



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW
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REGION XI
NORTH CAROLINA
SOUTH CAROLINA
VIRGINIA
WASHINGTON, DC

December 9, 2016

Via email to mherndon@halifax.k12.va.us

Dr. Merle Herndon
Superintendent
Halifax County Public Schools
1030 Mary Bethune Street
Halifax, VA 24558

RE: OCR Complaint No. 11-16-1381
Resolution Letter

Dear Dr. Herndon:

This letter is to advise you of the outcome of the complaint that the Office for Civil Rights (OCR) of the U.S. Department of Education (the Department) received on June 13, 2016 against Halifax County Public Schools (the Division). The complaint alleged discrimination on the basis of disability. Specifically, the Complainant alleged that certain pages of the recipient's website are not accessible to students and adults with disabilities including, but not limited to, vision impairments. These include:

- <http://www.halifax.k12.va.us/news/all>
- <https://dashboard.pcgeducation.com/accoun/logon?retrunURL=%2f>
- <http://www.halifax.k12.va.us/parentstudent/portal>
- <http://www.halifax.k12.va.us/parentstudent/resources>
- <http://www.halifax.k12.va.us/calendars>
- <http://www.halifax.k12.va.us/about/community>

OCR enforces Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibits discrimination on the basis of disability by recipients of Federal financial assistance. We also enforce Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131, and its implementing regulation, 28 C.F.R. Part 35, which prohibits discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and a public entity, the Division is subject to Section 504, Title II and their implementing regulations.

Before OCR completed its investigation, the Division expressed a willingness to resolve the complaint by taking the steps set out in the enclosed Resolution Agreement. The following is a discussion of the relevant legal standards and information obtained by OCR during the investigation that informed the development of the Resolution Agreement.

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

Legal Standards

The Section 504 regulation, at 34 C.F.R. § 104.4, prohibits 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.

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. Section 504, at 34 C.F.R. § 104.4(b)(1)(ii), prohibits affording individuals with disabilities an opportunity to participate in or benefit from aids, benefits, and services that is unequal to the opportunity afforded others. Similarly, under Section 504, at 34 C.F.R. § 104.4(b)(2), 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. Under Section 504, at 34 C.F.R. § 104.4(b)(1)(iv), 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. 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.

Factual Background

During the course of the investigation OCR examined a number of pages on the Division's website to determine whether they are accessible to persons with disabilities. OCR evaluated the above-listed pages and determined that there were some barriers for people with disabilities, including, but not limited to the following: non-unique page tab titles, inconsistent visibility of keyboard controls, links without meaningful labels or titles, contrast errors, and barriers included within numerous PDF documents.

During the investigation, OCR held an online video chat where we demonstrated the barriers to access that had been identified by OCR.

Conclusion

Pursuant to Section 302 of OCR's *Case Processing Manual*, the Division signed the enclosed Resolution Agreement on December 9, 2016 which, when fully implemented, will resolve the allegations raised in this complaint. The provisions of the Agreement are aligned with the allegations and issues raised by the Complainant and the information discussed above that was obtained during OCR's investigation, and are consistent with applicable law and regulation. OCR will monitor the Division's implementation of the Agreement until the Division is in compliance with the statutes and regulations at issue in the case. Failure to implement the Agreement could result in OCR reopening the complaint.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the Division'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. The Complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the Division must not harass, coerce, intimidate, discriminate, or otherwise retaliate against an individual because that individual asserts a right or privilege under a law enforced by OCR or files a complaint, testifies, or participates in an OCR proceeding. If this happens, the individual may file a retaliation complaint with OCR.

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.

We appreciate the Division’s cooperation in the resolution of this complaint. If you have any questions, please contact Megan Ballard, the OCR attorney assigned to this complaint, at 202-453-6739 or Megan.Ballard@ed.gov.

Sincerely,

/S/

Letisha Morgan
Team Leader, Team II
District of Columbia Office
Office for Civil Rights

Enclosure

cc: Melissa Wolf Riley, Esq.
Via email to MRiley@mcguirewoods.com