



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

1999 BRYAN ST., SUITE 1620  
DALLAS, TX 75201-6810

September 20, 2017

REGION VI  
ARKANSAS  
LOUISIANA  
MISSISSIPPI  
TEXAS

Reference: 06-16-1241

Mr. John White, State Superintendent of Education  
Louisiana Department of Education  
P.O. Box 94064  
Baton Rouge, Louisiana 70804-9064

Dear Superintendent White:

This is to advise you of the resolution of the above-referenced complaint investigation of the Louisiana Department of Education (LDOE, the recipient) by the United States Department of Education (Department), Office for Civil Rights (OCR). The complaint which was received on February 8, 2016, and alleged that the LDOE is discriminating, on the basis of disability, because certain of the Recipient's web pages are not accessible to persons with disabilities. These include, but are not limited to:

- a. The LDOE's Home page
- b. The LDOE's Newsroom page
- c. The LDOE's About Us page
- d. The LDOE's Library page
- e. The LDOE's Contact Us page

OCR subsequently received additional complaints, on June 29, 2016 and August 22, 2016, which made substantially the same allegations with regard to pages on websites pertaining to the Louisiana School for the Visually Impaired (LSVI), and the Louisiana School for the Deaf (LSD), collectively known as the Louisiana Schools for the Deaf and Visually Impaired (LSDVI). These include, but are not limited to:

- a. The LSVI Home page
- b. The LSVI Welcome
- c. The LSVI Our School page
- d. The LSVI News page
- e. The LSVI Louisiana Instructional Materials Center page
- f. The LSVI Monthly Newsletters page
- g. The LSVI Resources page
- h. The LSVI Special Events, Camps, and Programs page
- i. The LSVI Related Services page
- j. The LSVI Students of the Month page
- k. The LSVI The Braille Challenge page
- l. The LSVI Calendar page
- m. The LSVI Mission page
- n. The LSVI Pupil Progression Plan page
- o. The LSVI Louisiana Connect page

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

- p. The LSDVI Home page
- q. The LSD Home page
- r. The LSD Admissions page
- s. The LSD ASL Videos page

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation 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 regulation 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 LDOE is subject to these laws. Pursuant to Title 28, Part 1, Section 311 of Louisiana Administrative Code, leadership for LSDVI, LSD, and LSVI fall under the direct supervision and control of the LDOE. Accordingly, OCR had jurisdiction to investigate these complaints.

Based on the allegations, OCR investigated the following issue:

Whether the LDOE discriminates against individuals with disabilities on a systemic basis because certain of the recipient's web pages are not accessible to students and adults with disabilities including, but not limited to, vision impairments, hearing impairments, print disabilities, and/or fine-motor disabilities.

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 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:

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 Recipient's websites.

The complainant alleges that the Recipient's websites are not in compliance with Section 504 and Title II because it is inaccessible to individuals with disabilities, including those with vision disabilities, print disabilities, fine motor impairments, physical impairments, learning disabilities in reading and cognitive impairments. The Complainant used website accessibility checker PowerMapper and reported to OCR that several of the Recipient's web pages have accessibility issues for individuals with disabilities. She then provided OCR with a list of errors copied and pasted from the website accessibility checker that she used.

OCR conducted a preliminary examination of the web pages identified by the Complainant and found possible compliance deficiencies as to whether the Recipient's websites are accessible to individuals with disabilities. For example: keyboard controls on some of the pages were not visually apparent; some pages did not include skip navigation; certain pages had very low visual contrast; not all pdf documents had selectable text; and document titles on some pages did not change on tabs when tabbing between pages on the site.

Prior to the completion of OCR's investigation, the LDOE asked to resolve this complaint pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). On September 20, 2017 the LDOE submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the allegations in the complaint.

In light of the commitments the LDOE has made in the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will monitor the Recipient'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 LDOE 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 LDOE 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 LDOE 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 Recipient'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 LDOE 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 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.

OCR looks forward to receiving the Recipient's first monitoring report by October 20, 2107. For questions about implementation of the Agreement, please contact Kulsoom Naqvi by e-mail at kulsoom.naqvi@ed.gov or by telephone at (214) 661-9640. For questions about this letter, please contact me at paul.coxe@ed.gov, or (214) 661-9608.

Sincerely,

Paul Coxe  
Supervisory Attorney/Team Leader  
Office for Civil Rights  
Dallas Office

Enclosure: Resolution Agreement

CC: \*\*[redacted]\*\*, LDOE Attorney, via e-mail at \*\*[redacted]\*\*  
\*\*[redacted]\*\*, LDOE Attorney, via e-mail at \*\*[redacted]\*\*