

RESOLUTION AGREEMENT
Rutgers University
Case Number 02-17-2005

In order to resolve Case No. 02-17-2005, Rutgers, The State University of New Jersey (the University) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it will take the actions detailed below pursuant to the requirements of 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.

This resolution agreement has been entered into voluntarily and does not constitute an admission by the University that it committed any wrongdoing, including, but not limited to, a violation of Section 504 and Title II and/or their implementing regulations.

Assurances of Nondiscrimination. The University hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the University'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, which is incorporated by reference.

Adherence to these accessible technology standards is one way to ensure compliance with the University'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 University 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 University's programs, services and activities delivered online.

Remedies and Reporting Requirements

- 1) Policy Regarding New Online Content and Functionality. By May 22, 2017, the University will submit to OCR for its review and approval its existing World Wide Web Accessibility Policy, Policy No. 70.1.5, ("the Policy"), modified as necessary to conform

with items (a) through (d) below. Specifically, OCR will confirm that the Policy includes the following:

- a) a requirement that all new, newly-added, or modified online content and functionality be accessible to people with disabilities as measured by conformance to the Benchmarks for Measuring Accessibility set forth above, including web content and functionality developed by, maintained by, or offered through third-party vendors or by using open sources, except where doing so would impose a fundamental alteration or undue burden;
- b) a requirement that when fundamental alteration or undue burden defenses apply or where compliance with the Benchmarks for Measuring Accessibility is not technically feasible, the Policy will require the University to provide equally effective alternative access. The Policy will require the University, 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. Equally effective means that it communicates the same information and provides equivalent functions in as timely a fashion as does the web page or resource, but does not require that the alternative means produce the identical result or level of achievement for persons with and without disabilities.
- c) Sufficient quality assurance procedures, backed by adequate personnel resources, for full implementation;
- d) a requirement that each website indicate in plain text a method of contact for users having trouble accessing content within the site due to a disability, as well as a link to the applicable procedures for filing complaints related to website accessibility, and complaints related to Section 504.
- e) In the event that OCR determines that the submitted Policy does not meet the requirements set forth in Section 1(a)-(d) above, the University will have thirty (30) days from the date of its receipt of OCR's rejection of the Policy to submit a revised Policy to OCR for review. Regardless of whether the Policy is approved by OCR as submitted, or approved by OCR following submission of a revised Policy, within thirty (30) days of receiving OCR's approval of the Policy, or within ten (10) days following the receipt of necessary approval by the applicable University officials of the OCR approved Policy, the University will officially adopt and fully implement the Policy as approved.

Reporting Requirement:

- a) Within 45 days of receiving OCR's approval of the Policy, the University will submit to OCR the Policy, and evidence of its adoption on an interim basis and documentation of the steps taken to seek internal approval for its official adoption. Within thirty (30) days of receipt of the necessary internal approval for official adoption, which shall occur within forty-five (45) days of OCR's approval of the Policy, or as soon thereafter as reasonably possible, the University will submit to OCR the final approved Policy, evidence of its distribution, and a description of how it is being implemented.
- 2) Undue Burden and Fundamental Alteration. During the monitoring period of this Agreement, for any technology-related change required by this Agreement to the University's online programs, services, and/or activities for which the University asserts that meeting the Benchmarks for Measuring Accessibility, set forth above (thereby rendering it fully accessible), would impose an undue burden or fundamental alteration, such assertion may only be made by the University President or by an individual designated by the President with appropriate budgetary authority. Such assertion must be submitted to OCR as part of the status reports required by the Reporting Requirement under Paragraph 4, below, accompanied by a written statement of the reasons for reaching that conclusion. Where the assertion of an undue burden defense is based on budgetary constraints, such written statement shall include 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 University as their nondisabled peers.
 - 3) Audit of Existing Content and Functionality. By June 5, 2017, the University will propose for OCR's review and approval the identity and bona fides of an Auditor (corporation or individual) to conduct an audit of the content and functionality on its website, including, but not limited to, the home page, subordinate pages, and intranet pages and sites, to identify any online content or functionality that is inaccessible to persons with disabilities, as measured by the Benchmarks for Measuring Accessibility, set out above, including online content and functionality developed by, maintained by, or offered through a third party vendor or an open source. Such audit may be of a representative sample of the University's website, subject to OCR's approval of the parameters of the audit. 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, and may be a current University employee provided that he or she possesses the requisite knowledge and expertise. The Audit will use the Benchmarks for Measuring Accessibility, set out above, unless the University receives prior permission from OCR to use a different standard as a benchmark. During the Audit, the University will also seek input from all members of the University community with disabilities, including but not

limited to students, employees, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.

Reporting Requirements:

- a) By June 5, 2017, the University 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.
 - b) Within 120 days of receiving OCR's approval of the proposed Auditor, the University will submit to OCR documentation of the steps taken by the Auditor during the Audit as set forth in Paragraph 3, a description of the outreach it undertook and the input it received, and a detailed accounting of the results of the Audit. The University may request an extension of the time to submit such documentation, subject to OCR's approval.
- 4) Proposed Corrective Action Plan. Simultaneously with the submission of the Audit (as set forth in Paragraph 3(b)), the University will submit to OCR for its review and approval a proposed Corrective Action Plan to address issues with respect to all inaccessible content and functionality not in conformance with the Benchmarks for Measuring Accessibility, set out above. The proposed Corrective Action Plan will set out a detailed schedule for:
- a) addressing identified problems, taking into account identified priorities, with all necessary and appropriate corrective actions with respect to content or functionality identified during the Audit as not in compliance with the Benchmarks for Measuring Accessibility to be completed within 24 months of the date OCR approved the Corrective Action Plan;
 - b) addressing problems with respect to content or functionality identified subsequent to the Audit as not in compliance with the Benchmarks for Measuring Accessibility within a reasonable time period following the identification of such problems;
 - c) setting up systems of accountability for and verifying claims of accessibility by vendors or open sources;
 - d) setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis.
 - e) posting a notice on each website that will indicate in plain text a method of contact for users having trouble accessing content within the site due to a disability, as well as a link to the applicable procedures for filing complaints related to website accessibility, and complaints related to Section 504.

Within 30 days of receiving OCR's approval of the proposed Corrective Action Plan, the University will officially adopt and implement the Corrective Action Plan.

Reporting Requirements:

- a) Within 45 days of receiving OCR's approval of the proposed Corrective Action Plan, the University 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 on the status of the University's compliance with the Corrective Action Plan will be due every six months thereafter until the Corrective Action Plan has been completed.
- 5) Training. Starting no later than 60 days from this date of this Agreement, and on a rolling basis thereafter, the University will deliver website accessibility training to all appropriate personnel, including but not limited to: webmasters, web developers, and all others responsible for developing, loading, maintaining, or auditing web content and functionality. Such training will be provided first to web liaisons identified at the department/unit level, who, in turn, will then train other appropriate personnel within their respective departments/units. Following the provision of the initial training to existing employees, new employees whose job duties include developing, loading, maintaining or auditing web content and functionality will also be provided such training as soon as reasonably possible following their hire.

Reporting Requirements:

- a) The University will submit documentation every six months, beginning six months following the date of this Agreement, of the training conducted, until such time as OCR closes the monitoring of this Agreement. Such documentation will include a description of the delivered training content, the method by which the training has been delivered, to whom the training has been made available, and the means of tracking participation.

The University understands that OCR will not close the monitoring of this Agreement until OCR determines that the University 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. The University 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 University understands that during the monitoring of this Agreement, if necessary, OCR may visit the University, interview staff, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether the University 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. The University 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

