

## CLOUD CONTRACT - REQUIRED COMPONENTS \_\_\_\_\_ Agreement

Requirement of Law	Legal Citation	Complies Yes-No?	Paragraph
<b>AB 1584 – Education Code</b>			
Written contract	49073.1(b)		
States pupil records are the property of the LEA	49073.1(b)(1)		
States pupil records are under the control of the LEA	49073.1(b)(1)		
Describes means by which a pupil may retain possession and control of pupil-generated content	49073.1(b)(2)		
Describes options by which a pupil may transfer pupil-generated content to a personal account	49073.1(b)(2)		
Prohibits using any information in the pupil record for any purpose other than those required or specifically permitted by the contract	49073.1(b)(3)		
Describes procedures by which a parent/guardian/eligible pupil may review PII in the pupil's records	49073.1(b)(4)		
Describes procedures by which a parent/guardian/eligible pupil may correct erroneous information in the pupil's records	49073.1(b)(4)		
Describes the actions the vendor will take to ensure the security/confidentiality of pupil records (including designation and training of responsible individuals)	49073.1(b)(5)		
Describes procedures for notifying affected parent/guardian/eligible pupil of an unauthorized disclosure of the pupil's records	49073.1(b)(6)		
Certification that a pupil's records shall not be retained or available to a third party upon completion of the term of the contract	49073.1(b)(7)(A)		
Describes how the certification (that a pupil's records shall not be retained or available to a third party upon completion of the contract) will be enforced	49073.1(b)(7)(A)		
Describes how the LEA and vendor will jointly ensure compliance with FERPA	49073.1(B)(8)		
States a prohibition against the vendor using PII in pupil records to engage in targeted advertising	49073.1(B)(9)		
<b>SB 1177 (Business &amp; Professions Code Section 22584)</b>			
Operator will not engage in targeted advertising on the operator's site, service, or application	22584(b)(1)(A)		

Operator will not target advertising on any other site, service, or application when the targeting of the advertising is based upon any information, including covered information and persistent unique identifiers, that the operator has acquired because of the use of that operator's site	22584(b)(1)(B)		
Operator will not use information, including persistent unique identifiers, created or gathered by the operator's site, service, or application to amass a profile about a K-12 student except in furtherance of K-12 school purposes	22584(b)(2)		
Operator will not sell a student's information, including covered information	22584(b)(3)		
Operator will not disclose covered information unless the disclosure is made: (A) In furtherance of the K-12 purpose of the site, service, or application, and provided the recipient . . . does not further disclose the information unless . . . to allow or improve operability and functionality within that student's classroom or school, and is legally required to comply with other rules (as found in 22584(d)) (B) To ensure legal and regulatory compliance; (C) To respond to or participate in judicial process; (D) To protect the safety of users or others or security of the site; or (E) To a service provider, provided the operator contractually (i) prohibits the service provider from using any covered information for any purpose other than providing the contracted service to, or on behalf of, the operator, (ii) prohibits the service provider from disclosing any covered information provided by the operator with subsequent third parties, and (iii) requires the service provider to implement and maintain reasonable security procedures and practices as provided in subdivision (d)	22584(b)(4)		
Operator must implement/maintain reasonable security procedures/practices appropriate to the nature of the covered information, and protect it from unauthorized access, destruction, use, modification, or disclosure	22584(d)(1)		
Operator must delete a student's covered information if the school or district requests deletion of data under the control of the school or district	22584(d)(2)		
Contains a definition of "covered information" that includes personally identifiable information or materials in any media or format that meets any of the following: (1) Is created or provided by a student, or the student's parent or legal guardian; (2) Is created or provided by an employee or agent of a K-12 school, school district, LEA, or COE; (3) Is gathered by an operator through the operation of a site, service, or application and is descriptive of a student or otherwise identifies a student, including, but not limited to, information in the student's educational record or email, first and last name, home address, telephone number, email address, or other information that allows physical or online contact, discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents, student identifiers, search activity, photos, voice recordings, or geolocation information	22584(i)		

**Business & Professions Code Sections 22580-22582****Privacy Rights for California Minors in the Digital World (PRCMDW) - [SB 568 - 2013]**

An operator of an Internet website, online service, online application, or mobile application directed to minors:

. . . shall not market or advertise a "listed product" or service on its website, online service/application, or mobile app directed to minors

22580(a)

. . . shall not market or advertise a listed product or service to a minor if the operator has actual knowledge the person is a minor and is using its website/etc. if the marketing or advertising is specifically directed to that minor based upon information specific to that minor, excluding IP address and product identification numbers for service operation

22580(b)(1)

[Who has actual knowledge that a minor is using its website/etc.] shall not knowingly use, disclose, compile, or allow a third party to use/collect the personal information of a minor with actual knowledge that the use/collection is for the purpose of marketing listed products to that minor

22580(c)

With respect to marketing/etc. provided by an advertising service, the operator of an website/etc. complies with 22580(a) if the operator notifies the ad service that the website/etc. is directed to minors

22580(h)(1)

The ad service shall not market a listed product on the operator's website if it is notified that a website/etc. is directed to minors

22580(h)(2)

The marketing/etc. restrictions apply to the following products/etc.:

22580(i)

- (1) Alcoholic beverages (B&P Sections 23003-23009, 25658)
- (2) Firearms or handguns (PC 16520, 16640, 27505)
- (3) Ammunition or reloaded ammunition (PC 16150 and 30300)
- (4) Handgun safety certificates (PC 31625 and 31655)
- (5) Aerosol paint capable of defacing property (PC 594.1)
- (6) Etching cream capable of defacing property (PC 594.1)
- (7) Any tobacco or paraphernalia designed for smoking tobacco, or any controlled substance (PC Division 8.5 (22950+) and 308, 308.1, 308.2, 308.3)
- (8) BB device (PC 16250, 19910)
- (9) Dangerous fireworks (H&S 12505, 12689)
- (10) Tanning/ultraviolet tanning device (B&P 22702, 22706)
- (11) Dietary supplements containing ephedrine (H&S 110423.2)
- (12) Tickets/shares in a lottery (GC 8880.12, 8880.52)
- (13) Salvia divinorum or Salvinorin A, or any substance or material containing Salvia divinorum or Salvinorin A (PC 379)
- (14) Body branding (H&S 119301, 119302)
- (15) Permanent tattoo (H&S 119301, 119302 and PC 653)
- (16) Drug paraphernalia (H&S 11364.5)
- (17) Electronic cigarette (H&S 119405)
- (18) Obscene matter (PC 311)
- (19) A less lethal weapon (PC 16780, 19405)

Shall permit a minor user of the website/etc. to remove (or, if the operator prefers) to request and obtain removal of, content/etc. posted on the website/etc. by the user

22581(a)(1)

Shall provide notice to the minor user of the minor's right to remove or have content/etc. removed from the website/etc.

22581(a)(2)

Shall provide clear instructions to a minor user of the website/etc. on how the user may remove or request and obtain the removal of content/etc. posted on the website/etc.

22581(a)(3)

<p>Shall provide notice to a minor user of the website/etc. that the removal described herein does not ensure complete or comprehensive removal of the content/etc. posted on the website/etc.</p>	<p>22581(a)(4)</p>		
<p>*Operator not required to erase/eliminate/enable erasure or elimination of content/etc. where (1) Any provision of federal/state law requires the operator to maintain the content/etc.; or (2) The content/etc. was stored on or posted by a third party user, including any content/etc. posted by the minor user stored, republished, or reposted by the third party; or (3) The operator anonymizes the content/etc., so that the minor user cannot be identified; or (4) The minor does not follow the instructions on how the minor user may request and obtain the removal of content/etc. posted by the minor user; or (5) The minor received compensation/other consideration for providing the content</p>	<p>22581(a)(5)</p>		
<p>**An operator shall be deemed compliant if: (1) It renders the content/etc. no longer visible to other users, even if the content/etc. remains on the operator's servers; or (2) despite making the original posting invisible, it remains visible because a third party has copied reposted the content/etc.</p>	<p>22581(d)</p>		

# WHAT'S NEW FOR 2016 IN SCHOOL CONSTRUCTION & BUSINESS

Presentation by Chris burger  
August 3, 2016

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As the result of legislation signed into law by the Governor, effective in 2016 several new requirements have been enacted that will be of interest to school business, finance, facilities and construction professionals.

