



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

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REGION IX
CALIFORNIA

June 15, 2017

Anne E. Campbell
County Superintendent of Schools
Superintendent's Office
San Mateo County Office of Education
101 Twin Dolphin Drive
Redwood City, CA
94065-1064

Re: OCR Docket #09-17-1187

Dear Superintendent Campbell:

This letter is to inform you of the disposition of the above-referenced complaint filed against San Mateo County County Office of Education (COE) 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 COE'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.smcoe.org>
- Parents and Students page, <http://www.smcoe.org/parents-and-students/selpa/>
- YouTube page, <https://m.youtube.com/user/SanMateoCOE>
- Events Calendar page, <https://sanmateo.k12oms.org>
- Connect online, <http://www.smcoe.org/about-smcoe/connect-with-smcoe-online.html>
- Resources for Parents, <http://www.smcoe.org/parents-and-students/resources-for-parents.html>
- Information for Parents and Caregivers, <http://www.smcoe.org/parents-and-students/special-education/information-for-parents-and-caregivers.html>
- Inmate Education page, <http://www.smcoe.org/parents-and-students/inmate-education.html>
- High School Equivalency Testing, <http://www.smcoe.org/parents-and-students/ged-testing.html>

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 COE 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 COE, 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 COE 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 COE's website.

The complaint alleges that the COE'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 COE's website is accessible to individuals with disabilities. For example,

Homepage, <http://www.smcoe.org>

- Keyboard navigation cannot access the "Quick Links" on the homepage
- Link in marque, "SMCOE Outdoor Education"; can't be accessed with keyboard alone.
- The "Big Five Community Packet" has information in images that can't be accessed by a screen reader; front cover and the "First Aid Triage" diagram.
- "San Mateo 2016-2017 Organizational Chart" PDF- Image with text; may not be accessible to a screen reader.
- "Focus Areas"; Common Core, Early Learning, School Safety, Stem Center contrast issues with text and links.
- Video; Pen Voice 197; controls can't accessed by keyboard, no captions.

Parents and Students page, <http://www.smcoe.org/parents-and-students/selpa/>

- "Continuum of Services/Placement" English and Spanish; has visual presentations/clues that may not be accessible to a screen reader.
- "A Parent Communication for Special Education" English and Spanish; organizes text in visual modules, that may not be accessed by a screen reader.
- "Assessment for Special Education" Spanish and English; headings and reading order may not be suitable for accessing in a logical and accurate order by a screen reader.
- "Individualized Education Timeline"; headings and reading order may not be suitable for accessing in a logical and accurate order by a screen reader.

You tube page, <https://m.youtube.com/user/SanMateoCOE>

- “D-3, The Role of Content-Knowledge in ELA Literacy and ELD”; no captions.
- “D-1, Language at the Core”; no audio description of slides.
- “AIM Capuchino High School”; no captions, no audio description

Events Calendar page (third-party application from San Bernardino COE), <https://sanmateo.k12oms.org>

- No heading structure,
- Missing alt-text descriptions,
- Registration form; missing form labels,
- Add to Calendar; missing linked image,
- Very low contrast for many elements, small font.

Connect online, <http://www.smcoe.org/about-smcoe/connect-with-smcoe-online.html>

- “Articles of Interest”, “Dyslexia: Myths and Facts”; PDF picture file can’t be accessed by a screen reader.
- Text and links; very low contrast

Prior to the completion of OCR’s investigation, the COE asked to resolve this complaint pursuant to Section 302 of OCR’s Case Processing Manual (CPM). On June 15, 2017, the COE 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 COE 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 COE’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 COE 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 COE 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 COE'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 COE 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 COE's first monitoring report by July 15, 2017. For questions about this letter or the implementation of the Agreement, please contact David LaDue Civil rights Attorney at 415-486-5528 or David.LaDue@ed.gov.

Sincerely,

/s/

Zachary Pelchat
Team Leader

C.c. Claire A. Cunningham
Lead Deputy County Counsel

Enclosure: Resolution Agreement