



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

Ms. Jo Anne G. Mondowney
Executive Director
5201 Woodward Avenue
Detroit, Michigan 48202

Re: OCR Docket #15-16-4038

Dear Ms. Mondowney:

This letter is to inform you of the disposition of the above-referenced complaint filed against the Detroit Public Library (the Library) with the U.S. Department of Education's Office for Civil Rights (OCR) on July 18, 2016, alleging discrimination on the basis of disability. Specifically, the complaint alleged that certain of the Library's web pages are not accessible to persons with disabilities. These pages include, but are not limited to:

1. Home page: <http://www.detroitpubliclibrary.org/>
2. Research & Resources Webpage:
<http://www.detroitpubliclibrary.org/research-resources>
3. Multimedia - <http://detroitpubliclibrary.org/multimedia>
4. Detroit Library for the Blind and Physically Handicapped:
<http://detroitpubliclibrary.org/specialservice/detroit-library-blind-and-physically-handicapped-lbph>
5. News- <http://detroitpubliclibrary.org/news>
6. Services- <http://detroitpubliclibrary.org/special-services>

OCR is 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 public library, the Library is subject to Title II and its implementing regulation. OCR, therefore, had jurisdiction to investigate this complaint

Based on the complaint allegation, OCR opened an investigation into the following issues:

- whether a public library, on the basis of disability, excludes qualified persons with disabilities from participation in, denies them the benefits of, or otherwise subjects them to discrimination in its programs, activities, aids, benefits, or services in violation of the regulation implementing Title II at 28 C.F.R. § 35.130; and
- whether a public library has failed to take appropriate steps to ensure that its communications with applicants, participants, members of the public, and companions with disabilities are as effective as its communications with others in violation of the regulation implementing Title II at 28 C.F.R. § 35.160(a).

Summary of OCR’s Investigation

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

The complaint alleged that the Library’s website is not in compliance with Title II, because it is inaccessible to persons with disabilities. The Complainant used a website accessibility checker (PowerMapper) and reported to OCR that the Library website’s homepage, Research and Resources webpage, Multimedia webpage, Detroit Library for the Blind and Physically Handicapped webpage, News page, and Services page were not accessible to persons with disabilities, based on her “limited check” of the website. She then provided OCR with a list of errors copied and pasted from the website accessibility checker that she used.

OCR therefore used a web accessibility tool to do a preliminary review of the specific web pages identified by the Complainant and found accessibility alerts that raised possible compliance concerns as to whether the pages are accessible to individuals with disabilities. For example, one could navigate through pages examined with a keyboard by tabbing, but where the cursor was landing was not visually apparent in all cases due to the lack of contrast between the box surrounding links and the background or other colors on the page. In addition, some non-trivial graphics/images lacked meaningful alternative text, such as with popular books and DVDs that appear on various pages as graphics where content is conveyed solely through images of book/DVD covers; thus a person who needs to use a screen reader to access content would not have access to information conveyed to others visually. Furthermore, search boxes for the Library’s catalogue and databases lack labelling to indicate what could be typed in the boxes, and visual contrast was low, with text appearing in light colors on a white background and thus difficult to distinguish from the background.

On September 14, 2016, prior to the completion of OCR’s investigation, the Library asked to resolve this complaint under Section 302 of OCR’s *Case Processing Manual*

(CPM). Although the results of OCR’s web accessibility assessment described above do not, without more, provide sufficient evidence for OCR to determine a violation of Title II, they do raise compliance concerns regarding the accessibility of the Library’s website. OCR has therefore determined that it is appropriate to resolve this complaint with an agreement. Accordingly, OCR is not making a finding with regard to the Library’s compliance with Title II in this letter.

Applicable Regulatory Standards

The regulation implementing Title II, at 28 C.F.R. § 35.130(a), provides that no qualified person with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of a public entity’s services, programs, or activities or be subjected to discrimination by any public entity.

The regulation implementing Title II, at 28 C.F.R. § 35.130(b), further prohibits a public entity, in providing any aid, benefit, or service, directly or through contractual, licensing, or other arrangements, from denying a qualified individual with a disability the opportunity to participate in or benefit from an aid, benefit, or service; affording a qualified individual with a disability an opportunity to participate in or benefit from an aid, benefit, or service that is not equal to that afforded others; providing a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others; providing different or separate aids, benefits, or services to individuals with disabilities than is provided to others, unless necessary to provide them with aids, benefits, or services as effective as those provided to others; or otherwise limiting a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

Additionally, the regulation implementing Title II has specific requirements for communication, which, in pertinent part, require that public entities 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. 28 C.F.R. § 35.160(a)(1). Entities subject to Title II are required to provide equally effective communication, regardless of the medium chosen for their communication. Communication includes the transfer of information and encompasses information conveyed through computer-related applications and online environments.

OCR and the U.S. Department of Justice, Civil Rights Division, issued a Dear Colleague Letter on June 29, 2010 (June 2010 DCL), on access to emerging technologies for individuals with disabilities. OCR then issued another Dear Colleague Letter on May 26, 2011 (May 2011 DCL), along with a questions and answers document (FAQ), in follow-up to the June 2010 DCL. The FAQ clarifies that students with disabilities, especially visual impairments, are to be afforded “the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as sighted students.” The FAQ also clarifies that an accommodation or modification that is available only at certain

times will not be considered “equally effective and equally integrated” where other students have access to the same information at any time and any location, as is the case with a website or other online content. The May 2011 DCL states that online programs are also covered and stresses the importance of planning to ensure accessibility from the outset.

While the May 2011 DCL and FAQ focused primarily on electronic book readers, the principles articulated in the documents apply to all forms of information technology. Though the DCL and FAQ discussed students as the affected population, public entities must ensure equal access to the educational benefits and opportunities afforded by the technology and equal treatment in the use of the technology for individuals with disabilities in any populations the public entity engages with its programs or activities, including students and members of the public.

Resolution and Conclusion

As noted above, prior to the completion of OCR’s investigation, the Library expressed interest in resolving the allegations in the complaint through Section 302 of OCR’s CPM, which provides that a complaint may be resolved before the conclusion of an OCR investigation if a public entity asks to resolve the complaint and signs a resolution agreement that addresses the complaint allegations. Such a request does not constitute an admission of liability on the part of the Library, nor does it constitute a determination by OCR that the Library has violated any of the laws that OCR enforces. On October 7, 2016, the Library submitted the enclosed, signed resolution agreement (the Agreement) to OCR. The provisions of the Agreement are aligned with the complaint allegations and the information obtained to date during the investigation and are consistent with applicable regulations. When fully implemented, the Agreement will resolve the allegations in the complaint.

In light of the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will, however, monitor the Library’s implementation of the Agreement. Should the Library fail to fully implement the Agreement or otherwise come into compliance with the Title II regulation, OCR may reopen the complaint and take appropriate action to ensure the Library’s compliance with the Title II implementing regulation.

This concludes OCR’s investigation of the complaint and should not be interpreted to address the Library’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 Library 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.

OCR looks forward to working with the Library throughout the monitoring process and to receiving its first monitoring report by March 31, 2017. For questions about implementation of the Agreement, please contact Karla Ussery, who will be monitoring the Library's implementation, by e-mail at Karla.Ussery@ed.gov or by telephone at (216) 522-2683. For questions about this letter, please contact Ms. Ussery at the above e-mail address and phone number or Emily Babb, Program Manager, at (216) 522-4979.

Sincerely,

/s/

Meena Morey Chandra
Regional Director

Enclosure