



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

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**REGION IV**

ALABAMA  
FLORIDA  
GEORGIA  
TENNESSEE

December 10, 2020

*Via email only to: XXXX.XXXXXXXXXX@unt.edu*

XXXX XXXXXXXXX  
XXXXXXXXXX

University of North Texas – Denton  
1155 Union Circle, #311425  
Denton, Texas 76203-5017

RE: OCR Docket No. 06-20-2304  
University of North Texas – Denton

Dear XXXXXXXXXX XXXXXXXXX:

This letter is to inform you of the disposition of the above-referenced complaint filed against the University of North Texas – Denton (the University), alleging discrimination on the basis of disability. Specifically, the Complainant, filing on behalf of the Student, alleged that the University's use of the XXXXXXXX/XXXXXXX learning management system (the System) for the Student's XXXXXXXX coursework constitutes discrimination on the basis of disability because the System is not accessible to individuals with disability, including those who are blind and use assistive technology, such as screen readers.

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

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

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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.

OCR investigated whether the System excludes qualified persons with disabilities from participation in, deny them the benefits of, or otherwise subject them to discrimination under any program or activity, in violation of 34 C.F.R. § 104.4 and 28 C.F.R. Part 35. In addition, OCR investigated whether the University fails to take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as its communication with others, in violation of 28 C.F.R. § 35.160(a).

#### Summary of Investigation to Date

OCR reviewed the University’s internal investigation conducted by its XXXXX XXXXXXXXXXXX Office (XX) which issued its findings in a report (the Report). The Report details information regarding the accessibility barriers; efforts by the Office XX XXXXXXXXXXXX XXXXXX, the Division of XXXXXXXX XXXXXXXXXXXX and the XXXXXXXX Department to provide the Student with alternative ways to access the course materials and System content and functionality; findings that the System is not accessible to the Student; the University’s internal center for procurement of digital technology; and the University’s obligations to provide accessible technology to the Student. The Report noted that the efforts to provide alternatives and accommodations to the Student were neither sufficient nor practicable on an on-going basis. The Report stated that the University is obligated to provide accessible technology and that the University did not present an accessible program to the Student. This raised sufficient concerns about the technology, and OCR opened its investigation.

Before OCR completed its investigation, the University expressed a willingness to resolve the complaint. OCR determined that it is appropriate to resolve the complaint pursuant to Section 302 of the *Case Processing Manual* because the investigation has identified issues that can be addressed through a resolution agreement.

On December 7, 2020, the University signed the enclosed resolution agreement (Agreement) to voluntarily resolve the complaint pursuant to Section 302 of OCR's *Case Processing Manual*. When fully implemented, the Agreement will address all of the allegations investigated. OCR will monitor the implementation of the Agreement. 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.

This concludes OCR's investigation. This letter should not be interpreted to address the University'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 directed investigation. 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 a right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the University 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.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

We appreciate the University's cooperation in the resolution of this complaint. OCR looks forward to receiving the University's first monitoring report by December 15, 2020. Should you have any questions or concerns, please contact me at (XXX) XXX-XXXX or by email at XXXXXXX.XXXXXXXX@ed.gov.

Sincerely,

/s/  
XXXXXX XXXXXXXX  
Attorney

*Enclosures*

cc: XXXXX XXXXXXX  
XXXXXXXXXX XXXXXXXX XXXXXXXX  
University of North Texas  
Via email only to: XXXXX.XXXXXXXX@untsystem.edu