



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

REGION IX  
CALIFORNIA

50 UNITED NATIONS PLAZA  
MAIL BOX 1200; ROOM 1545  
SAN FRANCISCO, CA 94102

October 12, 2016

Leslie A. Boozer, Ed.D., J.D.  
Superintendent  
Office of the Superintendent  
Fontana Unified School District  
9680 Citrus Avenue  
Fontana, CA 92335

Re: OCR No. 09-16-1465  
Fontana Unified School District

Dear Dr. Boozer:

The Office for Civil Rights (OCR) of the U.S. Department of Education (Department) is discontinuing its investigation of the above-referenced complaint filed against the Fontana Unified School District (District) on May 27, 2016. The complaint alleges that the District discriminates on the basis of disability because certain pages on its website are not accessible to students and adults with disabilities including, but not limited to, vision impairments. These pages include the:

- Homepage at <http://www.fusd.net/>;
- Virtual Backpack page at <http://www.fusd.net/virtualbackpack/>;
- Student Services page at <http://www.fusd.net/students2/index.stm>;
- Calendar of Events page at <http://www.fusdweb.com/calendar/Lists/Calendar/calendar.aspx>; and
- April 2016, School Board video page at [http://original.livestream.com/fusd/video?clipId=pla\\_69e71c6d-3048-473d-9337-dd245ade5354&utm\\_source=lslibrary&utm\\_medium=ui-thumb](http://original.livestream.com/fusd/video?clipId=pla_69e71c6d-3048-473d-9337-dd245ade5354&utm_source=lslibrary&utm_medium=ui-thumb)

OCR accepted the complaint for resolution under the authority of section 504 of the Rehabilitation Act of 1973 (Section 504), and title II of the Americans with Disabilities Act of 1990 (Title II). Section 504 and that statute's implementing regulations at 34 CFR Part 104 prohibit discrimination on the basis of disability in programs and activities of recipients of federal financial assistance. Title II and that statute's implementing regulations at 28 CFR Part 35 prohibit discrimination on the basis of disability in programs, services, and activities of public entities. As a recipient of federal financial assistance from this Department and as a public entity, the District is required to comply with these federal civil rights laws.

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

Access to the District’s website is covered by Section 504 and Title II. The requirement for the District to provide equal opportunities and equal treatment, and the obligations for the District to engage in effective communications and make modifications to avoid disability-based discrimination, are part of the general non-discrimination requirements of Section 504 and Title II. See 34 CFR 104.4 and 28 CFR 35.130 (prohibiting recipients of federal financial assistance and public entities from excluding qualified persons with disabilities from programs, services, and activities); see also 28 CFR 35.160(a) (requiring public entities to ensure communications with applicants, participants, companions, and other members of the public with disabilities are as effective as communications with others). In particular, the District is required to provide reasonable accommodations or modifications so that persons with disabilities can acquire the same information, engage in the same interactions, and enjoy the same programs, services, and activities as non-disabled persons with substantially equivalent ease of use. Stated differently, all District programs, services, and activities—whether in a “brick and mortar,” on-line, or other “virtual” context—must be operated in a manner that complies with Section 504 and Title II.

OCR’s evaluation of the allegation to date indicates that there may be barriers on the District’s website that deny persons with disabilities access to programs, services, and activities offered on its web site and may impede the District’s communications with persons with disabilities.

In accordance with Section 302 of OCR’s *Case Processing Manual* a complaint may be resolved at any time when, before the conclusion of an investigation, the institution expresses an interest in resolving the complaint. In such a case, the provisions of an agreement to resolve the complaint must be aligned with the complaint allegation or any information obtained during the discontinued investigation and be consistent with applicable regulations. Here, the District requested to resolve the complaint prior to the conclusion of OCR’s investigation. Subsequent discussions with the District resulted in the District signing the enclosed Resolution Agreement (Agreement) which, when fully implemented, will resolve the issues raised by this complaint.

The actions the District will take under the Agreement include:

- notice on its web site to persons with disabilities about how to request access to on-line information or functionality that is currently inaccessible, and information instructing people how to file a formal grievance with the District through the procedural requirements of the Section 504 and Title II implementing regulations;
- policies and procedures to ensure that all new, newly-added, or modified on-line content and functionality will be accessible to persons with disabilities;
- an audit of all web site content and functionality;
- a corrective action plan to address all inaccessible content and functionality identified during the audit; and,

- annual web site accessibility training to appropriate personnel.

OCR considers that the enclosed Agreement, when fully implemented by the District, will resolve the issues raised by the complaint. OCR will monitor the District's implementation of the Agreement, and when OCR concludes the District has fully implemented the terms of the Agreement, OCR will terminate its monitoring and close the case. If the District fails to implement the Agreement, OCR may resume the investigation.

Thank you for the assistance the District and its counsel, XXXXX XXXXXX, extended to OCR in resolving this complaint. We look forward to receiving the District's first reports on its implementation of the Agreement by November 30, 2016. If you have any questions, please contact Kendra Fox-Davis, Team Leader, by telephone at (415) 486-5418, or by e-mail at Kendra.Fox-Davis@ed.gov.

Sincerely,

Kendra Fox-Davis  
Team Leader

Enclosure: Resolution Agreement

Cc: XXXXX XXXXXX, Atkinson, Andelson, Loya, Ruud & Romo