## I. CONSTRUCTION and FACILITIES

**AB 219 (Daly).** This bill expands the definition of “public works” for purposes of paying prevailing wages to include the hauling of refuse from a public works site to an outside disposal facility and the hauling and delivery of ready-mixed concrete to carry out a public works contract. This bill applies to contracts involving any state agency or any political subdivision of the state, including school districts.

The applicable prevailing wage rate for ready-mixed concrete delivery is the rate for the geographic area in which the concrete factory or batching plant is located. The statute requires the entity hauling or delivering ready-mixed concrete to enter into a written subcontract agreement with, and to provide employee payroll and time records to, the party that engaged that entity. These provisions apply to public works contracts awarded on or after July 1, 2016. (Labor Code 1720.9)

**AB 434 (Garcia).** Requires the State Water Resources Control Board (“State Board”) to adopt regulations, similar to those previously authorized for adoption by the State Department of Public Health, governing the use of point-of-entry and point-of-use treatment by a public water system in lieu of centralized treatment where it can be demonstrated that centralized treatment is not immediately economically feasible. This bill also requires the State Board to adopt emergency regulations governing the permitted use of point-of-use and point-of-entry treatment by public water systems in lieu of centralized treatment and requires that these emergency regulations remain in effect until the earlier of January 1, 2018, or the effective date of the required non-emergency regulations. This bill also prohibits the use of point-of-entry treatment absent a State Board determination of no community opposition. This bill became effective on October 9, 2015. (H&S 116380, 116552)

**AB 496 (Rendon):** This bill allows the CDE to receive funds transferred from any available state and federal source to be allocated to school districts for the purpose of complying with the requirements of Section 38086 to provide free, fresh drinking water during meal times in food service areas of schools. (Ed. Code 38086.1)

**AB 566 (O'Donnell).** This bill requires, until January 1, 2019, that Lease-Leaseback agreements provide that all general and mechanical, electrical and plumbing contractors and subcontractors be prequalified regardless of the funding source for the public project.

This bill also requires the use of a skilled and trained workforce in all apprenticable trades on the project (in increasing annual percentages) before the governing board of a school district may enter into a Lease-Leaseback contract. In 2016, at least 30% of the workforce must be “skilled and trained.”<sup>1</sup> By 2019, the requirement is at least 60% of the workforce must be “skilled and trained.” This bill requires a contractor to certify monthly during construction that the required percentage of “skilled and trained” workforce has been met. A district is required to “immediately cease” making payments if a contractor fails to provide the required report. Entry into a project labor agreement binding on all contractors and subcontractors is satisfactory evidence of compliance with the “skilled and trained” workforce requirement. (Ed. Code 17406, 17407 17407.5; PCC 20111.6)

**AB 1358 (Dababenh).** As of July 1, 2016, this bill reduces the project cost threshold for use of the design-build project delivery method from \$2.5 million to \$1 million until January 1, 2025, allowing either the low bid or best value bid, as defined, to be accepted. This bill also requires a “skilled and trained workforce” be employed on the design-build project in increasing annual percentages from 20 percent to 60 percent through July 1, 2020. As with AB 566, a project labor agreement will be one method of compliance with the “skilled and trained workforce” requirement. (Ed. Code 17250.10 through 17250.55)

**AB 1431 (Gomez).** This bill restricts job order contracting to districts that have entered into a project labor agreement or agreements that will apply to all public works in excess of twenty-five thousand dollars (\$25,000) undertaken by the school district through at least December 31, 2021, regardless of what contracting procedure is used to award that work. (PCC 20919.20 through 20919.33)

**SB 111 (Fuller).** This bill expresses the intent of the legislature that assistance be provided to school districts in the 2015-16 year to meet the matching share requirement of a school construction grant made by DOD to construct, renovate, repair, or expand elementary and secondary public schools located on military installations. This bill also directs the Department of Finance to explore options on how best to assist school districts in meeting the matching share grant requirement. (Uncodified)

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<sup>1</sup> A “skilled and trained workforce” is defined for 2016 as: (A) all workers are either skilled journeypersons or apprentices registered in an apprenticeship program approved by the Chief of the Division of Apprenticeship Standards of the Department of Industrial Relations or (B) at least 30 percent of the skilled journeypersons employed to perform work on the contract or project by the entity and each of its subcontractors at every tier are graduates of an apprenticeship program for the applicable occupation that was either approved by the chief pursuant to Section 3075 of the Labor Code or located outside California and approved for federal purposes pursuant to the apprenticeship regulations adopted by the federal Secretary of Labor.

**SB 836 (Committee on Budget and Fiscal Review).** This bill includes a change to the Division of the State Architect (DSA) project review threshold. The bill increases the minimum project cost threshold for DSA review as follows:

- Structural projects - from \$42,218 to \$100,000
- Non-structural projects - from \$168,187 to 225,000.

## II. BUSINESS and FINANCE

**AB 715 (Daly).** This bill revises the definition of assessable space, for purposes of levying developer fees on residential structures, to exclude covered or uncovered walkways. (Gov. Code 65995)

**AB 1420 (Salas).** This bill requires the Division of Oil Gas and Geothermal Resources (DOGGR) by January 1, 2018, to review, evaluate and update as appropriate, its regulations regarding all active gas pipelines 4" or less and 10 years old or older in sensitive areas. A "sensitive area" means any of the following:

A. An area containing a building intended for human occupancy, such as a residence, **school**, hospital, or business that is located within 300 feet of an active gas pipeline and that is not necessary to the operation of the pipeline.

B. An area determined by the supervisor to present significant potential threat to life, health, property, or natural resources in the event of a leak from an active gas pipeline.

C. An area determined by the supervisor to have an active gas pipeline that has a history of chronic leaks. (H & S Code 101042; PRC 3270.5, 3270.6)

**SB 222 (Block).** This bill requires general obligation bonds issued and sold by or on behalf of a local agency to be secured by a statutory lien on all revenues received pursuant to the levy and collection of the property tax imposed to service those bonds. This bill also requires the revenue received, pursuant to the levy and collection of the tax, to be immediately subject to the lien and requires the lien to immediately attach to the revenues and be effective, binding, and enforceable against the local agency, its successors, transfers, and creditors, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing or further act.

This bill defines local agency to mean any city, county, city and county, **school district**, community college district, authority, or special district and defines GO bonds to mean bonds, warrants, notes, or other evidence of indebtedness of a local agency payable from the proceeds of ad valorem taxes that may be lived, pursuant to the California Constitution Article XIII A, Section 1(b)(2)(3). (Ed. Code 15251, 53515).





# OFFICE FOR CIVIL RIGHTS/WEBSITE ACCESS

Presentation by WILLIAM A. HORNBACK  
August 3, 2016

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Website access for disabled persons has become a major target of governmental and private rights groups. Last year the US Department of Justice (DOJ) sided with the National Association for the Deaf (NAD) in NAD's lawsuit against Harvard University and the Michigan Institute of Technology alleging that the universities violated the law because video on their websites was not captioned for the hearing impaired. Others filing Statements of Interest included civil rights activists, the US Department of Education and Attorney General Loretta Lynch.

In March 2016 the San Bernardino County Superior Court found liability under the Americans with Disabilities (ADA) and Unruh Acts against a commercial enterprise for a website that was inaccessible to blind customers. Damages in the amount of \$4,000 were found and payment of attorneys fees (estimated at around \$100,000) were ordered along with an injunction against further violation of the Acts.

