



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION II

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September 20, 2017

Francis Felser  
President and Chief Executive Officer  
Bryant and Stratton College  
465 Main Street, Suite 400  
Buffalo, New York 14203

Re: Case No. 02-17-2204  
Bryant and Stratton College

Dear President Felser:

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 Bryant and Stratton College (the College). OCR investigated the complainant's allegation that the College is discriminating, on the basis of disability, because its website is not accessible to individuals with disabilities.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and 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 complaint was resolved.

Legal Authority:

Section 504 prohibits people, 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 or by public entities, respectively. 34 C.F.R. § 104.4. Section 504 also 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, benefit, or service 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 the pages on the College’s website that the complainant identified as examples to determine whether these are accessible to persons with disabilities. These webpages included:

- <https://www.bryantstratton.edu>;
- <https://www.bryantstratton.edu/about-us>;
- <https://www.bryantstratton.edu/degrees>;
- <https://www.bryantstratton.edu/locations>;
- <https://www.bryantstratton.edu/financial-aid/federal-aid>;
- <https://www.bryantstratton.edu/financial-aid/military-aid>;
- <https://www.bryantstratton.edu/financial-aid/net-price-calculator>;
- <https://www.bryantstratton.edu/online-learning>;
- <https://www.bryantstratton.edu/online-learning/online-community>;
- <https://www.bryantstratton.edu/admissions/online>; and
- <https://www.bryantstratton.edu/locations/syracuse-ny>.<sup>1</sup>

OCR evaluated the above-listed pages and determined that: (i) webpages 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; (ii) form controls were missing, which identify the purpose and function of the otherwise unlabeled search bar/form field for users of special software; (iii) keyboard controls were not visually apparent and/or had low contrast, which makes it difficult for keyboard users to navigate the pages; (iv) important images were missing text descriptions, or had incorrect text descriptions, referred to as “alt tags,” that describe the images to blind and low-vision users who use special software; (v) videos lacked captioning, causing the content of these videos to be inaccessible to individuals with hearing impairments; (vi) video controls were not keyboard accessible, which makes it difficult for keyboard users to access these videos; and, (vii) web pages had insufficient contrast, which affects all viewers, including those with visual disabilities and those with certain cognitive/neurological disabilities. OCR determined that the deficiencies identified constitute barriers that deny persons with disabilities access to programs, services, and activities offered on the website and impede the College’s communications with persons with disabilities.

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<sup>1</sup> OCR also examined the College’s Facebook (<https://www.facebook.com/bryantandstratton>) and Google Plus pages (<https://plus.google.com/+bryantandstratton>).

Resolution Agreement:

The College signed a resolution agreement (Agreement) on September 18, 2017, to ensure that its website is compliant with Section 504. 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 people with disabilities;
- developing a corrective action plan to prioritize the removal of online barriers over a 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 will 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 document 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 R. Colin Power, Compliance Team Attorney, at (646) 428-3832 or [R.Colin.Power@ed.gov](mailto:R.Colin.Power@ed.gov); or Anna Moretto Cramer, Compliance Team Leader, at (646) 428-3826 or [Anna.Moretto.Cramer@ed.gov](mailto:Anna.Moretto.Cramer@ed.gov).

Sincerely,

/s/

Timothy C. J. Blanchard

Encl.

cc: xxxxxxxxxxxx, Esq.