



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

61 FORSYTH ST., SOUTHWEST, SUITE 19T10  
ATLANTA, GA 30303-8927

REGION IV  
ALABAMA  
FLORIDA  
GEORGIA  
TENNESSEE

October 31, 2017

Via Email and U.S. Mail

Mr. Bobby Cox  
Director of Schools  
Warren County School District  
2548 Morrison Street  
McMinnville, Tennessee 37110

Re: OCR No. 04-17-1288  
Warren County School District

Dear Mr. Cox:

This letter is to inform you of the disposition of the above-referenced complaint filed against Warren County School District (District) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), on February 15, 2017, alleging discrimination on the basis of disability. Specifically, the complaint alleged that the following webpages are not accessible—Homepage, Calendar, School Accountability Report Cards, Elementary Schools, K-8 Schools, Middle Schools, High Schools, Alternative Education, District Departments, School Nutrition, Free and Reduced Lunch, and Special Education.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulations 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 regulations 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.

OCR opened an investigation of the following issues:

1. 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, activities, aids, benefits, or services 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.

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

[www.ed.gov](http://www.ed.gov)

2. Whether the District failed to take appropriate steps to ensure that its communications with applicants, participants, members of the public, and companions with disabilities are as effective as its communications with others, in violation of the regulation implementing Title II at 28 C.F.R. § 35.160(a).

Legal Authority:

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 and 28 C.F.R. § 35.130. Individuals 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 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:

The complaint alleges that the District's website is not in compliance with Section 504 and Title II because it is inaccessible to individuals with vision disabilities, print disabilities, physical impairments, and hearing impairments. The Complainant used website accessibility checkers (PowerMapper and WAVE) and reported to OCR that the following pages on the District's website are not accessible to individuals with disabilities: Homepage, Calendar, School Accountability Report Cards, Elementary Schools, K-8 Schools, Middle Schools, High Schools, Alternative Education, District Departments, School Nutrition, Free and Reduced Lunch, and Special Education.

OCR examined the web pages identified by the Complainant and determined there are some technological barriers to individuals with disabilities. For example, the content on the District's homepage could not be fully accessed using keyboard controls, there were videos that could not be accessed using keyboard controls, and there were visual contrast errors. These barriers can impede persons with disabilities' access to the District's online programs, services, and activities and can interfere with the District's ability to communicate effectively with persons with disabilities.

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). In light of the District's willingness to address its website comprehensively without further investigation, OCR determined entering into a voluntary resolution agreement is appropriate. On October 31, 2017, the District submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the allegations in the complaint.

The District committed to take actions including:

- 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.

OCR will monitor the District's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may request additional information as necessary to determine whether the District has fulfilled the terms of the Agreement and is in compliance with Section 504 and Title II with regard to the issues raised.

If the District fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

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 also file a private suit in federal court, whether or not OCR finds a violation.

Under the Freedom of Information Act, it may be necessary to release this letter 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, which, if

released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, please contact Kristen Williams, General Attorney, by e-mail at [kristen.williams@ed.gov](mailto:kristen.williams@ed.gov), or by telephone at (404) 974-9272, or me at (404) 974-9356.

Sincerely,

Wendy Gatlin  
Compliance Team Leader

Cc: Robin Philips, Equity and Legal Compliance Coordinator

Enclosure