

Resolution Agreement
Boston Public Library
Complaint No. 01-17-4029

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation into allegations that the Boston Public Library (Library) violated Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35. Specifically, the Complainant alleged that the Library's website contained barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the Library's programs, services, and activities.

Prior to the completion of OCR's investigation, the Library 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 Library is not in compliance with Title II, and/or its implementing regulations. Accordingly, to resolve the issues of this investigation, the Library agrees to take the actions set forth below.

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

Remedies and Reporting

1. Strategic Action Plan. The Library has represented to OCR that prior to the OCR complaint, it was in the process of redesigning and re-building a WCAG 2.0 compliant website with an anticipated launch date of July 2018. As such, within ninety (90) days of entering into this Agreement, the Library will submit for OCR's review and approval its plan for ensuring that the new website complies with the Benchmarks for Measuring Accessibility set forth above, including

ensuring that the new website continues to be accessible as it is modified and new content is added after it is launched, and the Library's interim plan for ensuring the current website is accessible (collectively, the "Strategic Action Plan"). The Strategic Action Plan submitted for OCR' s review and approval will include the following:

- a. Proposed policies and procedures to ensure that all new, newly-added, or modified online content 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, and that individuals accessing the Library's website can report barriers to accessibility and usability. When fundamental alteration or undue burden defenses apply, the Library will follow federal legal requirements to provide effective alternative access. In providing equally effective alternate access, the Library 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 thirty (30) days of receiving OCR's approval, the Library will fully implement the policies and procedures referenced above. To the extent that the policies and procedures cannot be fully implemented within thirty (30) days of OCR's approval because the website has not been launched, it will be fully implemented as of the date that the website is launched.
- c. The Library will officially adopt the policies and procedures at the first regularly-scheduled Board of Trustees meeting after receiving OCR's approval, but no later than June 1, 2018.
- d. A detailed approach, such as a description of its plan to prioritize high traffic webpages, timeframes for ensuring accessibility, and other steps to ensure that its existing content is appropriately updated to reflect the needs of the community and other users, and that the community is notified that any accessibility concerns will be remedied appropriately and expeditiously. The Library will publicize these efforts with the community via email and on the Library's website.
- e. Given the ongoing nature of ensuring web accessibility, the Strategic Action Plan will incorporate specific benchmarks, including timeframes, and ongoing monitoring and sampling processes that the Library will implement on an ongoing basis moving forward.

- f. Within thirty (30) days of receiving OCR's approval of the Strategic Action Plan, the Library will implement the Strategic Action Plan. The Library will officially adopt the Strategic Action Plan at the first regularly- scheduled Board of Trustees meeting after receiving OCR's approval.
- g. Reporting:
 1. Within forty-five (45) days of receiving OCR's approval of the Strategic Action Plan, the Library will submit to OCR evidence of the distribution of the Strategic Action Plan and the policies and procedures contained therein to relevant parties, and a description of how they are being implemented.
 - 1.1. Within thirty (30) days of official adoption of the policies and procedures by the Board of Trustees, the Library will submit to OCR evidence of their adoption.
 2. Undue Burden and Fundamental Alteration Documentation. For any technology-related requirement in this Agreement for which the Library asserts an undue burden or fundamental alteration defense, such assertion may only be made by the Library's president, or by individual designated by the president 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 Library asserts either defense, the Library must provide 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 Library 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 Library as their nondisabled peers.
 3. Training. Starting no later than sixty (60) days from the date of this Agreement, and annually thereafter, the Library will deliver website accessibility training concerning, among other things, the goals and strategies set forth in Strategic Action Plan to all appropriate personnel, including but not limited to: content developers, webmasters, procurement officials, and others responsible for developing, loading, maintaining, or auditing web content and functionality.
 4. Summary Reporting: The Library will provide to OCR a Summary Report of its efforts to effectuate this Agreement and these ongoing efforts to maintain web accessibility by September 1, 2018. The Summary Report will include copies of materials used in its website accessibility trainings and sign-in sheets identifying the individuals who received training and their positions. The Library will 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 Library understands that OCR will not close the monitoring of this Agreement until OCR determines that the Library has fulfilled the terms of this Agreement in compliance with the regulations implementing Title II at 28 C.F.R. §§ 35.130 and 35.160 (a), which were at issue in this case.

The Library 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 Library understands that during the monitoring of this Agreement, if necessary, OCR may visit the Library, 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 Library has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Title II at 28 C.F.R. §§ 35.130 and 35.160(a), which were at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close this case.

The Library 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 Library 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 Library's

/s/

12/1/17

David Leonard, President
Boston Public Library

Date