



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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DALLAS, TEXAS 75270

REGION VI  
LOUISIANA  
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TEXAS

January 30, 2023

*By email only to: [Jacob.Oliva@ade.arkansas.gov](mailto:Jacob.Oliva@ade.arkansas.gov)*

Jacob Oliva  
Commissioner of Education  
Arkansas Division of Elementary and Secondary Education  
Division of Elementary and Secondary Education  
Four Capitol Mall, Room 304-A  
Little Rock, AR 72201

Re: OCR Docket No. 07-22-8002  
Arkansas Division of Elementary and Secondary Education

Dear Commissioner of Education Oliva:

This letter is to advise you of the resolution of the compliance review that the U.S. Department of Education (Department), Office for Civil Rights (OCR) initiated in Arkansas Division of Elementary and Secondary Education (the DESE). OCR investigated whether the DESE's online programs, services, and activities exclude 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 Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. § 104.4 and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35. In addition, OCR investigated whether the DESE 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).

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in any program or activity receiving Federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department.

OCR conducted an assessment of the DESE's online programs, services, and activities and noted possible compliance concerns including, but not limited to:

- Users with disabilities who use computer keyboards for navigation due to a disability did not have access to all contents and functions.

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- Auto-play content could not be paused, posing a barrier for individuals who are unable to use a computer mouse.
- Users with disabilities who use computer keyboards for navigation due to a disability were unable to tell visually where they were on a page, as visual focus indicators were missing.
- The foreground and background colors of important content lacked sufficient contrast, posing a barrier to people with low vision.

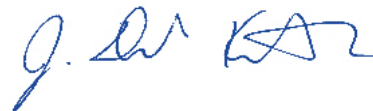
On January 23, 2023, the DESE signed the enclosed resolution agreement (Agreement) to voluntarily resolve the compliance review pursuant to Section 302 of OCR's *Case Processing Manual*. OCR will monitor the implementation of the Agreement.

This concludes OCR's compliance review. This letter should not be interpreted to address the DESE'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 compliance review. 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. An individual may have the right to 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 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.

If you have any questions, please contact me at (214) 661-9618 or David.Kutch@ed.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Kutch', with a stylized flourish at the end.

David Kutch  
Attorney

Enclosure

*Courtesy copy by email only to:*

Courtney Salas-Ford  
Chief Legal Counsel  
Courtney.Salas-Ford@ade.arkansas.gov