On June 29, 2016, the Office for Civil Rights (OCR) issued a press release reflecting settlements with multiple states and school districts for website accessibility claims. Earlier this year it was reported that OCR had targeted the websites of 350 educational agency for access to physically challenged individuals. Using both ADA and Section 504 grounds, OCR investigators found common problems in many websites, including:

- Important images were missing text descriptions ("alt tags") describing the images for vision-impaired users who require special software;
- Important content could only be accessed via computer mouse, which meant that content was not available to the visually impaired or to those with fine motor control disabilities;
- Websites used color combinations that made text difficult or impossible for the visually impaired to see; and
- Online videos were not captioned, rendering them inaccessible to hearing-impaired users.

Settling educational agencies "voluntarily" agreed to make their websites accessible, adopting a range of actions including:

- Commitment to ensuring those with disabilities have equal opportunities to enjoy all the agency's programs, services, and activities including via online delivery;
- Conducting an audit of content and functionality to identify access barriers;

- Adopting policies and procedures to ensure that ongoing online content and functionality will be accessible to all;
- Following a corrective action plan to prioritize removal of online access barriers;
- Posting a notice about how to request access to online information or functionality currently inaccessible; and
- Providing website accessibility training to all appropriate staff.

It is assumed that the OCR press release was a warning to other educational agencies that their websites will be targeted in the future and that quick action to correct deficiencies would be in order. For agencies looking to be proactive on this issue, the following are a few good resources providing guidance:

- Section 508 Standards, which apply to all federal agencies and those that accept federal funding (most school districts), found at:

<https://www.access-board.gov/guidelines-and-standards/communications-and-it/about-the-section-508-standards/section-508-standards>

- Web Content Accessibility Guidelines 2.0 ("WCAG 2.0"), currently approved by DOJ as meeting the accessibility requirements under Title III of the ADA, found at:

<https://www.w3.org/TR/WCAG20/>

- OCR Resolution Agreements with settling agencies reference compliance with the World Wide Web Consortium's (W3C's) Web Content Accessibility Guidelines. Those guidelines are found at:

<https://www.w3.org/WAI/>

We note that federal circuit courts are not in agreement regarding whether the ADA applies to websites. We also note that enforcement agencies that would pursue claims against an agency for compliance are all in apparent agreement that the ADA already mandates compliance.

If anyone would like additional information in this area, we would be happy to consult on an individual basis regarding your particular situation.

Attachments:

1. OCR Press Release
2. OCR Letter to Washington Superintendent of Public Instruction
3. OCR Resolution Agreement with Montana School for the Deaf and Blind
4. OCR Resolution Agreement with Juneau School District
5. W3C Home Page
6. W3C's WAI Guidelines Page
7. W3C's Planning And Implementation Page
8. W3C's Accessibility Evaluation Resources Page

# Settlements Reached in Seven States, One Territory to Ensure Website Accessibility for People with Disabilities

JUNE 29, 2016

**Contact:** Press Office, (202) 401-1576, [press@ed.gov](mailto:press@ed.gov) ([mailto: press@ed.gov](mailto:press@ed.gov))

The U.S. Department of Education's [Office for Civil Rights](http://www2.ed.gov/about/offices/list/ocr/index.html) (<http://www2.ed.gov/about/offices/list/ocr/index.html>) (OCR) today announced that it has reached settlements with education organizations in seven states and one territory to ensure website accessibility for people with disabilities.

OCR had received complaints involving each of the organizations, resulting in investigations. But before OCR had completed its probes, each of the 11 parties expressed interest in resolving their cases voluntarily, resulting in the agreements announced today. The settlements involved: Juneau, Alaska, School District; the Guam Department of Education; Montana School for the Deaf and Blind; Santa Fe, New Mexico, Public Schools; Washoe County, Nevada, School District; The Davidson Academy of Nevada; Nevada Department of Education; Oregon Department of Education; Granite, Utah, School District; Bellingham, Washington, School District; and the Washington Office of Superintendent of Public Instruction.

"As schools, school districts, states, and territories turn to the internet as a way to provide relevant and up-to-date information to their audiences in a cost-effective manner, they must make sure they are not inadvertently excluding people with disabilities from their online programs, services, and activities," said Catherine E. Lhamon, assistant secretary for civil rights. "I applaud each of these signatories who have committed to ensuring that their websites are accessible to people with disabilities."

The agreements cover issues raised under [Section 504 of the Rehabilitation Act of 1973](http://www2.ed.gov/policy/rights/guid/ocr/disabilityoverview.html) (<http://www2.ed.gov/policy/rights/guid/ocr/disabilityoverview.html>) and [Title II of the Americans with Disabilities Act of 1990](https://www.ada.gov/) (<https://www.ada.gov/>) to online services and programs.

OCR investigations found that on all 11 websites important images were missing text descriptions, called "alt tags," that describe the images to blind and low-vision users who use special software. Common problems affecting many of the websites included:

- Some important content of the website could only be accessed by people who can use a computer mouse, which meant that content was not available to those who are blind, many who have low-vision, and those with disabilities affecting fine motor control;
- Parts of the website used color combinations that made text difficult or impossible for people with low vision to see; and
- Videos were not accurately captioned, so they were inaccessible to people who are deaf.

The 11 education groups voluntarily committed to make their websites accessible through a range of actions, which require OCR review and approval at key stages, including:

- Affirming their commitment to ensuring that people with disabilities have opportunities equal to those of others to enjoy the recipients' programs, services, and activities, including those delivered online;
- Selecting an auditor who has the requisite knowledge and experience to audit content and functionality and identify barriers to access on the existing website for people with disabilities;
- Conducting a thorough audit of existing online content and functionality;
- Adopting policies and procedures to ensure that all new, newly added or modified online content and functionality will be accessible to people with disabilities;
- Making all new website content and functionality accessible to people with disabilities;
- Developing a corrective action plan to prioritize the removal of online barriers;
- Posting a notice to persons with disabilities about how to request access to online information or functionality that is currently inaccessible; and
- Providing website accessibility training to all appropriate personnel.

Following are links to the resolution letters and resolution agreements for each organization.

- AK - Juneau School District (case 10-16-1109), [Juneau Letter](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161109-a.pdf>) | [Juneau Agreement](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161109-b.pdf>)
- GU - Guam Department of Education (10-16-1098), [Guam Department of Education Letter](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161098-a.pdf>) | [Guam Department of Education Agreement](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161098-b.pdf>)
- MT - Montana School for the Deaf and Blind (10-16-1160), [Montana Letter](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161160-a.pdf>) | [Montana Agreement](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161160-b.pdf>)
- NM - Santa Fe Public Schools (08-16-1189), [Santa Fe Letter](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/08161189-a.pdf>) | [Santa Fe Agreement](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/08161189-b.pdf>)
- NV - Washoe County School District (10-16-1134), [Washoe Letter](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161134-a.pdf>) | [Washoe Agreement](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161134-b.pdf>)
- NV - The Davidson Academy of Nevada (10-16-1133), [Davidson Letter](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161133-a.pdf>) | [Davidson Agreement](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161133-b.pdf>)
- NV - Nevada Department of Education (10-16-1101), [Nevada Department of Education Letter](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161101-a.pdf>) | [Nevada Department of Education Agreement](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161101-b.pdf>)
- OR - Oregon Department of Education (10-16-1102), [Oregon Department of Education Letter](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161102-a.pdf>) | [Oregon Department of Education Agreement](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161102-b.pdf>)
- UT - Granite School District (08-16-1232), [Granite Letter](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/08161232-a.pdf>) | [Granite Agreement](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/08161232-b.pdf>)
- WA - Bellingham School District (10-16-1108), [Bellingham Letter](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161108-a.pdf>) | [Bellingham Agreement](#) (<http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161108-b.pdf>)

- WA - Washington Office of Superintendent of Public Instruction (10-16-1103), [Washington Superintendent Letter \(http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161103-a.pdf\)](http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161103-a.pdf) | [Washington Superintendent Agreement \(http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161103-b.pdf\)](http://www2.ed.gov/about/offices/list/ocr/docs/investigations/more/10161103-b.pdf)

OCR's mission is to ensure equal access to education and promote educational excellence throughout the nation through the vigorous enforcement of civil rights. OCR is responsible for enforcing federal civil rights laws that prohibit discrimination by educational institutions on the bases of disability, race, color, national origin, sex, and age, as well as the *Boy Scouts of America Equal Access Act of 2001*.



