

Resolution Agreement
American School for the Deaf
OCR Case No. 01-16-4017

American School for the Deaf (“School”) voluntarily enters into this agreement (“Agreement”) with the U.S. Department of Education, Office for Civil Rights (“OCR”) to resolve the allegations in the above-referenced complaint and to ensure compliance with Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and its implementing regulations at 34 C.F.R. Part 104.

Prior to the completion of OCR’s investigation, the School agreed to resolve the issues of this investigation pursuant to Section 302 of OCR’s Case Processing Manual (“CPM”). This resolution does not constitute an admission that the School is not in compliance with the requirements of Section 504. The School is committed to continuing its ongoing and good faith efforts to ensure accessibility of online content and functionality. Accordingly, to resolve the issues of this investigation, the School agrees to take the actions set forth below.

Assurances of Nondiscrimination. The School hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the School’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 School’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 of the School’s programs, services, and activities delivered online, as required by Section 504 and its implementing regulations; and that they receive effective communication of the School’s programs, services, and activities delivered online.

Remedies and Reporting

1. **Proposed Policies and Procedures Regarding New Online Content and Functionality.** By November 15, 2017, the School 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 School to provide equally effective alternative access. The Plan for New Content will require the School, 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 School’s online content and functionality developed by, maintained by, or offered through a third-party vendor, or by using open sources.
 - c) Within thirty (30) calendar days of receiving OCR’s approval of the Plan for New Content, the School will officially adopt, and fully implement the amended policies and procedures.
 - d) **Reporting:** Within forty-five (45) calendar days of receiving OCR’s approval, the School 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 School asserts an undue burden or fundamental alteration defense, such assertion may only be made by the School’s Executive Director, or by an individual designated by the Executive Director and who has budgetary authority, after considering all resources available for use in the funding and operation of the service, program, or activity. If the School asserts either defense, the School must provide a written statement of the reasons for reaching that conclusion, including the cost of meeting the requirement, the available funding, and other resources. The written statement will be certified by the Executive Director or designee with budgetary authority. If such a determination is made, the School will

describe in the written statement how it will provide equally effective alternate access, *i.e.*, other action that would 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 School as their nondisabled peers.

3. **Audit of Existing Content and Functionality.** By November 15, 2017, the School will propose for OCR's review and approval the identity and professional credentials of an Auditor (corporation or individual, who may be a member of the School's staff) to audit all content and functionality on its website, 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 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 Audit will use the Benchmarks for Measuring Accessibility set out above, unless the School receives prior permission from OCR to use a different standard as a benchmark. During the Audit, the School will also seek input from members of the public with disabilities, including parents, students, employees, and others associated with the School, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.
 - a) **Reporting:** By November 15, 2017, the School 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 School 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.
4. **Proposed Corrective Action Plan.** Simultaneously with the submission of the Audit, the School will submit to OCR for its review and approval a proposed Corrective Action Plan to address all inaccessible content and functionality identified during the School's Audit. 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 eighteen (18) months of the date OCR approved the Corrective Action Plan; (2) setting up systems of accountability and verifying claims of accessibility by vendors or open sources; and (3) setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis.

- a) Within thirty (30) calendar days of receiving OCR's approval of the proposed Corrective Action Plan, the School will officially adopt and implement the Corrective Action Plan.
 - b) **Reporting:** Within forty-five (45) calendar days of receiving OCR's approval of the proposed Corrective Action Plan, the School 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, or until the expiration of two years from the date of this Agreement, or until such time as OCR closes the monitoring of this Agreement, whichever occurs soonest.
5. **Notice.** By December 15, 2017, the School 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 School 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 ten (10) calendar days of receiving OCR's approval of the proposed Notice, the School 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 fifteen (15) calendar days of receiving OCR's approval of the School's proposed Notice, the School will provide documentation to OCR regarding the locations and content of its published Notice, ensuring that it is linked from every page.
6. **Training.** Starting no later than 90 calendar days from the date of this Agreement, and annually thereafter for two years or until such time as OCR closes its monitoring of this Agreement, the School will deliver website accessibility training 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.
 - a) **Reporting:** The School will submit to OCR documentation indicating that the training has been delivered within ninety (90) calendar days of the delivery of each such training session for the two years following the initial training or until such time as OCR closes its monitoring of this Agreement, whichever is sooner. The documentation will include a list of invitees and attendees and their position titles, a description of the delivered training content, and the presenters' credentials for providing such training.

7. The School understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the School understands that during the monitoring of this Agreement, if necessary, OCR may visit the School, interview staff members, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether the School has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. § 104.4, which was at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

8. The School 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 and 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the School 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 School's representative below.

_____/s/_____
Jeffrey S. Bravin, Executive Director
American School for the Deaf

____9/27/17_____
Date

[Print Name]