

August 24, 2017

Dr. Charles Lindsay  
President  
Elmira College  
One Park Place  
Elmira, New York 14901

Re: Case No. 02-17-2086  
Elmira College

Dear President Lindsay:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR), with respect to the above-referenced complaint filed against Elmira College (the College). OCR investigated the complainant's allegation that the College discriminated, on the basis of disability, because the College's website is not accessible to individuals with disabilities.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794 (Section 504), and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs or activities receiving financial assistance from the U.S. Department of Education (the Department). The College is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Section 504.

This letter summarizes the applicable legal standards, the information gathered during the investigation, and how the investigation was resolved.

Legal Authority:

Section 504 prohibit individuals, on the basis of disability, from being excluded from participation in, being denied the benefits of, or otherwise being subjected to discrimination by recipients of federal financial assistance. 34 C.F.R. § 104.4. Section 504 prohibits affording individuals with disabilities an opportunity to participate in or benefit from aids, benefits, and services that is unequal to the opportunity afforded others. 34 C.F.R. § 104.4(b)(1)(ii). Similarly, individuals with disabilities must be provided with aids, benefits, or services that provide an equal opportunity to achieve the same result or the same level of achievement as

others. 34 C.F.R. § 104.4(b)(2). An individual with a disability, or a class of individuals with disabilities, may be provided with a different or separate aid, benefits, or services only if doing so is necessary to ensure that the aid, benefit, or service is as effective as that provided to others. 34 C.F.R. § 104.4(b)(1)(iv). In sum, programs, services, and activities—whether in a “brick and mortar,” on-line, or other “virtual” context—must be operated in ways that comply with Section 504.

Investigation:

During the course of the investigation, OCR examined a number of pages on the College’s website to determine whether these were accessible to persons with disabilities. These web pages included:

- Tuition and Aid page ([http://www.elmira.edu/admissions-aid/Tuition\\_Aid/Applying\\_for\\_Aid/index.html](http://www.elmira.edu/admissions-aid/Tuition_Aid/Applying_for_Aid/index.html));
- Elmira College Facebook page (<https://www.facebook.com/elmiracollege>);
- Elmira College YouTube page (<https://www.youtube.com/user/elmiracollege>);
- Employment Opportunities page ([http://www.elmira.edu/Student/Offices\\_Resources/Employment\\_Opportunities/index.html](http://www.elmira.edu/Student/Offices_Resources/Employment_Opportunities/index.html));
- Gannet-Tripp Library page (<http://libguides.elmira.edu/home>);
- Library Services for Students page ([http://libguides.elmira.edu/home/student\\_services](http://libguides.elmira.edu/home/student_services));
- Students Complaints – Compliance page ([http://www.elmira.edu/Student/Offices\\_Resources/Student\\_Complaints\\_Compliance.html](http://www.elmira.edu/Student/Offices_Resources/Student_Complaints_Compliance.html));
- Student Life page (<http://www.elmira.edu/Student/index.html>);
- Student Offices and Resources page ([http://www.elmira.edu/Student/Offices\\_Resources/index.html](http://www.elmira.edu/Student/Offices_Resources/index.html));
- Disability Services Information page ([http://www.elmira.edu/academics/Academic\\_Resources/Disability\\_Services/Accessibility\\_Services\\_Information.html](http://www.elmira.edu/academics/Academic_Resources/Disability_Services/Accessibility_Services_Information.html));
- Documentation Guidelines page ([http://www.elmira.edu/academics/Academic\\_Resources/Disability\\_Services/Documentation\\_Guidelines.html](http://www.elmira.edu/academics/Academic_Resources/Disability_Services/Documentation_Guidelines.html));and
- A-Z Directory page (<http://www.elmira.edu/academics/services/a-z-directory.html>).

OCR evaluated the above-listed pages and determined that: (i) parts of the website used color combinations that made text difficult or impossible for individuals with low vision to see, which meant that some content was not available to those who are blind and many who have low vision; (ii) the website lacked a way for users of special software and those with disabilities affecting fine motor control to skip to the main content of the pages, thereby impeding their ability to efficiently navigate past long headers appearing before the main content; (iii) certain portions of the website were not accessible to keyboard users, thus failing to make certain content accessible to those with disabilities affecting fine motor control; and, (iv) certain links were missing associated text descriptions, referred to as “alt tags,” that describe the images to blind and low-vision users who use special software. Many of these barriers deny persons with

disabilities access to programs, services, and activities offered on the website and impede the College's communications with persons with disabilities.

Before OCR conducted additional investigation of the College's website, the College expressed an interest in voluntarily resolving this case. In light of the College's willingness to address its website comprehensively without further investigation, OCR determined that entering into a voluntary resolution agreement was appropriate.

### Resolution Agreement

The College signed a resolution agreement (Agreement) on August 18, 2017. When fully implemented, the Agreement will address the issues noted above, as well as resolve issues of accessibility pertaining to the rest of the College's website. The College committed to take actions including:

- selecting an auditor who has the requisite knowledge and experience to identify barriers to access on the College's website and conducting a thorough audit of existing online content and functionality;
- making all new website content and functionality accessible to individuals with disabilities;
- developing a corrective action plan to prioritize the removal of online barriers over an 18-month period;
- posting a notice to persons with disabilities about how to request access to online information or functionality that is currently inaccessible; and
- providing website accessibility training to all appropriate personnel.

OCR will monitor the College's implementation of the Agreement. When OCR concludes that the College has fully and effectively implemented the terms and obligations of the Agreement and is in compliance with the statutes and regulations at issue in the case, OCR will terminate its monitoring and close the case. If the College fails to implement the Agreement, OCR may initiate administrative or judicial proceedings to enforce specific terms and obligations of the Agreement. Before initiating administrative (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce the Agreement, OCR shall give the College written notice of the alleged breach and sixty (60) calendar days to cure the breach.

These findings should not be interpreted to address the College's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the College may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file a complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this letter and related correspondence and records upon request. In the event that OCR receives such a request, it will seek to protect, to the extent provided by law, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

If you have any questions, please contact Ernest King, Compliance Team Attorney, at (646) 428-3877 or [ernest.king@ed.gov](mailto:ernest.king@ed.gov); or Kathleen Ryder, Compliance Team Attorney at (646) 428-3825, or [kathleen.ryder@ed.gov](mailto:kathleen.ryder@ed.gov).

Sincerely,

/s/

Timothy C.J. Blanchard

Encl.