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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SEATTLE, WA 98174-1099

REGION X  
ALASKA  
AMERICAN SAMOA  
GUAM  
HAWAII  
IDAHO  
MONTANA  
NEVADA  
NORTHERN  
MARIANA  
ISLANDS  
OREGON  
WASHINGTON

June 29, 2016

Honorable Randy Dorn  
Superintendent of Public Instruction  
Washington Office of Superintendent of Public Instruction  
P.O. Box 47200  
Olympia, Washington 98504-7200

Re: Washington Office of Superintendent of Public Instruction  
OCR Reference No. 10161103

Dear Superintendent Dorn:

This is to advise you of the resolution of the above-referenced complaint investigation of the Washington Office of Superintendent of Public Instruction (OSPI) by the United States Department of Education (Department), Office for Civil Rights (OCR). The complaint, which was received on February 10, 2016, alleged that OSPI is discriminating, on the basis of disability, because certain pages on its website are not accessible to persons with disabilities.

OCR is responsible for enforcing section 504 of the Rehabilitation Act of 1973, as amended (Section 504), 29 United States Code (U.S.C.) § 794, *et seq.*, and its implementing regulations at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination on the basis of disability in programs and activities of recipients of federal financial assistance. OCR also is responsible for enforcing title II of the Americans with Disabilities Act of 1990, as amended (Title II), 42 U.S.C. § 12131, *et seq.*, and its implementing regulations at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability in programs, services, and activities of public entities. As a recipient of federal financial assistance from the Department and as a public entity, OSPI is subject to OCR's jurisdiction under Section 504 and Title II.

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

[www.ed.gov](http://www.ed.gov)

This letter summarizes the applicable legal standards, the information gathered during the investigation, and how the investigation was resolved.

### 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 and 28 C.F.R. § 35.130. People with disabilities must have equal access to the 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(a)(1). 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:

During the course of the investigation OCR examined a number of pages on OSPI's website to determine whether they are accessible to persons with disabilities. These web pages included:

- The Home page- <http://www.k12.wa.us>;
- The Migrant and Bilingual page- <http://www.k12.wa.us/MigrantBilingual/default.aspx>;
- The Special Education page- <http://www.k12.wa.us/SpecialEd/default.aspx>; and
- The Child Nutrition page- <http://www.k12.wa.us/ChildNutrition/default.aspx>.

OCR evaluated the above-listed pages and determined that important images were missing text descriptions, called “alt tags,” that describe the images to blind and low-vision users who use special software; some important content of the website could only be accessed by people who

can use a computer mouse, which meant that content was not available to those who are blind, many who have low vision, and those with disabilities affecting fine motor control; parts of the website used color combinations that made text difficult or impossible for people with low vision to see; and videos were not accurately captioned, so they were inaccessible to people who are deaf. These barriers deny persons with disabilities access to programs, services, and activities offered on the website and may impede OSPI's communications with persons with disabilities.

Prior to the conclusion of OCR's investigation, OSPI expressed an interest in voluntarily resolving this case. In order to conclude OCR's investigation of this complaint, OCR would have had to conduct interviews, review documents, and examine a broader range of pages on OSPI's website; OCR would have sought to learn, for example, whether OSPI had received previous complaints of inaccessible website content or functionality, and how those complaints were resolved; and whether its information technology staff members and people responsible for uploading content or maintaining web pages had received training in website accessibility. In light of OSPI's willingness to address its website comprehensively without further investigation, OCR determined entering into a voluntary resolution agreement would be appropriate.

#### Resolution Agreement:

OSPI submitted a signed resolution agreement (Agreement) to OCR on June 21, 2016. OSPI committed to take actions such as:

- conducting an assessment to identify barriers to access on OSPI's website and conducting a thorough assessment of existing online content and functionality;
- making all new website content and functionality accessible to people with disabilities;
- developing a corrective action plan to prioritize the removal of on-line barriers over a 24-month period;
- posting a notice to persons with disabilities about how to request access to online information or functionality that is currently inaccessible; and
- providing website accessibility training to all appropriate personnel.

This concludes OCR's investigation of the complaint. These findings should not be interpreted to address OSPI's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. OCR will monitor OSPI's implementation of the Agreement. When OCR concludes that OSPI has fully implemented the terms of the Agreement and is in compliance with the statutes and regulations at issue in the case, OCR will terminate its monitoring and close the case. If OSPI fails to implement the Agreement,



OCR may seek compliance with the federal civil rights laws through any means authorized by law, including to enforce the specific terms of the Agreement.

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 OSPI may not harass, coerce, intimidate, discriminate or otherwise retaliate against any individual because he or she asserted a right or privilege under a law enforced by OCR or filed a complaint, testified, or participated in the complaint resolution process. 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. In the event that OCR receives such a request, OCR will seek to protect, to the extent provided by law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released.

Thank you for the assistance OSPI and its counsel extended to OCR in resolving this complaint. We look forward to receiving OSPI's first reports about its implementation of the Agreement by July 21, 2016. If you have any questions, please contact Noel Nightingale, lead attorney, by telephone at (206) 607-1632, or by e-mail at [noel.nightingale@ed.gov](mailto:noel.nightingale@ed.gov).

Sincerely,

/s/

Paul Goodwin  
Team Leader

Enclosure: Resolution Agreement

cc: Chief Legal Officer

## **Resolution Agreement**

### **Montana School for the Deaf and Blind OCR Reference No. 10161160**

The Office for Civil Rights (OCR) of the U.S. Department of Education initiated an investigation into an allegation that the Montana School for the Deaf and Blind (“the School”) violated Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and that statute’s implementing regulations at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (“Title II”) and that statute’s implementing regulations at 28 C.F.R. Part 35. Specifically, the complainant alleges that the School’s website contains barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the School’s programs, services, and activities, and denying them effective communication necessary for full participation in School programs, services, and activities.

This Agreement has been entered into voluntarily and does not constitute an admission that the School violated Section 504 and Title II and those statutes’ implementing regulations.

Assurances of Nondiscrimination. The School hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the School’s programs, benefits, and services, including those delivered through electronic and information technology, except where doing so would impose an undue burden or create a fundamental alteration.

Benchmarks for Measuring Accessibility. For the purposes of this Agreement, the accessibility of online content and functionality will be measured according to the World Wide Web Consortium’s (W3C’s) Web Content Accessibility Guidelines (WCAG) 2.0 Level AA and the Web Accessibility Initiative Accessible Rich Internet Applications Suite (WAI-ARIA) 1.0 for web content, which are incorporated by reference.

Adherence to these accessible technology standards is one way to ensure compliance with the School’s underlying legal obligations to ensure people with disabilities are able to acquire the same information, engage in the same interactions, and enjoy the same benefits and services within the same timeframe as their nondisabled peers, with substantially equivalent ease of use; that they are not excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any School programs, services, and activities delivered online, as required by Section 504 and Title II and those statutes’ implementing regulations; and that they receive effective communications with the School’s programs, services, and activities delivered online.

The School voluntarily agrees to take the actions set forth below.

## **Remedies and Reporting**

1. **Undue Burden and Fundamental Alteration.** For any technology-related requirement in this Agreement for which the School asserts an undue burden or fundamental alteration defense, such assertion may only be made by the Superintendent or by an individual designated by the Superintendent and who has budgetary authority after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion, including the cost of meeting the requirement and the available funding and other resources. The written statement will be certified by the Superintendent or designee. If such a determination is made, the certifying official will describe in the written statement how it will provide equally effective alternate access. To provide equally effective alternate access, alternatives are not required to produce the identical result or level of achievement for persons with and without disabilities, but must afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.
  
2. **Policies and Procedures for New Online Content and Functionality.** By August 22, 2016, the School will submit to OCR for its review and approval proposed policies and procedures (“the Plan for New Content”) to ensure that all new, newly-added, or modified online content and functionality will be accessible to people with disabilities as measured by conformance to the Benchmarks for Measuring Accessibility set forth above, except where doing so would impose a fundamental alteration or undue burden.
  - a) The Plan for New Content must include sufficient quality assurance procedures for full implementation, including setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis, and backed by adequate personnel and financial resources. This requirement also applies to the School's online content and functionality developed by, maintained by, or offered through a third-party vendor or through the use of open sources, and includes setting up systems of accountability and verifying claims of accessibility by third-party vendors or open sources.
  
