

May 9, 2017

XXXX XXXX XXXX, Executive Director
Region 10 Education Service Center
400 E. Spring Valley Road
Richardson, Texas 75081

Re: Region 10 Education Service Center
OCR Number: 06-16-1618

Dear XXXX XXXX:

This letter is to inform you of the disposition of the above-referenced complaint filed against Region 10 Education Service Center (Region 10), in Richardson, Texas, with the U.S. Department of Education (*Department*), Office for Civil Rights (OCR), alleging discrimination on the basis of disability. Specifically, the complainant alleged that certain of Region 10's web pages are not accessible to students and adults with disabilities, including vision impairments. These include, but are not limited to:

- Homepage – <https://www.region10.org>
- Programs – <https://www.region10.org/programs>
- Catalog – <http://olc.region10.org/catalog>
- Special Education - <http://olc.region10.org/catalog/Resources/SpecialPopulations>

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, Region 10 is subject to these laws. Accordingly, OCR had jurisdiction to investigate this complaint.

Based on the complaint allegations, OCR opened an investigation of the following issues:

Whether the Region 10 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. These inaccessible web pages include:

- a. Region 10's Home page (www.region10.org);
- b. Region 10's Programs page (www.region10.org/programs);

- c. Region 10's Online learning catalog page (olc.region10.org/catalog);
- d. Region 10's Special populations page (olc.region10.catalog/Resources/Special-Populations).

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 Region 10's website.

The complaint alleges that Region 10'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 Region 10's pages (listed above) have accessibility issues for individuals with disabilities. The complainant then provided OCR with a list of errors copied and pasted from the website accessibility checker that the complainant used.

OCR conducted a preliminary examination of the web pages the complainant identified and found possible compliance concerns as to whether Region 10's website is accessible to

individuals with disabilities. For example, on Region 10's Home page, Programs page, Online Learning Catalog page, and Special Populations page OCR found, at the time of our review, missing form labels, issues with the visual contrast, the inability to access content by using the keyboard, and linked images that lacked alternative text.

Prior to the completion of OCR's investigation, Region 10 asked to resolve this complaint pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). On May 4, 2017, Region 10 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 Region 10 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 Region 10'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 Region 10 has fulfilled the terms of the Agreement and is in compliance with Section 504 and Title II with regard to the issues raised.

If Region 10 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 Region 10 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 Region 10'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 Region 10 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 Region 10's first monitoring report by June 4, 2017. For questions about implementation of the Agreement, please contact OCR attorney, Jeff Coleman, who will be monitoring Region 10's implementation, by e-mail at jeffrey.coleman@ed.gov, or by telephone at 214.661.9686. For questions about this letter, please contact Paul Coxe, Team Leader, at paul.coxe@ed.gov.

Sincerely,

Paul Coxe
Team Leader/Supervisor

Enclosure