



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

RENAISSANCE TOWER
DALLAS, TEXAS 75270

REGION VI
LOUISIANA
MISSISSIPPI
TEXAS

October 5, 2023

By email only to: president.gogue@nmsu.edu

Dr. Jay Gogue
Interim President, New Mexico State University
Hadley Hall
2850 Weddell Dr.
New Mexico State University
Las Cruces, NM 88003-8001

Re: OCR Docket No. 08-23-2211
New Mexico State University

Dear President Gogue:

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 New Mexico State University (University). OCR investigated whether the University'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 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).

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 University'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 were unable to tell visually where they were on a page, as visual focus indicators were missing.

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

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- Important graphics, images, or links were missing meaningful alternative text, posing a barrier to people with vision disabilities who use screen readers.
- Videos controls were not accessible through the keyboard, so videos could not be activated by people who use computer keyboards for navigation.

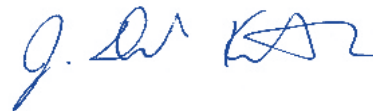
On September 21, 2023, the University signed the enclosed resolution agreement (Agreement) to voluntarily resolve the investigation pursuant to Section 302 of OCR's *Case Processing Manual*. OCR will monitor the implementation of the Agreement.

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 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 202-987-1453 or David.Kutch@ed.gov.

Sincerely,



David Kutch
Attorney

Enclosure

Courtesy copy by email only to:

Jeffrey Jensen
Counsel
jnj@nmsu.edu