  - b) When fundamental alteration or undue burden defenses apply, the Plan for New Content will require the School to provide equally effective alternate access. The Plan for New Content will require the School, in providing equally effective alternate access, to take any actions that do not result in a fundamental alteration or undue financial and administrative burdens, but nevertheless ensure that, to the maximum extent possible,

individuals with disabilities receive the same benefits or services as their nondisabled peers.

- c) After OCR approves the Plan for New Content, the School will present the Plan to meetings of the Montana Board of Public Education for the Plan's first and second readings and the Board's approval. Any changes to the Plan for New Content by the Board of Public Education will require OCR's approval.
  - d) Reporting: Within 45 calendar days of receiving OCR's and the Montana Board of Public Education's final approval, the School will submit to OCR evidence of the adoption and distribution of the approved Plan for New Content, and a description of how the Plan is being implemented.
3. Designation of Auditor. By December 12, 2016, the School will propose for OCR's review and approval the identity and bona fides of an Auditor (corporation or individual) to audit all content and functionality on its website and to identify any online content or functionality that is inaccessible to persons with disabilities. The Auditor will have sufficient knowledge and experience in website accessibility to carry out all related tasks, including development of a Proposed Corrective Action Plan. OCR will evaluate whether the proposed Auditor has the requisite experience and knowledge to carry out an appropriate Audit and to develop a proposed Corrective Action Plan.
- a) Reporting: Within 7 calendar days of receiving OCR's approval of the proposed Auditor, the School will submit to OCR documentation that it has assigned or retained the Auditor approved by OCR to conduct the Audit of existing content and functionality.
4. Audit of Existing Content and Functionality. The Auditor approved by OCR will audit all content and functionality on the School's website, including, but not limited to, the home page, all subordinate pages, and School intranet pages and sites, to identify any online content or functionality that is inaccessible to persons with disabilities, including online content and functionality developed by, maintained by, or offered through a third-party vendor or an open source. The Audit will use the Benchmarks for Measuring Accessibility set out above, unless the School receives prior permission from OCR to use a different standard as a benchmark. During the Audit, the School will also seek input from members of the public with disabilities, including parents, students, employees, and others associated with the School, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.

- a) Reporting: Within 90 calendar days of receiving OCR’s approval of the proposed Auditor, the School will submit to OCR documentation of the steps taken by the Auditor during the Audit, a description of the outreach it undertook and the input it received, and a detailed accounting of the results of the Audit.
5. Proposed Corrective Action Plan. Simultaneously with the submission of the Audit, the School will submit to OCR for its review and approval a proposed Corrective Action Plan to address all inaccessible content and functionality identified during the School’s Audit. The proposed Corrective Action Plan will set out a detailed schedule for addressing problems, taking into account identified priorities, with all corrective actions to be completed within 18 months of the date OCR approved the Corrective Action Plan.
  - a) In its Corrective Action Plan, the School will acknowledge that if all inaccessible content and functionality identified during the Audit is not removed or made accessible on a timely basis, the School will be in violation of this Agreement, Section 504, and Title II, and OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement.
  - b) Within 30 calendar days of receiving OCR’s approval of the proposed Corrective Action Plan, the School will officially adopt and implement the Corrective Action Plan.
  - c) Reporting: Within 45 calendar days of receiving OCR’s approval of the proposed Corrective Action Plan, the School will submit to OCR the approved Corrective Action Plan, and documentation establishing that the approved Corrective Action Plan is being implemented according to the approved schedule. Reports will be due every six months thereafter until the Corrective Action Plan has been completed
6. Notice. Within 30 calendar days of the date of this Agreement, the School will submit to OCR for review and approval a proposed Notice on its website to persons with disabilities regarding how to request the webmaster or other appropriate person to provide access to (or notify the School regarding) online information or functionality that is currently inaccessible. The proposed Notice will also include information or an accessible link to information instructing people how to file more formal grievances under Section 504 and Title II. Within 10 calendar days of receiving OCR’s approval of the proposed Notice, the School will officially adopt and publish the approved Notice by prominently posting the approved Notice on its home page and throughout its website (including all subordinate pages and intranet pages and sites).

- a) Reporting: Within 15 calendar days of receiving OCR’s approval of the School’s proposed Notice, the School will provide documentation to OCR regarding the locations and content of its published Notice.
7. Training. Starting no later than 30 calendar days from the date of this Agreement, and annually thereafter, the School will deliver website accessibility training to all appropriate personnel, including, but not limited to: content developers, webmasters, procurement officials, and all others responsible for developing, loading, maintaining, or auditing web content and functionality.
    - a) Reporting: Within 30 calendar days of each training session required by this Agreement, until such time as OCR closes its monitoring of this Agreement, the School will submit to OCR documentation that the training has been delivered. The documentation will include a list of invitees and attendees and their position titles, a description of the delivered training content, and the presenters’ credentials for providing such training.
  8. The School understands that OCR will not close the monitoring of this Agreement until OCR determines that the School has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. 104.4 and the regulations implementing Title II at 28 C.F.R. 35.130 and 35.160(a), which were at issue in this case.
  9. The School also understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the School understands that during the monitoring of this Agreement, if necessary, OCR may visit the School, interview staff members, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether the School has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. 104.4 and the regulations implementing Title II at 28 C.F.R. 35.130 and 35.160(a), which are at issue in this case.

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10. The School understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. 100.9 and 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the School written notice of the alleged breach and 60 calendar days to cure the alleged breach.

\_\_\_\_\_/s/\_\_\_\_\_  
Donna E. Sorensen  
For Montana School for the Deaf and Blind

\_6/20/2016\_\_\_\_\_  
Date

## **Resolution Agreement**

### **Juneau School District OCR Reference No. 10161109**

The Office for Civil Rights (OCR) of the U.S. Department of Education initiated an investigation into an allegation that the Juneau School District (“the District”) violated Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and that statute’s implementing regulations at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (“Title II”) and that statute’s implementing regulations at 28 C.F.R. Part 35. Specifically, the complainant alleges that the District’s website contains barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the District’s programs, services, and activities, and denying them effective communication necessary for full participation in the District’s programs, services, and activities.

This Agreement has been entered into voluntarily and does not constitute an admission that the District violated Section 504 and Title II and those statutes’ implementing regulations.

Assurances of Nondiscrimination. The District hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the District’s programs, benefits, and services, including those delivered through electronic and information technology, except where doing so would impose an undue burden or create a fundamental alteration.

Benchmarks for Measuring Accessibility. For the purposes of this Agreement, the accessibility of online content and functionality will be measured according to the World Wide Web Consortium’s (W3C’s) Web Content Accessibility Guidelines (WCAG) 2.0 Level AA and the Web Accessibility Initiative Accessible Rich Internet Applications Suite (WAI-ARIA) 1.0 for web content, which are incorporated by reference.

Adherence to these accessible technology standards is one way to ensure compliance with the District’s underlying legal obligations to ensure people with disabilities are able to acquire the same information, engage in the same interactions, and enjoy the same benefits and services within the same timeframe as their nondisabled peers, with substantially equivalent ease of use; that they are not excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any District programs, services, and activities delivered online, as required by Section 504 and Title II and those statutes’ implementing regulations; and that they receive effective communications with District programs, services, and activities delivered online.

The District voluntarily agrees to take the actions set forth below.



## **Remedies and Reporting**

1. **Undue Burden and Fundamental Alteration.** For any technology-related requirement in this Agreement for which the District asserts an undue burden or fundamental alteration defense, such assertion may only be made by the Superintendent or by an individual designated by the Superintendent and who has budgetary authority after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion, including the cost of meeting the requirement and the available funding and other resources. The written statement will be certified by the Superintendent or designee. If such a determination is made, the certifying official will describe in the written statement how it will provide equally effective alternate access. To provide equally effective alternate access, alternatives are not required to produce the identical result or level of achievement for persons with and without disabilities, but must afford persons with disabilities an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.
  
