



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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SAN FRANCISCO, CA 94102

REGION IX  
CALIFORNIA

August 14, 2017

Via Electronic Mail

Leah Davis  
Executive Director  
Riverside County SELPA  
2935 Indian Avenue  
Perris, CA 92571

Re: OCR No. 09-17-1186

Dear Executive Director Davis:

This letter is to inform you of the disposition of the above-referenced complaint filed against Riverside County SELPA (SELPA) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), on January 5, 2017, alleging discrimination on the basis of disability. Specifically, the complaint alleged that certain of the SELPA's web pages are not accessible to students and adults with disabilities, including vision impairments. These include, but are not limited to:

- Homepage, <http://www.rcselpa.org/>
- Parent Resources page, [http://www.rcselpa.org/parent\\_teacher\\_resources/](http://www.rcselpa.org/parent_teacher_resources/)
- Calendar page, <http://www.rcselpa.org/cms/one.aspx>
- Google maps page,  
<https://www.google.com/maps/place/Riverside+County+SELPA/@33.825364,-117.234764,9z/data=!4m5!3m4!1s0x80dca10f322c05f5:0x5833bb826ee5ddca!8m2!3d33.8254013!4d-117.2346671?hl=en>
- IEP forms page, <http://www.rcselpa.org/cms/One.aspx?portalId=206030&pageId=648515>
- Resources page, <http://www.rcselpa.org/cms/One.aspx?portalId=206030&pageId=648524>
- Policies and Procedures page,  
<http://www.rcselpa.org/cms/One.aspx?portalId=206030&pageId=649467>
- Staff Development Resources page,  
<http://www.rcselpa.org/cms/One.aspx?portalId=206030&pageId=649467>

- Governance and Meetings page,  
<http://www.rcselpa.org/cms/One.aspx?portalId=206030&pageId=1597611>

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

Based on the complaint allegations, OCR opened an investigation of the following issues:

- whether the SELPA, on the basis of disability, excluded qualified persons with disabilities from participation in, denied them the benefits of, or otherwise subjected them to discrimination in its programs and activities based on disability, in violation of the regulation implementing Section 504 at 34 C.F.R. § 104.4 and the regulation implementing Title II at 28 C.F.R. § 35.130; and
- whether the SELPA failed to take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others, in violation of 28 C.F.R. § 35.160(a).

### **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(a) and (b), 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 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.

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.

### **Investigation To Date:**

To date, OCR has investigated this complaint by reviewing information provided by the Complainant and conducting a preliminary assessment of the accessibility of several pages from the SELPA’s website.

The complaint alleges that the SELPA’s website is not in compliance with Section 504 and Title II because it is inaccessible to individuals with vision disabilities, print disabilities, physical impairments, and hearing impairments. The Complainant used website accessibility checkers (PowerMapper and WAVE) and reported to OCR that the COE’s webpages listed in the notification letter have accessibility issues for individuals with disabilities. She then provided OCR with a list of errors copied and pasted from the website accessibility checker that she used.

OCR conducted a preliminary examination of the web pages identified by the Complainant and found possible compliance concerns as to whether the SELPA’s website is accessible to individuals with disabilities. For example, on the SELPA’s

Homepage <http://www.rcselpa.org/>

- Carousel heading has five rotating photos, with inadequate alt text descriptions e.g., “Side of Christa”
- No “Skip to Main Content”, excessive tabbing required to reach main content and links.
- Keyboard controls do not fully activate dropdown menus on links in heading.
- Navigation with keyboard is not visually apparent.
- Pages are not appropriately titled in tabs.
- Child Find Notice, “Search and Save” (opens in Windows Photo Viewer) is a picture PDF which can’t be accessed by a screen reader.
- Nine “empty links” contain no text so that the purpose or the function of the link will not be presented to the user.
- Four alt-text related seven links on the right side of the Homepage should not be labeled “long alternative text” because they do not link to a URL or a file that provides accessibility information.

- The “Postsecondary Survey” in Spanish and English does not have a properly associated text labels, the function or purpose of that form control may not be presented to screen reader users.

