



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

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

September 6, 2017

Ms. Julie Kildee
Director
Holly Academy
820 Academy Road
Holly, Michigan 48442

Re: OCR Docket #15-17-1078

Dear Ms. Kildee:

This letter is to inform you of the disposition of the above-referenced complaint filed against Holly Academy (the Academy) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), on October 31, 2016, alleging that the University discriminates on the basis of disability. Specifically, the complaint alleged that the academy's website is not accessible to students and adults with disabilities including, but not limited to, vision impairments.

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 Academy 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 Academy, 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.
- Whether the Academy 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).

Summary of OCR’s Investigation

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

The complaint alleged that the Academy’s website is not in compliance with Section 504 and Title II because it is inaccessible to adults and students with visual impairments and other disabilities. The Complainant reported to OCR that certain pages on the Academy website have accessibility issues for individuals with vision and print disabilities, based on her assessment of the website, and provided OCR with a list of errors copied and pasted from a website accessibility checker.

OCR conducted an evaluation of some pages of the website using a combination of a web accessibility tool and manual checking and found accessibility alerts that raise possible compliance concerns as to whether the website is accessible to individuals with disabilities. For example, at the time of OCR’s review, keyboard controls and other webpage elements displayed with low visual contrast, some form fields were missing labels, and some images did not have meaningful alternative text.

Prior to the completion of OCR’s investigation, the Academy asked to resolve this complaint pursuant to Section 302 of OCR’s *Case Processing Manual* (CPM). As the compliance concerns identified through OCR’s web accessibility assessment described above do not, without more, provide sufficient evidence for OCR to reach a determination with respect to the allegations, OCR determined it would be appropriate to voluntarily resolve this complaint with an agreement. On September 5, 2017, the Academy submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the allegations in the complaint.

Resolution and Conclusion

In light of the commitments the Academy 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, however, monitor the Academy’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 Academy 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 Academy 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 Academy 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 Academy’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 Academy 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 receiving the Academy's first monitoring report by October 31, 2017. For questions about implementation of the Agreement, please contact Kimberly Kilby, who will be monitoring the Academy's implementation, by e-mail at Sarah.Poppleton@ed.gov or by telephone at (216) 522-2674. For questions about this letter, please contact Donald Yarab, Supervisory Attorney/Team Leader, at (216) 522-7634.

Sincerely,

/s/

Meena Morey Chandra
Regional Director

Enclosure