



U.S. Department of Justice

Civil Rights Division

*Disability Rights Section - NYA
950 Pennsylvania Ave, NW
Washington, DC 20530*

November 16, 2023

Via Email & Overnight Mail

Jay Doyle
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Service Oklahoma
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Re: The United States' Findings and Conclusions Based on its Investigation of Service Oklahoma's Oklahoma Mobile ID Application Under Title II of the Americans with Disabilities Act, DJ No. 204-59N-54

Dear Mr. Doyle and Ms. Kelso:

The United States Department of Justice (the Department) has completed its investigation under Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131-12134, and its implementing regulation, 28 C.F.R. Part 35, of Service Oklahoma's mobile application, the Oklahoma Mobile ID Application (OK Mobile ID App or App). The OK Mobile ID App provides a digitized version of a physical driver's license or other state-issued ID. The Department opened this investigation in response to a complaint alleging that the App is inaccessible to individuals with disabilities in violation of Title II. We write to report our findings of fact and conclusions of law.

Title II prohibits discrimination against people with disabilities in all services, programs, and activities of public entities. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a). This includes those provided via mobile applications, which are software applications that are designed to be downloaded and run on mobile devices such as smartphones and tablets. Public entities must afford individuals with disabilities an equal opportunity to participate in or benefit from any aid, benefit, or service provided to others. 28 C.F.R. § 35.130(b)(1). A public entity cannot contract away its ADA obligations. 28 C.F.R. §§ 35.130(b)(1), (3). It also must take steps to ensure that its communications with people with disabilities are as effective as its communications with others. 28 C.F.R. § 35.160(a)(1). Title II authorizes the Department to investigate complaints, make findings, and seek a remedy for any violations found, including filing a lawsuit. 42 U.S.C. § 12133; 28 C.F.R. pt. 35, subpt. F.

As described more fully below, the Department finds that Service Oklahoma¹ is violating Title II by failing to ensure that its mobile application is accessible. Many thousands of people have downloaded and fully registered to use the OK Mobile ID App. But, because of accessibility barriers, people with vision disabilities cannot use it. Thus, Service Oklahoma violates Title II both by denying people with disabilities equal access to the App and by failing to ensure that its communications with people with vision disabilities are as effective as its communications with others.

This letter explains the Department's findings of fact and conclusions of law and the minimum steps that Service Oklahoma must take to meet its legal obligations and remedy the identified violations.

I. The Department's Investigation

The Department opened this investigation in response to a complaint, filed by an individual who is blind, that the OK Mobile ID App is inaccessible to individuals with vision disabilities. The complainant was unable to complete steps necessary to use the mobile application, such as taking a photo of the front and back of her ID and taking a picture of herself by connecting the dots on the screen using only head and eye movements. She contacted Service Oklahoma's predecessor entity, the Oklahoma Department of Public Safety, to request that the accessibility issues be addressed. When they were not, she filed a complaint with the Department.

The Department subsequently notified the Oklahoma Department of Public Safety that it was opening an investigation of the OK Mobile ID App under Title II of the ADA. During the investigation, the Department requested and reviewed information from individuals with vision disabilities and from the Oklahoma Department of Public Safety. The Department also evaluated the accessibility of the mobile application through testing. The Department found recurrent issues and critical accessibility barriers for people with disabilities on the mobile application. The Oklahoma Department of Public Safety told the Department that its third-party vendor, IDEMIA, would make the OK Mobile ID App accessible to individuals with visual disabilities in 2022. Despite these assurances, no significant changes have been made, and the OK Mobile ID App remains inaccessible to individuals with visual disabilities.

¹ Service Oklahoma, created by the Oklahoma legislature in May 2022, is a division of the Oklahoma Office of Management and Enterprise Services. Since November 2022, Service Oklahoma has been responsible for modernizing and standardizing statewide driver and motor vehicle services, including drivers' licenses, disability parking placards, car registrations, car titles, and specialty license plates, as well as administering the OK Mobile ID App. Previously, the Oklahoma Department of Public Safety and the Oklahoma Tax Division administered these driver license functions. When the Department opened its investigation, the Oklahoma Department of Public Safety administered the OK Mobile ID App. Consequently, this Letter of Findings refers to both Service Oklahoma and its predecessor entity.

II. Findings of Fact

Service Oklahoma’s OK Mobile ID App allows a user to create a government-issued digital identification card (Mobile ID) that provides convenience and enhanced privacy. The Mobile ID can be used to verify an individual’s identity in many of the same contexts as a physical driver’s license or other state-issued ID. This includes applying for unemployment benefits and paying for purchases at retail stores. Additionally, the OK Mobile ID App can be used to start a REAL ID application. A REAL ID is a federal security credential, which is added to state-issued driver licenses and identification cards. Beginning May 7, 2025, a REAL ID or valid federal identification document (i.e., U.S. passport) will be required for such things as boarding domestic flights, visiting military bases, or entering specific federal buildings.²

The Department’s investigation found that the App imposes barriers that prevent people with vision disabilities from accessing it. To use the App, people must first scan or take a photo of both the front and back of their ID. They must also take a picture of themselves by connecting the dots that appear on the screen using only head and eye movements. Both tasks are difficult or impossible for individuals who are blind to accomplish without receiving any verbal feedback. Users who are unable to complete these two tasks are unable to use the App.