Parent Resources page, [http://www.rcselpa.org/parent\\_teacher\\_resources/](http://www.rcselpa.org/parent_teacher_resources/)

- Brochure in Spanish, “Los Seis Factores Protectores” contains text in both English and Spanish, but does not identify the language of the document.
- CAC Spring 2017 Newsletter has selectable text, but the headings are pictures and impede navigation for screen readers.
- “Sexual Pressure: A Survival Guide for Guys”, a picture ASPX file.
- Rape Crisis Center flyer a picture ASPX file.
- Youth Advocates United to Succeed flyer, a picture ASPX file.
- “Publications” has pictures of books and text but can’t be accessed by a screen reader.
- “Riverside County MTSS/SELPA ERMHS Flowchart” is a picture file that can’t be accessed by a screen reader.
- “A Special Education Guide for Parents and Guardians”, page 18 has a picture of text, which can’t be accessed by a screen reader, page 30 “Hierarchy to Follow When Resolving Conflicts” contains “text” that can’t be accessed by a screen reader, page 31 “Alternative Dispute Resolution (ADR)Continuum contains a graphic that can’t be accessed by a screen reader.
- “Come Back Kids” flyer, picture ASPX file, can’t be accessed by a screen reader.
- CaPromise information letter, a picture ASPX file, can’t be accessed by a screen reader.

Calendar page <http://www.rcselpa.org/cms/one.aspx>

- Navigable by keyboard, but not all features can be utilized as easily as with a mouse e.g. “Export Event”, “Download All” and “Back” do not have alt text that be accessed by a screen reader.

Google maps page

<https://www.google.com/maps/place/Riverside+County+SELPA/@33.825364,-117.234764,9z/data=!4m5!3m4!1s0x80dca10f322c05f5:0x5833bb826ee5ddca!8m2!3d33.8254013!4d-117.2346671?hl=en>

- Maps, in general, are not accessible to a severely visually impaired person and cannot reasonably be made accessible on-line. Alternative descriptions of location and directions would need to be made available on an individual basis, upon request.

IEP forms page <http://www.rcselpa.org/cms/One.aspx?portalId=206030&pageId=648515>

- “2016-2017 IEP Manual” ; cannot operate links with a keyboard, but can with a mouse, “Special Education Process Timetable” is a picture of a chart that can’t be accessed by a screen reader, “Special Education Service Options” conveys information by color, structure and graphic representations that cannot be perceived by persons with no or low vision or colorblindness.

Resources page

[http://www.rcselpa.org/parent\\_teacher\\_resources/Community\\_Advisory\\_Committee\\_CAC/resouces](http://www.rcselpa.org/parent_teacher_resources/Community_Advisory_Committee_CAC/resouces)

- “Transition-Soft Skills”, slides contain pictures with text that cannot be accessed by a screen reader.
- “Riverside County SELPA Organizational Chart”, is an image with text that can’t be accessed by a screen reader.

Policies and Procedures page

<http://www.rcselpa.org/cms/One.aspx?portalId=206030&pageId=649467>

- “On Line Resources” a list of webpages that can’t be selected or opened with keyboard controls.

Prior to the completion of OCR’s investigation, the SELPA asked to resolve this complaint pursuant to Section 302 of OCR’s Case Processing Manual (CPM). On August 10, 21017, the SELPA submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the allegations in the complaint.

In light of the commitments the SELPA has made in the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will monitor the SELPA’s implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. 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.

If the SELPA fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to

enforce the Agreement, OCR shall give the SELPA written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This concludes OCR's investigation of the complaint and should not be interpreted to address the SELPA'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 case. 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.

Please be advised that the SELPA 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.

The Complainant may 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 letter and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR looks forward to receiving the SELPA's first monitoring report by August 11, 2017. For questions about implementation of the Agreement, and about this letter, please contact David LaDue Civil Rights Attorney at 415-486-5528 or [David.LaDue@ed.gov](mailto:David.LaDue@ed.gov).

Sincerely,

/s/

Zachary Pelchat  
Team Leader

Enclosure Resolution Agreement