2. **Policies and Procedures for New Online Content and Functionality.** By July 15, 2016, the District will submit to OCR for its review and approval proposed policies and procedures (“the Plan for New Content”) to ensure that all new, newly added, or modified online content and functionality will be accessible to people with disabilities as measured by conformance to the Benchmarks for Measuring Accessibility set forth above, except where doing so would impose a fundamental alteration or undue burden.
  - a) The Plan for New Content must contain sufficient quality assurance procedures for full implementation, including setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis, and backed by adequate resources. This requirement also applies to the District's online content and functionality developed by, maintained by, or offered through a third-party vendor or through the use of open sources, and includes setting up systems of accountability and verifying claims of accessibility by the third-party vendors or open sources.
  
  - b) When fundamental alteration or undue burden defenses apply, the Plan for New Content will require the District to provide equally effective alternate access. The Plan for New Content will require the District, in providing equally effective alternate access, to take any actions that do not result in a fundamental alteration or undue financial and administrative burdens, but nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the same benefits or services as their nondisabled peers.

- c) By September 30, 2016, and after receiving OCR’s approval of the Plan for New Content, the District will officially adopt the amended policies and procedures.
  - d) Reporting: Within 15 calendar days of their adoption, the District will submit to OCR the approved policies and procedures, evidence of their adoption and distribution, and a description of how they are being implemented.
3. Notice. By August 1, 2016, the District will submit to OCR for review and approval a proposed Notice on its website to persons with disabilities regarding how to request the webmaster or other appropriate person to notify the District regarding inaccessible online content or functionality. The proposed Notice will include information, or an accessible link to information, about how to file a grievance through the district’s grievance procedure required by the Section 504 and Title II implementing regulations. Within 10 calendar days of receiving OCR’s approval of the proposed Notice, the District will publish the approved Notice by prominently posting the Notice on its website.
  - a) Reporting. Within 15 calendar days of publishing the approved Notice, the District will provide documentation to OCR regarding the locations and content of its published Notice.
4. Training. Starting no later than 30 calendar days from the date of this Agreement, or 30 day calendar days from the first day of the new school year for school-based staff, and annually thereafter, the District will deliver website accessibility training to all appropriate personnel, including, but not limited to: content developers, webmasters, procurement officials, and all others responsible for developing, loading, maintaining, or auditing web content and functionality.
  - a) Reporting: Within 30 calendar days of conducting each training session required by this Agreement, until such time as OCR closes its monitoring of this Agreement, the District will submit to OCR documentation that the training has been delivered. The documentation will include a list of invitees and attendees and their position titles, a description of the delivered training content, and the presenters’ credentials for providing such training.
5. The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. 104.4 and the regulations implementing Title II at 28 C.F.R. 35.130 and 35.160(a), which were at issue in this case.
6. The District also understands that by signing this Agreement, it agrees to provide data and other information related to the District’s obligations under this Agreement, in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the

District, interview staff members, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. 104.4 and the regulations implementing Title II at 28 C.F.R. 35.130 and 35.160(a), which are at issue in this case.

7. The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. 100.9 and 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and 60 calendar days to cure the alleged breach.

\_\_\_\_\_/s/\_\_\_\_\_  
Dr. Mark Miller  
Superintendent  
For the Juneau School District

\_\_\_\_6/20/2016\_\_\_\_\_  
Date



WAI: Strategies, guidelines, resources to make the Web accessible to people with disabilities

## **Designing for Inclusion**

Inclusive design, design for all, digital inclusion, universal usability, and similar efforts address a broad range of issues in making technology available to and usable by all people whatever their abilities, age, economic situation, education, geographic location, language, etc. *Accessibility* focuses on people with disabilities — people with auditory, cognitive, neurological, physical, speech, and visual impairments. The documents below explore some of the overlaps between inclusive design and web accessibility, and help managers, designers, developers, policy makers, researchers, and others optimize their efforts in these overlapping areas.

### **[How People with Disabilities Use the Web](#)**

Introduces detailed examples of people with different disabilities using websites, applications, browsers, and authoring tools.

### **[Web Accessibility and Older People: Meeting the Needs of Ageing Web Users](#)**

Introduces how the accessibility needs of older people with age-related impairments are similar to the accessibility needs of people with disabilities, and how existing international guidelines address them. Links to resources for developers, managers, researchers, advocates, and others, such as:

- [Developing Websites for Older People: How Web Content Accessibility Guidelines \(WCAG\) 2.0 Applies](#)
- [Overview of "Web Accessibility for Older Users: A Literature Review"](#)

### **[Mobile Accessibility](#)**

Summarizes existing and developing resources related to mobile accessibility — that is, making websites and applications more accessible to people with disabilities when they are using mobile phones and a broad range of other devices.

### **[Web Content Accessibility and Mobile Web: Making a Web Site Accessible Both for People with Disabilities and for Mobile Devices](#)**

Introduces the significant overlap between accessibility and Mobile Web design and development. Provides a brief overview that is *useful for the [business case](#)*. Links to:

- [Experiences Shared by People with Disabilities and by People Using Mobile Devices](#) - Lists web interaction that is similar by a user with a disability and by a user with a mobile device. Links to recommendations from WCAG and MWBP for designing web content without these barriers.

- [Relationship between Mobile Web Best Practices \(MWBP\) and Web Content Accessibility Guidelines \(WCAG\)](#) - Provides guidance for people who already know WCAG and want to learn how it relates to MWBP; and for people who already know MWBP and want to learn how it relates to the WCAG.

See also:

- [Involving Users in Web Projects for Better, Easier Accessibility](#) describes how project managers, designers, and developers can better understand accessibility issues and implement more effective accessibility solutions in their *websites and web applications; browsers, media players, and assistive technologies; authoring tools such as content management systems (CMS), blog software, and WYSIWYG editors; standards and policies on accessibility; web technologies and technical specifications.*
- [Tips for Getting Started with Web Accessibility](#) Introduces some basic considerations for making your website more accessible to people with disabilities, and provides links to additional guidance.
  - [Designing for Web Accessibility](#): Tips for user interface and visual design
  - [Writing for Web Accessibility](#): Tips for writing and presenting content
  - [Developing for Web Accessibility](#): Tips for markup and coding

## Document Information

**Status:** Updated 7 May 2016



WAI: Strategies, guidelines, resources to make the Web accessible to people with disabilities

### **WAI Guidelines and Techniques**

WAI develops a series of accessibility standards and guidelines that are introduced in [Essential Components of Web Accessibility](#) and listed below:

#### [Web Content Accessibility Guidelines \(WCAG\) Overview, WCAG 2.0 How to Meet WCAG 2.0 \(Quick Reference\)](#)

Addresses the **information in a Web site**, including text, images, forms, sounds, and such.

#### [Authoring Tool Accessibility Guidelines \(ATAG\) Overview, ATAG 1.0](#)

Addresses **software that creates Web sites**.

#### [User Agent Accessibility Guidelines \(UAAG\) Overview, UAAG 1.0](#)

Addresses **Web browsers and media players**, and relates to **assistive technologies**.

#### [Accessible Rich Internet Applications \(WAI-ARIA\) Suite Overview](#)

Defines a way to make dynamic web content and web applications developed with Ajax, DHTML, and other Web technologies more accessible.


#### [Independent User Interface \(Indie UI\)](#)

Defines a way for user actions to be communicated to web applications.

#### [Evaluation and Report Language \(EARL\) Overview](#)

Defines a way to express Web site evaluation test results in a platform independent format.

#### [WAI Technical Papers](#)

Links to technical papers, including the W3C Note on [Inaccessible Captcha](#)  and proceedings from research and development symposia.

