

**Resolution Agreement
Fall River Public Schools
Complaint No. 01-16-1294**

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation into allegations that Fall River Public Schools (District) violated Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 and Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35.

Prior to the completion of OCR's investigation, the District agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's *Case Processing Manual* (CPM). Accordingly, to ensure compliance with Section 504 and Title II and their implementing regulation and to resolve the issues of this investigation, the District agrees to take the actions set forth below.

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 and that they are not excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any of the District's programs, services, and activities delivered online, as required by Section 504 and Title II and their implementing regulation.

Remedies and Reporting

- 1) Creation of a Task Force to Develop a Strategic Action Plan. Within ninety (90) days of entering into this Agreement, the District will develop a Task Force made up of qualified members of the District community to develop a detailed Strategic Action Plan to (1) review (and revise, as necessary) procedures designed to address all new online content and functionality, (2) set up a system to review and ensure the accessibility of its critical and highly utilized online content, (3) develop a process to ensure that, upon request, inaccessible content will be made accessible in an expedient manner and consistent with the terms of this Agreement, and (4) develop and deliver website accessibility training. The Strategic Action Plan will also include opportunities for individuals accessing the District online environment to report barriers to accessibility and usability. To the extent

that students and/or individuals with disabilities are not included on the Task Force, they will be consulted by the Task Force in the creation of the Strategic Action Plan. The District will share this Strategic Action Plan with OCR no later than March 1, 2018, or sixty (60) days after execution of this agreement, whichever is later.

- 2) Proposed Policies and Procedures Regarding New Online Content and Functionality. Within ninety (90) days of submitting the Strategic Action Plan to OCR, the District will submit to OCR for its review and approval proposed procedures 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 is technically infeasible, and would impose a fundamental alteration or undue burden.
 - a) When fundamental alteration or undue burden defenses apply, the District will follow federal legal requirements to provide effective alternative access. In providing equally effective alternate access, the District will take any reasonable actions that do not result in a fundamental alteration or undue financial and administrative burdens to ensure that individuals with disabilities receive the same benefits or services as their nondisabled peers. To provide equally effective alternate access, alternate access is 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) Within sixty (60) days of receiving OCR's approval, the District will officially adopt, and fully implement the amended policies and procedures, in keeping with the timelines specified in the Strategic Action Plan.
 - c) Reporting: Within forty-five (45) 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.
- 3) 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's Superintendent, or by an individual designated by the Superintendent who has budgetary and academic 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. If such a determination is made, the District 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. OCR suggests these files are maintained in a central location, such as the Special Education District Office.

- 4) Audit of Existing Content and Functionality. The District will propose for OCR's review and approval the identity and professional credentials of an Auditor (corporation or individual, who may be a District employee or third party consultant) to audit all critical and highly utilized online content, including, but not limited to, the home page, all subordinate pages, and 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 Auditor, whether a third-party consultant or District employee, will have sufficient knowledge and experience in website accessibility for people with disabilities to carry out all related tasks, including developing a Proposed Corrective Action Plan. The Auditor 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.
 - a) Reporting: By March 1, 2018, the District will submit the professional credentials 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 ninety (90) calendar days of receiving OCR's approval of the proposed Auditor, the District 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.

Assessment of Existing Content and Functionality. The Strategic Action Plan will define a detailed approach to ensure that its existing content is appropriately updated to reflect the needs of the community and other users. The District will strive to make its critical and highly utilized online content, including the pages referenced by the Complainant, fully accessible within twelve (12) months, based on the inaccessible content and functionality identified during the Audit. For all other content, the District will ensure that its community understands that any accessibility concerns are remedied appropriately and expediently. The District will further publicize these efforts and will seek to provide a dedicated accessibility and usability reporting mechanism on new and existing web content via an institutional template. This accessibility and usability reporting tool, as well as related accessibility mechanisms, will be shared with the District community via email and on the District website for all to view.

- 5) Training. Starting no later than April 2018, and annually thereafter, the District will deliver website accessibility training concerning, among other things, the goals and strategies set forth in the Strategic Action Plan 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. The training will include information about how to comply with the Benchmarks for Measuring Accessibility set forth above.
- 6) Summary Reporting: Given the ongoing nature of ensuring web accessibility in the District and the extensive amount of new online content that will be created and assessed each academic year, the Strategic Action Plan will incorporate specific benchmarks, including timeframes, and internal evaluation efforts that the District will implement on an

ongoing basis moving forward. The District will provide to OCR a Summary Report of its efforts to effectuate this Agreement and these ongoing efforts to maintain web accessibility in the District by the beginning of the 2018-2019 academic year. The District will meet and consult with OCR following the submission of this Summary Report and agrees to provide upon request further information to satisfy any specific concerns OCR may raise at that time and until OCR closes the monitoring of this Agreement.

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 in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.4 (a) and (b), and the regulation implementing Title II at 28 C.F.R. §§ 35.130 and 35.160 (a), which were at issue in this case.

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 request such additional reports or data as is relevant and 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), and Title II at 28 C.F.R. §§ 35.130 and 35.160 (a), which were at issue in this case.

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 sixty (60) calendar days to cure the alleged breach.

The Agreement will become effective immediately upon the signature of the District's representative below.

Superintendent Matthew H. Malone
Fall River Public Schools

Date