



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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September 22, 2023

By email only to: wasmujus@usd408.com

Justin Wasmuth
Superintendent
Marion-Florence Unified School District 408
101 North Thorp
Marion, Kansas 66861

Re: OCR Docket No. 07-23-1492
Marion-Florence Unified School District 408, Kansas

Dear Superintendent Wasmuth:

This letter is to advise you of the resolution of the investigation that the U.S. Department of Education (Department), Office for Civil Rights (OCR) initiated in Marion-Florence Unified School District 408 (District). OCR investigated whether the District'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 District 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.

During OCR's investigation, OCR assessed the District's online programs, services, and activities. OCR found that the District has adopted WCAG version 2.1, level AA, as its accessibility standard and posted a fully-accessible notice on its website that describes how individuals with disabilities can notify the District of barriers they encounter on the District's website and obtain assistance with accessing the underlying information. OCR also conducted manual testing of the District's website and identified a few accessibility barriers, including: two

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

portable document format (PDF) documents that lack sufficient structure to communicate content to individuals with vision disabilities who use assistive technology; and four web pages with barriers that impact individuals with vision disabilities who use assistive technology and/or individuals with low vision, such as important text that lacks sufficient color contrast with its background, important images that lack meaningful alternative text, and lunch menu meal items in a table format that are not programmatically associated with the dates on which the meal items will be served.

On September 22, 2023, the District signed the enclosed resolution agreement (Agreement) to voluntarily resolve the investigation pursuant to Section 302 of OCR's Case Processing Manual. Pursuant to the Agreement, within 30 days, the District will remediate the accessibility barriers identified by OCR and any barriers it identifies through its own testing. OCR will monitor the implementation of the Agreement until the District satisfies all of the terms of the Agreement.

This concludes OCR's investigation. This letter 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 matter. 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 (202) 987-0360 or Laura.Favazza@ed.gov.

Sincerely,

A handwritten signature in blue ink that reads "Laura Favazza". The signature is fluid and cursive, with a long horizontal stroke at the end.

Laura Favazza
Attorney

Enclosure