



## U.S. Department of Justice

Office of Justice Programs

*Office for Civil Rights*

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Washington, D.C. 20531

September 26, 2023

Christina Spurlock  
Clerk of Superior Court  
415 East Spring St.  
P.O. Box 7000  
Kingman, AZ 86402

Re: [REDACTED] v. *Mohave Cty. Super. Ct.* (19-OCR-1948)  
Notice of Findings

Dear Ms. Spurlock:

Thank you for the documentation and information the Mohave County Superior Court has provided to the Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) in connection to the above-named administrative Complaint. The Complainant alleges the Court discriminated against him on the basis of his disabilities. The OCR has completed our review of the information provided by both the Court and the Complainant and is administratively closing the Complaint at this time because the issues were resolved prior to the conclusion of the investigation. The OCR's analysis and conclusion are set forth below.

### **I. Summary of Complaint**

The Complainant was convicted in a criminal case heard by the Mohave County Superior Court (Court). The Complainant is blind and cannot access written material without auxiliary aids or services, such as braille. He stated that he made multiple requests to the Court to provide records pertaining to his matters in an accessible braille format due to his disability. He stated he made requests on or around [REDACTED], [REDACTED], as well as [REDACTED]. He stated the Court denied his request each time without providing any alternative method. According to the Court's website, the public may obtain copies of court records, include criminal court records.

### **II. Response from the Mohave County Superior Court**

The OCR reached out to the Court in January 2023 requesting information in response to the Complaint. According to the Court, the Complainant filed approximately [REDACTED] with the Court requesting his records be provided to him in braille, that he be appointed counsel, and that he was entitled to post-conviction relief. A judge reviewed those motions/petitions in

accordance with state law and found the Complainant failed to plead a valid ground for relief and denied those motions.

The Court confirmed that the Complainant made a records request to the Clerk of Court, in or around [REDACTED], for records of his criminal proceedings in braille. The Court stated that the Research Department for the Court responded to the Complainant on or about [REDACTED], with a list of documents he had requested and the cost for obtaining those documents in Standard English format. The letter also noted that the Court was “still investigating on the possibility of providing you with an electronic or digital copy of the trial proceedings and which of those methods would best fit your needs.” The Administrative Program Specialist and Americans with Disabilities Act (ADA) Coordinator who were responding to the Complainant’s request at the time has since retired from the Court and it is unclear if any additional information was provided to the Complainant regarding the cost of receiving records in braille or a digital format.

The OCR also reviewed the Court’s Policy on Public Access Information for Persons with Disabilities, effective November 30, 2018 (Policy). That Policy explains the Court’s responsibilities to provide “Effective Communication” required by the ADA. The Policy also defines auxiliary aids and services in accordance with the ADA and provides a nonexclusive list of examples. Although it did not expressly include braille format or accessible digital formats, the Policy broadly defined “Auxiliary aids and services [to] include[] . . . other effective methods of making visually delivered materials available to individuals with visual impairments.”

After further discussions with the OCR, the Court agreed to update its Policy and procedures to provide accessible digital formats. The new Policy, revised on April 7, 2023, includes a new section, “Request for Court Records,” ensuring court records are provided in an accessible format to individuals with visual impairment such as “documents in PDF and/or other accessible digital format. These services/accommodations will be provided with the assistance of Court IT staff or through a vendor as appropriate.” The Policy further updated its definition of auxiliary aids and services to expressly include “PDF documents available in an accessible electronic format . . . .”

Furthermore, the Court updated the Policy’s section on “Accommodation Requests for Court Services, Programs and Activities” to expressly allow “a verbal request for a reasonable accommodation, in person or via telephone, to courtroom staff, the Clerk’s office or Court administration.” The Court’s Reasonable Accommodation form has been updated with information to contact the Court if assistance is need with filing an accommodation request.

Finally, the Court confirmed with its IT Manager that they are able to provide documents in an accessible electronic format. The Court has also updated its website with the revised April 7, 2023 Policy on Public Access Information for Persons with Disabilities. The Clerk of the Court webpage has also been updated with procedures on how to make verbal requests for court records in person or over the phone. The Court also confirmed it has updated staff regarding the new policy and procedures and will be holding periodic trainings for all staff on the new policy and procedures.

### III. Legal Analysis

The OCR is responsible for enforcing laws relating to discrimination including on the basis of disability by recipients of Federal financial assistance. The OCR's jurisdiction is limited to the civil rights laws it enforces, including Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act of 1990 (Title II), and the DOJ regulations implementing these laws.

Under Title II, "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity." 42 U.S.C. § 12132. Section 504 provides that, "[n]o otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . ." 29 U.S.C. § 794.

A disability is defined as a physical or mental impairment that substantially limits one or more of the major life activities of such individual such as a visual impairment. 28 C.F.R. §§ 35.108(a)(1)(i), (b)(2), and (d)(2)(iii)(B). All state and local governments are required to take steps to ensure that their communications with people with disabilities are as effective as communications with others. 28 C.F.R. § 35.160(a)(1).

A public entity shall furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity of a public entity. 28 C.F.R. § 35.160(b)(1). DOJ regulations expressly state that auxiliary aids and services include "accessible electronic and information technology". 28 C.F.R. § 35.104. The public entity must provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice. 28 C.F.R. Part 35, App. B, Subpart E. In determining what types of auxiliary aids and services are necessary, the public entity must give primary consideration to the requesting individual with disability. 28 C.F.R. § 35.160(b)(2). In order to be effective, auxiliary aids and services must be provided in accessible formats and in a timely manner. *Id.*

The public entity may identify another equally effective means of communication or show that the requested auxiliary aid or service would result in an undue financial or administrative burden. To establish a burden exists, the public entity must undertake the process articulated in 28 C.F.R. § 35.164, which requires an assertion by an individual with the relevant budgetary or administrative authority and accompanied by a written statement of the reasons for reaching that conclusion.

A public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required. 28 C.F.R. § 35.130(f).

**IV. Actions Taken by the Mohave County Superior Court**

The Court has worked diligently and cooperatively with the OCR throughout the course of this investigation. Based on the initial Complaint and initial response from the Court, the OCR was concerned that individuals with visual impairments were having difficulty accessing the necessary auxiliary aids, required under Title II and its regulations, to access publicly available court records.

Upon learning the OCR's concerns, the Court committed to updating its policies and procedures to provide public court records to visually impaired individuals. As described in Section II of this letter, the Court revised its Policy on Public Access Information for Persons with Disabilities, updating its definition of auxiliary aids and services to expressly include accessible electronic formats and highlighting its obligation to make court records available to individuals with disabilities, including individuals with visual impairment. Furthermore, the Court quickly updated relevant forms, its website, and staff training on the new policy and procedures.

Because the Court has taken corrective actions to make public court records accessible to visually impaired individuals, the OCR finds the Complainant's claims to be moot.

**V. Conclusion**

For the reasons above, the OCR is administratively closing this Complaint. The OCR thanks the Court for its responsiveness and cooperation with this investigation. The OCR will share this letter with the Complainant and notify him of his right to file future complaints with the OCR if the Court fails to accommodate his disability or experiences other discrimination in the future.

Sincerely,

**X**

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Michael L. Alston  
Director