


Comment from Cooper, Robbi

This is a Comment on the **Architectural and Transportation Barriers Compliance Board (ATBCB) Proposed Rule: Information and Communication Technology Standards and Guidelines**

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Submitter Information

Submitter Name:

Robbi Cooper

City:

Austin

Country:

United States

State or Province:

TX

Category:

Individual

Comment

Audio has no justification for removal from the proposed rules.

Audio output of text has been a common and well used point of access for many with disabilities and removing this access from the proposed rules is removing vital access for dyslexics and others with print disabilities that use audio enhancements to read and live full lives.

Technology, ever expanding, is becoming the ultimate gatekeeper for information and public participation. The many adaptive outputs achievable from digital media allow full and equal participation where prior barriers existed. Technology for individuals with disabilities is not merely a convenience, or wish list, is the only way to participate equally and effectively with the general population. For this reason rules governing new technology used for communication, including spoken and written, procured by our government should include the most users and not limit or write out of new laws, disabilities like Dyslexia which effect disproportionately larger portions of the print disabled population in the push to remove audio from the rules.

I read the urge and push to get this refresh through quickly, but not at the expense of my sons groups needs. My Dyslexic son needs and uses audio enhanced text to live life fully and equally. Many dyslexic college students and professionals use audio to access print as do many with other print disabilities. We expect dyslexics access needs to be given equal weight with any new rules that govern access to web, digital, mobile and any new emerging technologies. Many disabilities benefit from and use audio enhanced text, the sole gateway to information effectively accessible for dyslexics, given the variety of situations mobil technology is used, at times audio is the most effective choice for many disabilities.

As currently written this refresh is unacceptable, an entire large group

of disabled users with print disabilities is disregarded. Dyslexia is as distinct as blind, visually impaired or deaf when it comes to text and has a clear need for audio access to effectively participate. I am very concerned that the needs of Dyslexics who rely on audio enhanced text to fully and equally participate are not anywhere in the deliberations or proposed rules. Yet audio was included in 508 under visually impaired and as technology evolved this access was embraced by dyslexics aspiring to reach passed their limited access to print. As I read the justifications for the new rules, the elimination of audio is glossed over and no mention of dyslexic users with this interface is mentioned.

Throughout the Access Boards dialog on this issue Dyslexia is misrepresented and marginalized on more than one occasion, simply and wrongly, as slow readers or those who can read but have difficulty reading text in common designs. It seems like in the push to remove audio the need to marginalize dyslexic individuals to justify this. **DYSLEXIA IS NOT SLOW READING** This is not the determining factor for Dyslexia, a reading disability. Dyslexics are not "cognitively less than". It is simply a brain based difference that effects reading, not understanding, of text.

Why there were no dyslexic students who use technology on the panel discussing their access needs to the Access Board? Dyslexia is a well known print disability with high prevalence, it is not tied to intelligence and dyslexics with more severe decoding limitations have become very able and successful in college and career with the use of screen readers and speech recognition to compensate for their ineffective print access. These two technology interfaces go far to neutralize their print disability and allow for full and equal participation. Future technology must include access issues involving audio access for this group to equally benefit. It seems sensible that any output that could be read by refreshable braille could also interface with an audio reading output but this needs to be explicitly clarified in rules.

Audio enhanced text is to dyslexics as braille is to the blind. Writing audio out is unconscionable. To marginalize dyslexia in prior discussions and examples as simply slow readers shows one of the greatest misunderstandings of disability I have encountered. Writing out dyslexics shows a grave misunderstanding of this disability, the largest disability group that is effected by print, this is a travesty.

Again, my Dyslexic son needs and uses audio enhanced text to live life fully and equally. He does not need simplified text or content, he is not cognitively slow or unable to comprehend college level content, that is a very different disability, not dyslexia. His rights to effective communication are clarified in the attached letter. We expect audio access to be given equal weight and included as clearly as other disabilities such as blind, visually impaired, deaf, with any new rules that govern access to web, digital, mobile and any new emerging communication technologies.



ED-DOJ response to R Cooper, Redacted

View Attachment:





U.S. Department of Education
Office for Civil Rights



U.S. Department of Justice
Civil Rights Division

March 3, 2015

Robbi Cooper



Dear Ms. Cooper:

This responds to your letter dated November 12, 2014, regarding the recently released Dear Colleague Letter from the Departments of Education and Justice that explained the responsibility of public schools to ensure that communication with students with hearing, vision, or speech disabilities is as effective as communication with other students. In your letter, you express concern that this Dear Colleague Letter did not address the communication needs of students with dyslexia, dysgraphia, or other disabilities that affect a student's ability to access and use information from printed sources or to write or express ideas in print.

The 2014 guidance resulted from an important appellate court decision in which the Departments of Justice and Education participated, *K.M. v. Tustin Unified School District*. In that case, the court of appeals agreed with the United States that the requirement to provide a meaningful educational benefit under the Individuals with Disabilities Education Act (IDEA) is different from the requirement to provide equal opportunity and equally effective communication under the Americans with Disabilities Act (ADA). While, in many instances, the services a school provides under the IDEA to ensure a free appropriate public education (FAPE) will also satisfy the school's obligation under the ADA to ensure equally effective communication, this is not always the case. Simply because a school district provided a student with a FAPE does not necessarily mean that the student was provided all the services due under title II of the ADA. To comply with both statutes, a school may have to provide additional and different aids and services.¹

¹ The United States' brief and the federal appellate court decision are attached to this response.

The Dear Colleague Letter, following on *Tustin*, focuses on public schools' obligations to address the communication needs of a common category of students with disabilities—those with hearing, vision, or speech disabilities. But the guidance does not limit the scope of title II's protections for students with dyslexia, dysgraphia, or other disabilities. As explained in the guidance, title II's implementing regulation requires public entities to take appropriate steps to ensure that communications with any individual with a disability are as effective as communications with others, and to provide auxiliary aids and services where necessary to afford such individuals an equal opportunity to participate in, and enjoy the benefits of, the public entity's services, programs, or activities.

These requirements, among others, implement title II's broad equal opportunity mandate. If students with disabilities need particular auxiliary aids or services in order to equally benefit from the services, programs, and activities of the public school, it is the obligation of the school under title II's implementing regulations to provide them unless an applicable defense applies. For example, if a student with dyslexia or dysgraphia needs a computer to do classwork or needs speech recognition software on that computer in order to equally benefit from the school's services, programs, and activities, then the school must generally provide it unless an applicable defense applies. (Of course, the school may also be required to provide these same aids or services to ensure FAPE, which does not offer schools the defenses that are applicable to many of title II's implementing regulations).

Please be assured that the Departments of Education and Justice are committed to ensuring that all students with disabilities have access to equal opportunities at school. We appreciate your thoughts on this important issue and hope this information is helpful.

Sincerely,



Catherine E. Lhamon
Assistant Secretary
Office for Civil Rights

/s/
Vanita Gupta
Acting Assistant Attorney General
Civil Rights Division

U.S. Department of Education
Justice

U.S. Department of

Encls.

cc:

