

Resolution Agreement
Baltimore County Public Schools
Case Number 03161149

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation into allegations that Baltimore County Public Schools (“School System”) violated 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. Specifically, the complainant alleged that the School System’s website contained barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the School System’s programs, services, and activities and denying them effective communication necessary for full participation in the School System’s programs, services, and activities.

Assurances of Nondiscrimination. The School System hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the School System’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 School System’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 School System 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 School System’s programs, services, and activities delivered online.

The School System voluntarily agrees to take the actions set forth below.

Remedies and Reporting

- 1) Proposed Policies and Procedures Regarding New Online Content and Functionality. By December 1, 2016, the School System will submit to OCR for its review and approval proposed procedures (“the Plan for New Content”) to ensure that all new, newly-added, or modified online content and functionality 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.

- a) When fundamental alteration or undue burden defenses apply, the Plan for New Content will require the School System to provide equally effective alternative access. The Plan for New Content will require the School System, 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.
 - b) The Plan for New Content must include sufficient quality assurance procedures, backed by adequate personnel and financial resources, for full implementation. This provision also applies to the School System's online content and functionality developed by, maintained by, or offered through a third-party vendor or by using open sources.
 - c) Within 60 days of receiving OCR's approval of the Plan for New Content, the School System will officially adopt, and implement the amended procedures.
 - d) Reporting: Within 90 days of receiving OCR's approval, the School System will submit to OCR the approved procedures, evidence of their adoption and distribution, and a description of how they are being implemented.
- 2) Undue Burden and Fundamental Alteration. For any technology-related requirement in this Agreement for which the School System asserts an undue burden or fundamental alteration defense, such assertion may only be made by the Superintendent or by an individual designated by the Superintendent and who has 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. 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 School System as their nondisabled peers.
 - 3) Audit of Existing Content and Functionality. By November 15, 2016, the School System will propose for OCR's review and approval an internal audit plan to audit all content and functionality on its website, including, but not limited to, the home page, all subordinate pages, and intranet pages and sites, to identify any online content or functionality that is inaccessible to persons with disabilities, including online content and functionality developed by, maintained by, or offered through a third party vendor or an open source. The internal audit plan will identify the individual(s) responsible for conducting the audit, his or her qualifications, whether he or she will be provided training, and the details

(date(s), title(s), and topic(s)) of the training he or she will receive or has already received. The internal audit plan will also include a training plan to provide BCPS staff with sufficient knowledge and experience in website accessibility for people with disabilities to carry out all related tasks. The Audit will use the Benchmarks for Measuring Accessibility set out above, unless the School System receives prior permission from OCR to use a different standard as a benchmark. During the Audit, the School System will also seek input from members of the public with disabilities, including parents, students, employees, and others associated with the School System, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.

a) Reporting: Within 90 days of the OCR's approval of the audit plan for existing content, the School System will submit to OCR for review and approval the internal audit findings performed by the School System. OCR will evaluate whether the proposed internal auditor(s) has (have) the requisite experience and knowledge to carry out an appropriate Audit and to develop a proposed Corrective Action Plan.

4) Proposed Corrective Action Plan.

Within 90 days of receiving OCR's approval of the submitted audit, the School System will submit to OCR the proposed Corrective Action Plan to address all inaccessible content and functionality identified during the School System's Audit. The proposed Corrective Action Plan will set out a detailed schedule for: (1) addressing problems, taking into account identified priorities, with all corrective actions to be completed within 24 months of the date of the School System's adoption of the Corrective Action Plan; (2) setting up systems of accountability and verifying claims of accessibility by vendors or open sources; and, setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis. In its Corrective Action Plan, the School System will acknowledge that if all inaccessible content and functionality identified during the Audit is not removed or made accessible on a timely basis, the School System will be in violation of this Agreement, Section 504, and Title II and OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement.

5) Within 60 days of receiving OCR's approval of the proposed Corrective Action Plan, the School System will officially adopt and implement the Corrective Action Plan.

6) Reporting: Within 60 days of receiving OCR's approval of the proposed Corrective Action Plan, the School System 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 will be due every sixth months thereafter until the Corrective Action Plan has been completed.

7) Notice. Within 60 days of the date of this Agreement, the School System will submit to OCR for review and approval a proposed Notice to persons with disabilities regarding how to request the webmaster or other appropriate person to provide access to (or notify the School System regarding) online information or functionality that is currently inaccessible. The proposed notice will also include information or an accessible link to information instructing people how to file formal grievances under Section 504 and Title II. Within 10

days of receiving OCR’s approval of the proposed Notice, the School System will officially adopt and prominently post the approved Notice on its home page and throughout its website (including all subordinate pages and intranet sites).

- a) Reporting. Within 15 days of receiving OCR’s approval of the School System’s proposed Notice, the School System will provide documentation to OCR regarding the locations and content of its published Notice.

- 8) Training. Starting no later than 120 days of School System’s adoption of approved Plan for New Content, and annually thereafter, the School System will deliver website accessibility training to all appropriate personnel, including, but not limited to: Central office content developers, webmasters, procurement officials, and all others responsible for developing, loading, maintaining, or auditing web content and functionality.
 - a) Reporting: For each training session required by this Agreement, until such time as OCR closes the monitoring of this Agreement, the School System will submit to OCR documentation that it has been delivered. The documentation will include a list of invitees and attendees, including titles; a description of the delivered training content; dates of training sessions; and, provide the training module for OCR review.

- 9) The School System understands that OCR will not close the monitoring of this Agreement until OCR determines that the School System 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.

- 10) The School System 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 School System understands that during the monitoring of this Agreement, if necessary, OCR may visit the School System, interview staff, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether the School System 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.

- 11) The School System 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 School System written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

10/11/16

Superintendent

Date