

Resolution Agreement
Howard County Public School System
Case Number 03161156

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation into allegations that the Howard County Public School System (“District”) violated Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35. Specifically, the complainant alleged that the District’s website contained 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 is being entered into in order to resolve a disputed claim and it is not intended to constitute, nor shall it be construed as, an admission by the District that it has violated any of the above referenced provisions of law with regard to the accessibility of its website by individuals with disabilities.

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 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 their implementing regulations; and that they receive effective communication of the District’s programs, services, and activities delivered online.

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

Remedies and Reporting

- 1) Proposed Policies and Procedures Regarding New Online Content and Functionality. By June 1, 2017, 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) When fundamental alteration or undue burden defenses apply, the Plan for New Content will require the District to provide equally effective alternative 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. To provide equally effective alternate access, alternates are not required to produce the identical result or level of achievement for persons with and without disabilities, but must afford persons with disabilities 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.
 - b) The Plan for New Content must include sufficient quality assurance procedures, backed by adequate personnel and financial resources, for full implementation. This provision also applies to the District's online content and functionality developed by, maintained by, or offered through a third-party vendor or by using open sources.
 - c) Within 60 days of receiving OCR's approval of the Plan for New Content, the District will officially adopt, and begin fully implementing the amended policies and procedures. To the extent that the Plan for New Content requires amendment of existing Howard County Board of Education policy, such amendment will occur within 60 days of the date of OCR's approval of the Plan for New Content.
 - d) Reporting: Within 90 days of receiving OCR's approval, 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.
- 2) 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 District Superintendent of Schools (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 determining official. If such a determination is made, the certifying official will describe in the written statement how it will provide equally effective alternate access, *i.e.*, other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the same benefits or services provided by the District as their nondisabled peers.
 - 3) Assessment of Existing Content and Functionality. The District has selected its Senior Web Developer to audit all content and functionality of its website. OCR has approved the District's selection as long as the Auditor fulfills the commitment to take Deque University's "Online Self-Paced Web Accessibility Classes." If for some reason, the District does not use its Senior Web Developer as the Auditor, the District shall, by June 1, 2017, propose for OCR's review and approval the identity and bona fides of a different Auditor (corporation or individual). Within 180 days of OCR's approval of the Plan for New Content, the District will conduct an assessment of its website, including, but not limited to, the home page, and all subordinate pages, to determine the specific

portions, including online content and functionality developed by, maintained by, or offered through a third-party vendor or an open source on behalf of the District, that are inaccessible to persons with disabilities. The Assessment will use the Benchmarks for Measuring Accessibility set out above, unless the District receives prior permission from OCR to use a different standard as a benchmark. The personnel conducting the Assessment will have sufficient knowledge and experience in website accessibility to carry out all related tasks, including development of a proposed Corrective Action Plan. During the Assessment, the District may seek input regarding the accessibility of its website from persons knowledgeable about website accessibility, including employees, parents, students, and members of the public with disabilities.

- a) Reporting: By June 1, 2017, the District will provide to OCR supporting documentation that its selected auditor has taken the above training. In the event that the District does not utilize its Senior Web Developer to assess the content and functionality of the District's website in accordance with Item 3 above, by June 1, 2017, the District will submit the bona fides of its proposed Auditor to OCR for review and approval. 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. Within 30 days of the date the District completes its Assessment of Existing Content and Functionality, the District will submit to OCR documentation of the steps taken during the Assessment and a detailed accounting of the results of the Assessment.
- 4) Proposed Corrective Action Plan. Within 90 days of the date the District completes its Assessment of Existing Content and Functionality, the District will submit to OCR for its review and approval a proposed Corrective Action Plan to address all inaccessible content and functionality identified during the District's Assessment. The proposed Corrective Action Plan will set out a detailed schedule for: (1) addressing problems, taking into account identified priorities, with all corrective actions to be completed within 24 months of the date OCR approved the Corrective Action Plan; (2) setting up systems of accountability and verifying claims by vendors or open sources that their functionality and content is accessible; and (3) setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis. In its Corrective Action Plan, the District will acknowledge that if all inaccessible content and functionality identified during the Audit is not removed or made accessible on a timely basis, the District 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 the Agreement.
- 5) Within 30 days of receiving OCR's approval of the proposed Corrective Action Plan, the District will officially adopt and begin implementing the Corrective Action Plan according to its schedule.
 - a) Reporting: Within 60 days of receiving OCR's approval of the proposed Corrective Action Plan, the District 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 days of the date of this Agreement, the District will submit to OCR for review and approval a proposed Notice to persons with disabilities regarding how to request the webmaster or other appropriate person to provide access to (or notify the District 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 formal grievances under Section 504 and Title II. Within 30 days of receiving OCR's approval of the proposed Notice, the District will officially adopt and prominently post the approved Notice on its home page and throughout its website (including all subordinate pages and intranet sites).

- a) Reporting. Within 35 days of receiving OCR's approval of the District's proposed Notice, the District will provide documentation to OCR regarding the locations and content of its published Notice.
- 7) Training. Starting no later than 90 days from this date of this Agreement, and annually thereafter, the District will deliver website accessibility training to all appropriate personnel, including, but not limited to: content developers, webmasters, and all others responsible for developing, loading, maintaining, or assessing web content and functionality.
 - a) Reporting: For each training session required by this Agreement, until such time as OCR closes the monitoring of this Agreement, the District will submit to OCR documentation that it has been delivered. The documentation will include a list of invitees and attendees, including titles; a description of the delivered training content; date(s) of the training; and the presenters' credentials for giving such training. OCR agrees that the District's current Senior Web Developer will possess appropriate credentials for conducting such training after completing agreed-upon web accessibility training.
 - 8) 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 (a) and (b), 104.8, and 104.21, and Title II, at 28 C.F.R. §§ 35.130, 35.149, and 35.160, which were at issue in this case.
 - 9) The District 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 District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff, 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 (a) and (b), 104.8, and 104.21, and Title II, at 28 C.F.R. §§ 35.130, 35.149, and 35.160, which were at issue in this case.
 - 10) 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, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the District written notice of the alleged breach and 60 days to cure the alleged breach.

_____/s/_____
Superintendent
Howard County Public School System

1/10/17
Date