Multiple individuals with vision disabilities, like the original complainant, have been unable to use the OK Mobile ID App for these reasons. People with disabilities thus are denied equal access to the mobile application and to the information it contains, in violation of Title II.

III. Conclusions of Law

Service Oklahoma is a public entity subject to Title II of the ADA. *See* 42 U.S.C. § 12131(1)(B); 28 C.F.R. § 35.104. Title II “applies to all services, programs, and activities provided or made available by public entities.” 28 C.F.R. § 35.102(a).

Under Title II of the ADA, no qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a). This means that Service Oklahoma must give individuals with disabilities an equal opportunity to participate in and benefit from any service provided to others. *See* 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(1). These legal requirements include providing equal access to Service Oklahoma’s mobile application.

Under Title II of the ADA, Service Oklahoma must also take appropriate steps to ensure that its communications with people with disabilities are as effective as its communications with others. *See* 28 C.F.R. § 35.160(a)(1). Public entities choosing “to provide services through web-based applications . . . or that communicate with their constituents or provide information through the Internet must ensure that individuals with disabilities have equal access to such services or information.” 28 C.F.R. pt. 35, app. A at 688-89 (2022) (section on Other Issues – Web site accessibility); *see also* U.S. Dept. of Justice, *Guidance on Web Accessibility and the*

² *See* Service Oklahoma, *Apply for REAL ID*, <https://oklahoma.gov/service/popular-services/real-id-checklist.html> (last visited Oct 16, 2023).

ADA (Mar. 18, 2022), <https://www.ada.gov/resources/web-guidance/>. In the same way, public entities choosing to provide services or information through mobile applications must ensure that individuals with disabilities have equal access to such services or information.

By maintaining a mobile application that imposes barriers to access, Service Oklahoma discriminates against people with vision disabilities in violation of Title II. *See* 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a). Service Oklahoma denies full and equal access to its mobile application services and fails to ensure effective communication with individuals with vision disabilities. *See* 28 C.F.R. §§ 35.130(a)-(b)(1), 35.160(a)(1).³

IV. Remedial Measures

To remedy these violations, Service Oklahoma must take steps to ensure that its mobile application is accessible to individuals with disabilities, including establishing mechanisms to solicit feedback and ensure compliance. Service Oklahoma should promptly implement corrective measures, including the following:

1. Ensure that its OK Mobile ID App is accessible to and usable by people with disabilities, such as by complying with the standards of WCAG 2.1 Level AA, so that individuals with disabilities can access the same information and enjoy the same services as individuals without disabilities.
2. Develop and implement procedures to monitor ongoing compliance with these technical standards to the extent necessary to avoid discrimination against people with disabilities and ensure effective communication with them.
3. Develop mechanisms and implement procedures to solicit, receive, and respond to complaints or feedback regarding any barriers to accessing the OK Mobile ID App and suggested improvements to accessibility of the mobile application. These mechanisms and procedures should ensure that such feedback and complaints are promptly reviewed, investigated, and addressed through appropriate action, and that the results of the review are provided timely to each complainant.
4. Adopt and publish a written policy on its website and mobile application to explicitly state that Service Oklahoma will not discriminate against people with disabilities and will fully comply with Title II's requirements, including by providing an accessible mobile application to ensure equal access and effective communication with people with disabilities.

³ A public entity is not required to take any action that it can demonstrate would result in a fundamental alteration of its service, program, or activity or in undue financial and administrative burdens. 28 C.F.R. § 35.164. The Department has no evidence that making the OK Mobile ID App accessible would result in a fundamental alteration or an undue burden to Service Oklahoma. In fact, making the App accessible would be consistent with Oklahoma state law.

5. Ensure that a qualified ADA Coordinator is responsible for monitoring Service Oklahoma's compliance with Title II and oversees investigations and resolutions of disability-related complaints.
6. Appropriately train and educate Service Oklahoma staff about mobile application accessibility and Title II's nondiscrimination requirements.
7. Provide the United States with written status reports delineating all steps taken to comply with these requirements, including the date(s) on which each step was taken, and, where applicable, information sufficient to demonstrate compliance.

V. Conclusion

We hope to work cooperatively with you to resolve the Department's findings. Please contact Sarah Golabek-Goldman at Sarah.Golabek-Goldman@usdoj.gov and Felicia Sadler at Felicia.Sadler@usdoj.gov within seven days of this letter's date if you are willing to resolve this matter voluntarily or if you have any questions.⁴

If Service Oklahoma declines to enter voluntary compliance negotiations or if negotiations fail, the Department may take appropriate action to enforce the ADA, as described at 28 C.F.R. Sections 35.173 and 35.174. We therefore request that Service Oklahoma maintain in its current form all documents, such as email communications, that could be related to the subject of this correspondence.

Sincerely,



Rebecca B. Bond
Chief
Disability Rights Section

cc: Emily Fagan
Assistant United States Attorney
Western District of Oklahoma

⁴ This Letter of Findings is a public document and will be posted on the Civil Rights Division's website.