

RESOLUTION AGREEMENT

Yeshiva University Case Number 02-17-2622

In order to resolve Case No. 02-17-2622, Yeshiva University (the University or YU) represents and acknowledges to the U.S. Department of Education, Office for Civil Rights (OCR), that it will take and/or continue to take the actions detailed below pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104.

I. Background

- 1) On or around October 17, 2017, OCR sent a letter to the University explaining that, on September 18, 2017, OCR received a complaint alleging that certain pages of the University's website are not accessible to individuals with disabilities. As a result of that complaint, OCR decided to commence an investigation into the matter.
- 2) While the University has cooperated fully with OCR's investigation, it denies the foregoing allegations and denies that it violated Section 504, the Americans with Disabilities Act (ADA), or any other accessibility law or regulation that could have been asserted by the complainant or OCR regarding the accessibility of its websites or other electronic information technology. The University avers that it has been and remains committed to providing equal opportunity for the education of qualified individuals with disabilities, and had and continues to maintain various methods for providing qualified individuals with disabilities with access to the University's services, programs, and activities (including, but not limited to, the operation of its Office of Disability Services). Moreover, the University avers that it had already undertaken many of the requirements of this Agreement (hereinafter, the Agreement).

II. Definitions

- 1) YU Website: includes all content and functionality for all of the University's services, programs, and activities provided by way of the website, <https://www.yu.edu/>, and including all subordinate pages and intranet pages and sites; and all content and functionality developed by, maintained by, or offered through a third party vendor or open source through which the University (or one of its schools, global sites, portal campuses, or library) provides its services, programs, or activities by way of the website, <https://www.yu.edu/>. This does not include sites that are independent of the University (including sites that are linked to or from the YU Website), sites that the University does not control, including but not limited to the website, <http://www.einstein.yu.edu/>, as well as sites that do not provide University services, programs, or activities.
- 2) New Content: content or aspects of the YU Website created or published after the effective date of the University's Website Accessibility Policy discussed below.
- 3) Pre-Existing Content: content or aspects of the YU Website created or published on or after September 18, 2015, through the effective date of the University's Website Accessibility Policy discussed below.

- 4) Legacy Content: content or aspects of the YU Website created or published prior to September 18, 2015.
- 5) Archived Content: content or aspects of the YU Website no longer in regular use, but not yet removed from public access or maintained subject to record retention policies.
- 6) Benchmarks: 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, with the exception of audio description, which is incorporated by reference. Nothing in this Agreement limits the University's ability to go beyond these Benchmarks in providing accessible content; the Benchmarks shall serve as a floor, not a ceiling.
- 7) Fundamental Alteration: a change to the University's services, programs, or activities that fundamentally alters the nature of the services, programs, or activities, including academic courses and technology. Where accessibility poses a Fundamental Alteration, the University may take other actions that would not result in such an alteration but would nevertheless provide, to the maximum extent feasible, qualified individuals with disabilities equal access to the services, programs, and activities of the University.
- 8) Undue Burden: a proposed course of action that would result in significant financial and administrative burden. Where accessibility poses an Undue Burden, the University may take other actions that would not result in such an Undue Burden but would nevertheless provide, to the maximum extent feasible, qualified individuals with disabilities equal access to the benefits or services provided by the University.
- 9) Equally Effective Alternative Access: With respect to electronic and information technology, including websites, means an alternative format, medium, or other aid that timely and accurately communicates and/or provides access to the same content as does the original format or medium, and which is appropriate to an individual's disability. In providing Equally Effective Alternate Access, the University may rely on any commonly accepted standard or combination of standards, including standards not specifically identified in this Agreement, provided the remainder of this definition is met. In providing Equally Effective Alternative Access, the University is not required to take any action that results in a Fundamental Alteration or creates an Undue Burden, but must nevertheless, to the maximum extent feasible, provide qualified individuals with disabilities with access to the services, programs, and activities of the University.

III. Overarching Obligations & Benchmarks

- 1) Assurances of Nondiscrimination. The University hereby reaffirms its existing commitment to provide qualified individuals with disabilities an opportunity equal to that of their peers without disabilities to participate in the University's services, programs, and activities, including those delivered through electronic and information technology, except where doing so would impose an Undue Burden or create a Fundamental Alteration.

- 2) Measures and Means of Providing Accessibility. For the purposes of this Agreement, the accessibility of online content and its functionality will be measured according to conformance with the Benchmarks. If during the term of this Agreement, legislation is passed modifying Section 504 or the ADA, or if the United States Department of Education or United States Department of Justice or any other federal government entity promulgates final regulations that apply to the University, the University and OCR may discuss, at the written request of either party, whether modifications to the terms of this Agreement shall be made to be consistent with any such final statutes, regulations, or rules. The parties acknowledge and agree that this provision shall not be interpreted to obligate the University to take steps regarding the accessibility of the YU Website beyond those already included in this Agreement or in a shorter timeframe than required under this Agreement.

