



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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

REGION VI
ARKANSAS
LOUISIANA
MISSISSIPPI
TEXAS

Mr. Thomas Crowe, Superintendent
Ector County Independent School District
P.O. Box 3912
Odessa, Texas 79760
Thomas.Crowe@ectorcountyisd.org

Re: Ector County Independent School District
OCR Number: 06-17-1278

Dear Mr. Crowe:

This letter is to inform you of the disposition of the above-referenced complaint filed against Ector County Independent School (District) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), on January 9, 2017, alleging discrimination on the basis of disability. Specifically, the complaint alleged that certain of the District's web pages are not accessible to students and adults with disabilities, including vision impairments. These include, but are not limited to:

- a. The Ector County ISD home page (<http://www.ectorcountyisd.org>);
- b. Ector County ISD's YouTube channel (<https://www.youtube.com/user/EctorCountyISD>);
- c. Renaissance Learning page (<https://hosted40.renlearn.com/243248>)
- d. Department Directory page (<http://www.ectorcountyisd.org/site/Default.aspx?PageType=1&SiteID=1&ChannelID=5&DirectoryType=6>);
- e. Special Education page (<http://www.ectorcountyisd.org/Domain/67>);
- f. Special Education Highlights page (<http://www.ectorcountyisd.org/Page/31588>);
- g. Federal and State Programs page (<http://www.ectorcountyisd.org/Domain/28>);
- h. 504/Dyslexia Welcome page (<http://www.ectorcountyisd.org/Domain/6>);
and
- a. 504 Resources page (<http://www.ectorcountyisd.org/Page/21>).

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

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

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. Accordingly, OCR had jurisdiction to investigate this complaint.

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

- 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 and activities based on disability, 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; and
- whether the District failed to take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others, in violation of 28 C.F.R. § 35.160(a).

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 District's website.

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 District’s web pages identified above 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 concerns as to whether the District’s website is accessible to individuals with disabilities. For example, at the time of OCR’s review, the District’s Renaissance Learning page did not have a “skip navigation” or “skip to content” option; the District’s home page, Department Directory, Special Education page, Special Education Highlights page, 504/ Dyslexia Welcome page and 504 Resources page lacked some form labels or titles; keyboard controls could not access all content and functions and/or were not visually apparent on the District’s home page, the Department Directory, the Special Education page, the Special Education Highlights page, the Federal and State Programs page, the 504/ Dyslexia Welcome page and the 504 Resources page; the District’s YouTube Channel, Renaissance Learning page, Department Directory, Special Education Highlights page and Federal and State Programs page lacked meaningful alt text for non-trivial graphics, images or links; links on the home page, Renaissance Learning page, Department Directory, Special Education Highlights page and the 504 Resources page lacked meaningful labels or titles; videos on the District’s YouTube channel did not have meaningful captions; and the home page, Department Directory, Special Education page, Special Education Highlights page, Federal and State Programs page, 504/ Dyslexia Welcome page and 504 Resources page did not have appropriate visual contrast.

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). On June 22, 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.

In light of the commitments the District 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 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 University 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.

You 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 District’s first monitoring report by September 1, 2017. For questions about implementation of the Agreement, please contact Stephanie Inman, who will be monitoring the District’s implementation, by e-mail at Stephanie.inman@ed.gov or by telephone at 214-661-9651. For questions about this letter, please contact team leader Melissa Malonson at 214-661-9600.

Sincerely,

Taylor D. August
Director
Office for Civil Rights
Dallas Office

Enclosure: Resolution Agreement