

**Resolution Agreement  
Simsbury Board of Education  
Complaint No. 01-17-1334**

The Simsbury Board of Education ("District") voluntarily submits this agreement to resolve the above-referenced complaint and to ensure ongoing compliance with Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 34 C.F.R. Part 104 ("Section 504") and with Title II of the Americans with Disabilities Act of 1990 and its implementing regulations at 28 C.F.R. Part 35 ("Title II").

Prior to the completion of OCR's investigation in the above-referenced matter, the District 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 District is out of compliance with Section 504 or Title II. The District is committed to continuing its ongoing and good faith efforts to ensure accessibility of online content and functionality. Accordingly, to ensure compliance with Section 504 and Title II and to resolve the issues of this investigation, the District agrees to take the further 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. Solely 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, Title II, and their implementing regulations.

### **Remedies and Reporting**

1. Creation of a Strategic Action Plan. Within ninety (90) days of entering into this Agreement, the District will develop a detailed Strategic Action Plan to (1) review (and revise, as necessary) its policies and procedures designed to address new online content, (2) set up a system to review and ensure the accessibility of its website, (3) develop a process to ensure that, upon request, remaining content is made accessible expediently, and (4) develop and deliver website accessibility training. The Strategic Action Plan will also include opportunities for individuals accessing the District website to report barriers

to accessibility and usability. The District will share this Strategic Action Plan with OCR by January 19, 2018.

2. Proposed Policies and Procedures Regarding New Online Content and Functionality. Within sixty (60) days of the creation of the Strategic Action Plan, the District will submit to OCR for its review and approval proposed policies and procedures to ensure that all new, newly-added, or modified online content will strive to 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 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. Within sixty (60) days of receiving OCR's approval, the District will officially adopt, and fully implement the amended policies and procedures referenced in Section 2.
  - b) Reporting: Within ninety (90) days of receiving OCR's approval, the District will submit to OCR evidence of their adoption and distribution, and a description of how they are being implemented.
3. Undue Burden and Fundamental Alteration Documentation. 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 an individual designated by the Superintendent, 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. These files will be maintained by the Section 504 Coordinator.
4. 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 Strategic Action Plan will also ensure that the community understands that any accessibility concerns will be remedied appropriately and

expediently. The District will publicize these efforts with the community via email or on the District website.

5. Training. Starting no later than ninety (90) days from the date of this Agreement, and annually thereafter for a period of two years, and thereafter as required by law or regulation, 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 District 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.
6. Summary Reporting: Given the ongoing nature of ensuring web accessibility, the Strategic Action Plan will incorporate specific benchmarks, including timeframes, and internal auditing 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 by the beginning of the fall of the 2018-2019 academic year. The District understands that OCR will consult with the District following the submission of the Summary Report, and the District 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 Title II, at 28 C.F.R. §§ 35.130 and 35.160, which were at issue in this case. The District understands that OCR will be under no legal obligation to close its monitoring as of any specific date. However, within thirty days (or a similarly reasonable timeframe) after the District submits its Summary Report, and assuming that OCR in good faith does not raise specific compliance concerns with regard to any reporting obligations set forth in this Agreement, there will be a rebuttable presumption that OCR will close its monitoring of the District and this Agreement at that time.

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, 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.



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