- 3) Undue Burden and Fundamental Alteration. For any technology-related requirement in this Agreement for which the University asserts an Undue Burden or Fundamental Alteration defense, such assertion may only be made by the University President or by an individual or individuals designated by the University President and who has or have budgetary authority 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. The written statement will be certified by the determining official(s). If such a determination is made, the certifying official(s) 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 have equally effective access to the services, programs, and activities of provided by the University as their nondisabled peers.

IV. Obligations and Reporting Requirements

- 1) Adoption of Website Accessibility Policy and Procedures. Within ninety (90) days of the Effective Date of this Agreement (set forth below at V.I), the University will submit to OCR for its review and approval a proposed website accessibility policy (“Website Accessibility Policy”). The University will also develop internal supporting accessibility procedures (“Website Accessibility Procedures”; collectively, “Website Accessibility Policy and Procedures”). In total, the Website Accessibility Policy and Procedures will incorporate the University’s primary obligations from this Agreement to ensure that all qualified individuals with disabilities have access to online content and functionality for all of YU’s programs, services or activities; and include sufficient quality assurance procedures, backed by adequate personnel and resources, for effective implementation.
 - a) Within 30 days of receiving OCR’s approval of the Website Accessibility Policy, the University will officially adopt the Website Accessibility Policy and begin implementation of the Website Accessibility Policy and Procedures.

- b) Within 45 days of receiving OCR's approval of the Website Accessibility Policy, the University will submit to OCR evidence of adoption of the Website Accessibility Policy, and a summary description of how the Website Accessibility Policy and Procedures are being implemented.
- c) If the University wishes to modify (i.e., change, augment, update, or discontinue) aspects of the Website Accessibility Policy at any point during the duration of this Agreement (e.g., to reflect new technologies), the University shall submit the proposed modifications to OCR for review and approval prior to implementing the modifications. OCR will respond within 45 days of the University's submission.

2) Benchmark Conformance Auditing: Within 45 days of the date of this Agreement, the University will propose for OCR's review and approval the identity and bona fides of at least one auditor (corporation or individual, which can be internal staff person(s) or outside contractors, as desired by the University) to conduct the website accessibility audits of the YU Website required by this Agreement (Auditor). The Auditor will have sufficient knowledge and experience in website accessibility for individuals with disabilities to carry out the tasks required by this Agreement, including conducting the audits referenced below and proposing accessibility enhancements necessary to achieve substantial conformance with the Benchmarks. During the Audit, the University will also seek input from members of the public with disabilities, including students, employees, and others associated with the University, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.

- a) Neither the Audit, nor the Corrective Action Plan referenced below, will include: (i) Legacy Content or Archived Content that has not been edited, updated, or modified in any way since September 18, 2015; or (ii) New or Pre-Existing content generated and uploaded by individual professors or other faculty members, student organizations, individual students or members of the public. However, upon request by an end-user to the Office of Disability Services, the University will reasonably remediate all such materials within three business days, subject to an interactive process if warranted. If, however, it can be documented that such remediation cannot be reasonably accomplished within three business days, the University will promptly enter into an interactive process with the requestor to determine an appropriate accommodation, or an alternative, and a reasonable timeframe. The University will prominently post a way for end-users to request such remediation.
- b) Neither the Audit, nor the Corrective Action Plan referenced below, will include individual course material on the University's Learning Management System that is restricted to particular students enrolled in a particular course. For such courses with restricted enrollment, the University will provide equally effective alternative access upon request, through the Office of Disability Services, and shall timely process such requests consistent with the University's policies and procedures governing disability-related accommodations and academic adjustments and auxiliary aids.
- c) Within 15 days of OCR's approval of the Auditor, the University will submit to OCR written certification of the retention of the Auditor(s) approved by OCR. Where this

Agreement requires that the YU Website achieve conformance with the Benchmarks, the University will, as necessary, conduct website accessibility audits from both a programmer and user-based (via the use of assistive technology, *e.g.*, a screen reader program) perspective to ascertain the YU Website's levels of conformance to the Benchmarks and, to the extent accessibility enhancements are deemed necessary, recommend methods for achieving conformance with the Benchmarks. The audit findings and recommendations shall be provided to the University in audit reports, which shall also detail the Auditor's methodology for conducting the audit and the scope of the audit.

