



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

THE WANAMAKER BUILDING, SUITE 515  
100 PENN SQUARE EAST  
PHILADELPHIA, PA 19107-3323

REGION III  
DELAWARE  
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November 15, 2016

S. Dallas Dance, Ph.D.  
Superintendent of Schools  
Baltimore County Public Schools  
6901 Charles Street  
Towson, MD 21204

RE: OCR Complaint # 03161149

Dear Dr. Dance:

This is to advise you of the resolution of the above-referenced complaint investigation of the Baltimore County Public Schools (the School System) by the United States Department of Education (Department), Office for Civil Rights (OCR). The complaint alleged that the School System is discriminating, on the basis of disability, because certain pages on its website are not accessible to persons with disabilities.

OCR is responsible for enforcing section 504 of the Rehabilitation Act of 1973, as amended (Section 504), 29 United States Code (U.S.C.) § 794, *et seq.*, and its implementing regulations at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination on the basis of disability in programs and activities of recipients of federal financial assistance. OCR also is responsible for enforcing title II of the Americans with Disabilities Act of 1990, as amended (Title II), 42 U.S.C. § 12131, *et seq.*, and its implementing regulations at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability in programs, services, and activities of public entities. As a recipient of federal financial assistance from the Department and as a public entity, the School System is subject to OCR's jurisdiction under Section 504 and Title II.

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

Legal Authority:

Section 504 and Title II 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. 34 C.F.R. § 104.4 and 28 C.F.R. § 35.130. People with disabilities must have equal access to covered entities' programs, services, or activities unless doing so would fundamentally alter the nature of the programs, services, or

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

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, 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). 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). 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 Title II.

#### Investigation To Date:

During the course of the investigation OCR examined a number of pages on the School System’s website to determine whether they are accessible to persons with disabilities. These web pages included:

- The School System’s homepage (<http://www.bcps.org/>);
- The Special Education page ([https://www.bcps.org/offices/special\\_ed/](https://www.bcps.org/offices/special_ed/));
- The Child Find page ([https://www.bcps.org/offices/special\\_ed/child-find.html](https://www.bcps.org/offices/special_ed/child-find.html));
- The Special Education Resources page ([https://www.bcps.org/offices/special\\_ed/parent-resources.html](https://www.bcps.org/offices/special_ed/parent-resources.html)); and,
- The School System’s television page (<https://www.bcps.org/bcpstv/>).

OCR’s evaluation of the allegation to date indicates that there may be barriers on the School System’s website that deny persons with disabilities access to programs, services, and activities offered on its website and may impede the School System’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, the School System requested to resolve the complaint prior to the conclusion of OCR’s investigation. Subsequent discussions with the School System resulted in the School System signing the enclosed Resolution Agreement (Agreement) which, when fully implemented, will resolve the issues raised by this complaint.

## Resolution Agreement:

The School System submitted a signed resolution agreement to OCR on October 14, 2016. The School System committed to take actions such as:

- Selecting an internal auditor who has the requisite knowledge and experience to identify barriers to access on the School System's website and conducting a thorough audit of existing online content and functionality;
- Making all new website content and functionality accessible to people with disabilities;
- Developing a corrective action plan to prioritize the removal of online barriers over an 18-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 concludes OCR's investigation of the complaint. These findings should not be interpreted to address the School System's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. OCR will monitor the School System's implementation of the Agreement. When OCR concludes the School System has fully implemented the terms 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 School System fails to implement the 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 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 School System may not harass, coerce, intimidate, discriminate or otherwise retaliate against any individual because he or she asserted a right or privilege under a law enforced by OCR or filed a complaint, testified, or participated in the complaint resolution process. 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. In the event that OCR receives such a request, OCR will seek to protect, to the extent provided by law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released.

Thank you for the assistance the School System extended to OCR in resolving this complaint. We look forward to receiving the School System's first report about its implementation of the

Agreement by November 15, 2016. If you have any questions, please contact me at [nancy.potter@ed.gov](mailto:nancy.potter@ed.gov) or (215) 656-8578.

Sincerely,

/s/

Nancy Potter  
Supervisory Attorney/Team Leader

Enclosure: Resolution Agreement