#### [Referencing and Linking to WAI Guidelines and Technical Documents](#)

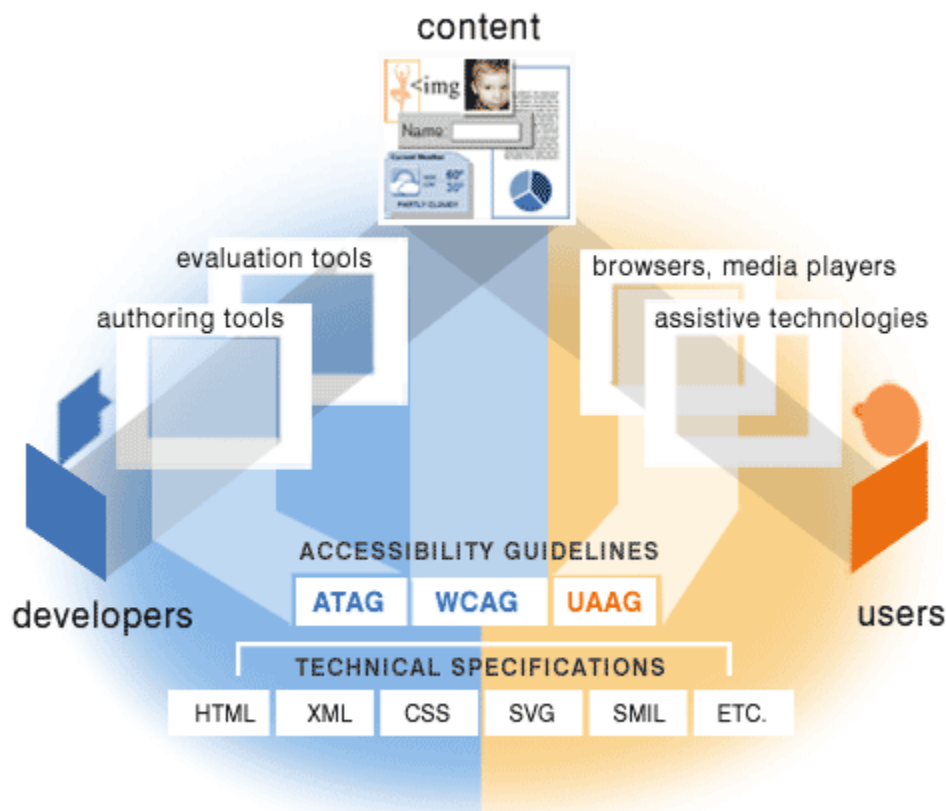
Provides guidance on references and links, along with WCAG links for policies, tools support, and others.

#### [How WAI Develops Accessibility Guidelines through the W3C Process: Milestones and Opportunities to Contribute](#)

Introduces how WAI works through a process designed to ensure broad community input and encourage consensus development.

See also:

- [Web Accessibility Tutorials](#) - Provides guidance on how to create specific components of websites to meet WCAG 2.0.
- [Essential Components of Web Accessibility](#) - Shows how Web accessibility depends on several components of Web development and interaction working together, and how the WAI guidelines (WCAG, ATAG, UAAG) apply.
- [Web Content Accessibility and Mobile Web: Making a Web Site Accessible Both for People with Disabilities and for Mobile Devices](#)
- [Developing Websites for Older People: How Web Content Accessibility Guidelines \(WCAG\) 2.0 Applies](#)





WAI: Strategies, guidelines, resources to make the Web accessible to people with disabilities

## **Planning and Implementing Web Accessibility**

### **Policy Resources**

#### **[Developing Organizational Policies on Web Accessibility](#)**

Describes considerations when making simple or comprehensive policies for organizations.

#### **[Why Standards Harmonization is Essential to Web Accessibility](#)**

Explains the key role that harmonization of standards plays in increasing the accessibility of the Web for people with disabilities.

#### **[International Policies Relating to Web Accessibility](#)**

Links to information on **government** policies relating to Web accessibility in different countries around the world.

### **Managing Accessibility**

#### **[Planning and Managing Web Accessibility](#)**

Describes activities to help integrate accessibility throughout your organization and projects.

#### **[Improving the Accessibility of Your Website](#)**

Provides guidance on addressing short-term accessibility fixes.

#### **[Involving Users in Web Projects for Better, Easier Accessibility](#)**

Describes how project managers, designers, and developers can better understand accessibility issues and implement more effective accessibility solutions in their *websites and web applications; browsers, media players, and assistive technologies; authoring tools such as content management systems (CMS), blog software, and WYSIWYG editors; standards and policies on accessibility; web technologies and technical specifications.*

#### **[Selecting and Using Authoring Tools for Web Accessibility](#)**

Provides information to help find authoring tools that support accessibility and work around the gaps in existing authoring tools.

### **Related Resources**



- [WAI Guidelines and Techniques](#) - list of web accessibility standards and guidelines, which are introduced in [Essential Components of Web Accessibility](#).
- [Web Accessibility and Older People](#): Meeting the Needs of Ageing Web Users.
- [Web Content Accessibility and Mobile Web](#): Making a Web Site Accessible Both for People with Disabilities and for Mobile Devices.

### **Document Information**

**Status:** Updated 16 May 2016



WAI: Strategies, guidelines, resources to make the Web accessible to people with disabilities

### **Accessibility Evaluation Resources**

"Evaluating Websites for Accessibility" is a multi-page resource suite that outlines different approaches for evaluating websites for accessibility. While it does not provide checkpoint-by-checkpoint testing techniques, it does provide general procedures and tips for evaluation in different situations, from evaluation during website development to ongoing monitoring of existing sites. The approaches in these pages are intended to supplement other content management and quality assurance procedures. The "Evaluating Websites for Accessibility" resource suite includes the following documents:

[Easy Checks - A First Review of Web Accessibility](#) *(updated 2014)*

Provides simple steps to help assess if a web page addresses accessibility.

[WCAG-EM Overview: Website Accessibility Conformance Evaluation Methodology](#) *(updated 2015)*

Introduces [WCAG-EM](#), an approach for determining how well a website conforms to Web Content Accessibility Guidelines (WCAG) 2.0.

[WCAG-EM Report Tool: Website Accessibility Evaluation Report Generator](#) *(updated 2016)*

Helps you generate website accessibility evaluation reports according to WCAG-EM.

[Involving Users in Web Accessibility Evaluation](#) *(updated 2010)*

Provides guidance on including people with disabilities ("users") in accessibility evaluation throughout Web development.

[Evaluation Approaches for Specific Contexts](#) *(updated 2005)*

Describes evaluation during the development process, ongoing monitoring, evaluation of legacy sites, and evaluation of dynamically generated Web pages.

[Selecting Web Accessibility Evaluation Tools](#) *(updated 2005)*

Provides guidance on choosing which Web accessibility evaluation tools to use to help evaluate Web accessibility.

[Web Accessibility Evaluation Tools List Search](#) *(updated 2016)*

Provides a comprehensive list of web accessibility evaluation tools that is searchable and sortable.

[Using Combined Expertise to Evaluate Web Accessibility](#) *(updated 2002)*

Describes the composition, training, and operation of teams of reviewers evaluating accessibility of websites.

[Template for Accessibility Evaluation Reports](#) *(updated 2002)*

Presents a format for communicating results of a Web accessibility evaluation.

See also:

- [W3C WAI Web Accessibility Evaluation and Testing Activities](#) - Introduces W3C WAI activities on web accessibility evaluation and testing that are on-going, in development, or planned for future development.

**AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS)**

As an AED Service Provider, the \_\_\_\_\_ District or designee authorizes purchase and deployment of automated external defibrillators (AEDs) at designated facilities for use during normal operating hours by a lay rescuer in a medical emergency involving an unconscious person who is not breathing.

Staff members are encouraged to volunteer to receive training to use AEDs. The \_\_\_\_\_ District or designee shall designate a licensed physician and surgeon who will help develop an Internal Emergency Response Plan and otherwise assist with developing guidelines for employees regarding use of these devices and ensure that designated employees have appropriate training on proper use and handling. The guidelines shall also specify AED placement, security, maintenance, and training.

**AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS)**

**Definitions.** The following definitions apply to these Administrative Regulations and the policy they accompany:

- A. "AED" means an automated external defibrillator or external defibrillator that after user activation is capable of cardiac rhythm analysis and will charge and deliver a shock, either automatically or by user interaction, after electronically detecting and assessing ventricular fibrillation or rapid ventricular tachycardia.
- B. "AED Service Provider" means the \_\_\_\_\_ District and all employees and authorized volunteers.
- C. "Cardiopulmonary resuscitation" or "CPR" means a basic emergency procedure for life support consisting of artificial respiration, manual external cardiac massage, and maneuvers for relief of foreign body airway obstruction.
- D. "Internal Emergency Response Plan" means a written plan of action which utilizes responders within a facility to activate the 911 emergency system and notify trained office personnel, and which provides for the access, coordination, and management of immediate medical care to seriously ill or injured individuals.
- E. "Lay Rescuer" means any person not otherwise licensed or certified to use an AED who has met the training standards of Chapter 1.8 of Division 9 of Title 22 of the California Code of Regulations. All Lay Rescuers shall be volunteers, willing to perform those services.
- F. "Medical Director" means a physician and surgeon currently licensed in California who provides medical oversight to the AED Service Provider.
- G. "Medical emergency" means an emergency during normal operating hours at a facility where an AED is located that may involve using an AED on an unconscious person who is not breathing.
- H. "Normal operating hours" means the hours of classroom instruction and any facility-sponsored activity occurring on facility grounds.

I. "Purchase" and "purchases" means acquisition of an AED by any means by the AED Service Provider, including without limitation buying, renting, accepting as a donation, or any combination thereof.

**Compliance.** The \_\_\_\_\_ District or designee shall:

- A. Comply with all regulations governing the placement of an AED;
- B. Notify an agent of the local EMS agency of the existence, location, and type of AED acquired;
- C. Ensure that the AED is maintained and tested according to the manufacturer's operation and maintenance guidelines;
- D. Ensure that the AED is tested at least biannually and after each use;
- E. Ensure that an inspection is made of all AEDs at the facility at least every 90 days for potential issues related to the device's operation, including a blinking light or other obvious defect that may suggest tampering or that another problem has arisen with its functionality; and
- F. Ensure that records of the required maintenance and testing are maintained.

For any AED placed in a building, the \_\_\_\_\_ District or designee shall:

- A. At least once a year, notify the building occupants as to the location of the AEDs and provide information about who they can contact if they want to voluntarily take AED or CPR training;
- B. At least once a year, offer a demonstration to at least one person associated with the building so that person can be walked through how to properly use an AED in an emergency.
- C. Post instructions on using the AED next to it in no less than 14-point type.

**Implementation.** An AED shall not be deployed until all the following requirements have been met:

- A. A Medical Director has been designated. The Medical Director shall participate in developing the Internal Emergency Response Plan and ensure that the Internal Emergency Response Plan and Lay Rescuer CPR and AED training meet the requirements of the Title 22 Regulations, the provisions of Civil Code Section 1714.21, and Health and Safety Code Sections 1797.196 and 1799.102. The Medical Director shall review each incident where emergency care or treatment on a person in cardiac arrest is rendered to ensure that the Internal Emergency Response Plan,

along with the CPR and AED standards that the Lay Rescuer was trained to, were followed, and ensure compliance for training, notification, and maintenance as set forth in these regulations, the policy they accompany, and the law. The services of a Medical Director may be provided by a qualified employee or volunteer, or by or through a contract with a vendor or nonprofit organization to provide the services of a qualified individual.

B. An Internal Emergency Response Plan created with the help of the Medical Director has been adopted and implemented. The written Internal Emergency Response Plan shall include but not be limited to immediate notification of the 911 emergency system and trained office personnel at the start of AED procedures. The written Internal Emergency Response Plan shall comply the policy they accompany and these Administrative Regulations.

C. An adequate number of facility personnel have volunteered to serve and been designated and trained as Lay Rescuers. The principal/other facility administrator shall designate the trained employees who shall be available to respond to an emergency that may involve using an AED during a medical emergency that occurs during normal operating hours.

The principal/other facility administrator shall designate no less than one trained employee for each of the first five AEDs deployed at any one facility and, for each additional five AEDs deployed the principal/other facility administrator shall designate at least one additional employee, beginning when the first of the additional five AEDs is deployed. At least one of the designated personnel should be available at the facility during normal operating hours.

Designated and trained Lay Rescuers shall maintain current CPR and AED training, including periodic training and skills proficiency demonstrations at a minimum of every two years, and be familiar with the Internal Emergency Response Plan.

The training curriculum must comply with regulations adopted by the California Emergency Medical Services Authority, the standards of the American Heart Association, or the American Red Cross. The training course shall include a competency demonstration of skills on a manikin, directly observed by an instructor, which tests the specified conditions prescribed herein, include a written and skills examination, and include at a minimum the following:

1. Basic CPR skills;
2. Proper use, maintenance, and periodic inspection of the AED; the importance of:
  - a. Early activation of an Internal Emergency Response Plan,
  - b. Early CPR,

- c. Early defibrillation,
  - d. Early advanced life support, and
  - e. An Internal Emergency Response Plan.
- 3. Overview of the local EMS system, including 911 access, and interaction with EMS personnel;
- 4. Assessment of an unconscious patient, to include evaluation of airway and breathing to determine appropriateness of applying and activating an AED;
- 5. Information relating to defibrillator safety precautions to enable the individual to administer shock without jeopardizing the safety of the patient or Lay Rescuer or other nearby persons, to include but not be limited to;
  - a. Age and weight restrictions for use of the AED,
  - b. Presence of water or liquid on or around the victim,
  - c. Presence of transdermal medications, and
  - d. Implantable pacemakers or automatic implantable cardioverter-defibrillators.
- 6. Recognition that an electrical shock has been delivered to the patient and that the defibrillator is no longer charged;
- 7. Rapid, accurate assessment of the patient's post-shock status to determine if further activation of the AED is necessary; and,
- 8. Responsibility for continuation of care, such as continued CPR and repeated shocks, as indicated, until more medically qualified personnel arrive.
- D. The facility follows any applicable County EMS Department AED Implementation Guidelines.
- E. All required notices are prepared for dissemination.

**AED Maintenance.** On an ongoing basis, the principal/other facility administrator or other facility administrator or designee at each facility with an AED shall ensure the following:



A. Notice.

1. Facility employees annually receive a brochure, with contents and style approved by the American Heart Association or American Red Cross, describing the proper use of an AED.
2. The American Heart Association or American Red Cross brochure or similar information is posted next to every AED.
3. Facility administrators and staff annually receive information describing sudden cardiac arrest, the facility's emergency response plan, and proper use of an AED, and are annually notified of AED locations at the facility.
4. The facility follows applicable County AED Implementation Guidelines including without limitation:
  - a. Becoming familiar and complying with California AED regulations and statutes;
  - b. Completing a Notification of Public Access Defibrillator Site Form listing each AED being deployed in the county and submitting the form to the local County EMS Department;
  - c. Resubmitting a Notification of Public Access Defibrillator Site Form if any of the information becomes outdated (i.e., the AED is moved to a different location, a new AED is purchased, etc.);
  - d. Every time an AED is used, submitting to the local County EMS Department a completed Report of Defibrillator Use Form within 24 hours of use.

B. Operations. The principal/other facility administrator shall ensure that:

1. The AED is maintained and regularly tested according to the manufacturer's operation and maintenance guidelines and according to any applicable rules and regulations of the governmental authority under the federal Food and Drug Administration and any other applicable state and federal authority.
2. The AED is checked for readiness after each use and at least once every 30 days if the AED has not been used in the previous 30 days. Records of these periodic checks shall be maintained.

3. A mechanism exists to ensure that any person rendering emergency care at the facility during normal operating hours, or using a deployed AED, immediately activates the 911 emergency system.
4. A report of emergency care and/or AED usage is made to the Medical Director and the local EMS agency.
5. At least one designated and trained employee is available at the facility during normal operating hours.
6. Instructions on how to use the AED, in no less than 14-point type, are posted next to every AED.