- d) The University will conduct an audit in two phases (Phase I and Phase II, respectively).
- i) Phase I: During Phase I of the audit, the Auditor will review the YU Website to identify and outline the scope of issues to address. Within 90 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 Phase I of the audit, and a detailed accounting of the results of the audit ("Phase I Audit Report").
 - ii) Phase II: During Phase II, the Auditor will conduct a detailed and comprehensive audit of the YU Website based on the issues identified in Phase I. Within 90 days of submitting the results of Phase I to OCR, the University will submit to OCR documentation of the steps taken by the Auditor during Phase II of the audit, a description of the outreach it undertook and the input it received, and a detailed accounting of the results of the audit ("Phase II Audit Report").
- e) Proposed Corrective Action Plans. Within 60 days after the University's submission of the Phase II Audit Report to OCR, the University shall prepare and submit to OCR for its review a proposed Corrective Action Plan to address areas identified during the audit(s) that do not conform to the Benchmarks. The proposed Corrective Action Plan will set out a schedule for completion not to exceed the timeframes set forth below in Item IV.3.
- i) Within 15 days of receiving OCR's approval of the proposed Corrective Action Plan, the University will officially adopt and begin implementation of the Corrective Action Plan.
 - ii) Within 45 days of receiving OCR's approval of the proposed Corrective Action Plan, the University will submit to OCR documentation establishing that the approved Corrective Action Plan is being implemented according to the approved schedule.
 - iii) Reports will be due every 6 months thereafter describing the actions the University has taken since the prior report to remediate Pre-Existing Content. This reporting obligation shall last until the Corrective Action Plan has been completed.

- iv) To the extent the University deviates from the Benchmarks, it shall set forth the basis for asserting an Undue Burden or Fundamental Alteration exception and detail its method for providing Equally Effective Alternative Access.
- v) As part of its reporting obligations, the University will submit to OCR: (i) any Auditor report(s); and (ii) any User complaints submitted via the User Feedback mechanism (set forth below at IV.4) that relate to the Corrective Action Plan being submitted at that time.

3) Accessibility of the YU Website

- a) New Content: Starting 6 months after OCR approves the Website Accessibility Policy, all new, newly-added, or substantially altered online content and functionality, subject to the limitations outlined in IV.2 above, will be accessible to individuals with disabilities as measured by conformance to the Benchmarks, except where doing so would impose a Fundamental Alteration or Undue Burden. When either the Fundamental Alteration or Undue Burden exceptions apply, the University and/or its third-party vendors covered by this provision shall still provide Equally Effective Alternative Access to qualified individuals with disabilities.
 - b) Pre-Existing Content: Pre-Existing Content shall be brought into conformance with the Benchmarks within twenty-four (24) months of the date when OCR approves the Corrective Action Plan unless doing so would cause a Fundamental Alteration or create an Undue Burden, in which case access shall be provided via means of Equally Effective Alternative Access.
 - i) The University may achieve compliance for Pre-Existing Content by: (i) launching new versions of the Pre-Existing Content; (ii) taking the steps set forth in the Audit as necessary to bring the Pre-Existing Content into conformance with the Benchmarks; or (iii) removing the non-compliant aspects of the YU Website in their entirety. In any such instance, as noted above, the University need not take any actions that would cause a Fundamental Alteration or create an Undue Burden (however, in such cases access shall be provided via means of Equally Effective Alternative Access).
- 4) Feedback Mechanism. Within 60 days of the Effective Date of this Agreement, the University will submit to OCR for review and approval a proposed Notice to individuals with disabilities regarding: (i) how to submit user feedback and formal grievances under Section 504 regarding the accessibility of the YU Website; and (ii) how to access content, including Legacy and Archived Content, on the YU Website that may not be currently accessible.
- a) Within 30 days of receiving OCR's approval of the proposed Notice, the University will officially adopt and post the approved Notice through a link included in the footer of the YU Website's home or landing page(s), all subordinate pages, and on YU's Accessibility web page located at <https://www.yu.edu/accessibility-statement>. Within 45 days of receiving OCR's approval of the proposed Notice, the University will submit to OCR written certification of its posting of the Notice at the locations required in this Agreement.

5) Training. Starting no later than 90 days from the date OCR approves the University's Website Accessibility Policy the University will deliver training to all appropriate personnel (as determined in the University's sole discretion), such as IT and Web Development teams as well as any other employees (including professors), agents, or contractors who are responsible for procuring, developing, uploading, or otherwise managing the YU Website and its content. The training will include information regarding the University's Website Accessibility Policy and Procedures as well as general issues regarding accessible website development/content management in accordance with the Benchmarks that are relevant to the individual's job responsibilities. Each year thereafter, until the Corrective Action Plan has been completed, the University will deliver updated training as necessary for appropriate personnel. In addition, the University will deliver training as an element of its orientation to all newly-hired or newly-assigned appropriate personnel who become responsible for procuring, developing, uploading, or otherwise managing the YU Website and its content.

a) By March 31st of each year that this Agreement is in effect, the University will submit to OCR documentation regarding the Website Accessibility Training sessions that occurred during the preceding twelve months.

i) The documentation will include a list of individuals who have received training, including titles; a description of the delivered training content (or, in the alternative, a copy of the training materials or access to an online portal); and the presenters' credentials for developing or providing such training.

V. Miscellaneous Provisions

1) OCR's Reservation of Rights: The University understands that by signing this Agreement, it agrees to provide the foregoing 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 students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulations at 34 C.F.R. §§ 104.4 (a) and (b), 104.8, and 104.43. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the University written notice of the alleged breach and sixty (60) calendar days to cure the

