above-listed pages and determined that: (i) webpages lacked a way for users of special software and those with disabilities affecting fine motor control to skip to the main content of the pages, thereby impeding their ability to efficiently navigate past long headers appearing before the main content; (ii) form controls were missing, which identify the purpose and function of the otherwise unlabeled search bar/form field for users of special software; (iii) keyboard controls were not visually apparent, which makes it difficult for keyboard users to navigate the pages; (iv) important images were missing text descriptions, referred to as “alt tags,” that describe the images to blind and low-vision users who use special software; and, (v) web pages had insufficient contrast, which affected all viewers, including those with visual disabilities and those with certain cognitive/neurological disabilities. OCR determined that the deficiencies identified constitute barriers that may 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.

OCR received the complaint on January 10, 2017. After conducting the analysis referenced above, OCR learned that the District had approved a proposal for the development and implementation of a new website, which became operational on or about June 1, 2017.

#### Resolution Agreement:

The District signed a resolution agreement (Agreement) on August 28, 2017, to ensure that its new website is compliant with Section 504 and the ADA. The District committed to take actions including:

- developing policies and procedures which ensure that all new, newly-added, or modified online content and functionality will be accessible to people with disabilities;
- conducting bi-monthly audits to identify barriers to access on the District’s new website;
- making all new website content and functionality accessible to people with disabilities;
- posting a notice to persons with disabilities about how to request access to online information or functionality that may be inaccessible; and

- providing website accessibility training to all appropriate personnel.

OCR will monitor the District's implementation of the Agreement. When OCR concludes that the District has fully and effectively implemented the terms and obligations of the 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 Agreement, OCR may initiate administrative or judicial proceedings to enforce specific terms and obligations of the Agreement. Before initiating administrative (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce the Agreement, OCR will give the District written notice of the alleged breach and sixty (60) calendar days to cure the breach.

These findings 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 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 individual may file a complaint alleging such treatment.

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, it 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 R. Colin Power, Compliance Team Attorney, at (646) 428-3832 or [R.Colin.Power@ed.gov](mailto:R.Colin.Power@ed.gov); Janet Pfeffer, Senior Compliance Team Investigator at (646) 428-3831 or [Janet.Pfeffer@ed.gov](mailto:Janet.Pfeffer@ed.gov); or Anna Moretto Cramer, Compliance Team Leader, at (646) 428-3826 or [Anna.Moretto.Cramer@ed.gov](mailto:Anna.Moretto.Cramer@ed.gov).

Sincerely,

/s/

Timothy C. J. Blanchard

Encl.

cc: xxxxxxxxxxxx, Esq.