



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS  
THE WANAMAKER BUILDING, SUITE 515  
100 PENN SQUARE EAST  
PHILADELPHIA, PA 19107-3323

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**January 3, 2018**

**IN RESPONSE, PLEASE REFER TO: 03172436**

Dr. Patrick F. Leahy, President  
Wilkes University  
Weckesser Hall  
170 S. Franklin Street  
Wilkes-Barre, PA 18766

Dear President Leahy:

This letter is to inform you of the disposition of the above-referenced complaint filed against Wilkes University (the University) with the United States Department of Education (Department), Office for Civil Rights (OCR) on July 17, 2017, alleging discrimination on the basis of disability. Specifically, the complaint alleged that certain of the University's web pages are not accessible to students and adults with disabilities including, but not limited to, vision and print disabilities and physical impairments.

These include the University's:

- Homepage
- Financial Aid
- Undergraduate Financial Aid
- History
- Types of Financial Aid
- Academics
- Online Programs
- Library
- Registrar's Office
- Housing and Residence Life
- Disability Support Services

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), 29 United States Code (U.S.C.) § 794, *et seq.*, and its implementing regulations at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination on the basis of disability by recipients of federal financial assistance. As a recipient of federal financial assistance from the Department, the University is subject to the requirements of Section 504. Accordingly, OCR had jurisdiction to investigate this complaint.

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

Based on the complaint allegations, OCR opened an investigation of the following issue:

- Issue 1: whether your organization, on the basis of disability, excluded qualified persons with disabilities from participation in, denied them the benefits of, or otherwise subjected them to discrimination in its programs, activities, aids, benefits, or services in violation of the regulation implementing Section 504 at 34 C.F.R. § 104.4.

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. 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, 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 to Date:

OCR has investigated this complaint by reviewing information provided by the Complainant and conducting a preliminary assessment of the accessibility of several pages from the University’s website.

The complaint alleges that the University’s website is not in compliance with Section 504 because it is inaccessible to individuals with vision disabilities, print disabilities, and physical impairments. The Complainant used website accessibility checkers (PowerMapper and WAVE) and reported to OCR that the University’s webpages that are identified above have accessibility issues for individuals with disabilities. The Complainant also provided OCR with a list of errors copied and pasted from the website accessibility checker that she used.

OCR conducted a preliminary examination of the web pages identified by the Complainant and found possible compliance concerns as to whether the University’s website is accessible to individuals with disabilities. For example, there are several linked images that are missing alternative text. There are links that contain no text or have document language that is missing. Some links are missing form labels. There are missing formal labels for search boxes. There are many webpages having low contrast.

Prior to the completion of OCR’s investigation, the University asked to resolve this complaint pursuant to Section 302 of OCR’s *Case Processing Manual* (CPM). On December 21, 2017, the University submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the allegations in the complaint.

In light of the commitments the University has made in the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will monitor the University's implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may request additional information as necessary to determine whether the University has fulfilled the terms of the Agreement and is in compliance with Section 504 with regard to the issues raised.

If the University 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 CFR §§ 100.9, 100.10) or judicial proceedings to enforce the Agreement, OCR will give the University written notice of the alleged breach and sixty (60) calendar days to cure the breach.

This concludes OCR's investigation of the complaint and should not be interpreted to address the University'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 University may not harass, coerce, intimidate, discriminate or otherwise retaliate against any individual because he or she asserted a right or privilege under a law enforced by OCR or filed a complaint, testified, or participated in the complaint resolution process. If this happens, the individual may file a retaliation complaint with OCR.

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, OCR will seek to protect, to the extent provided by law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released.

Thank you for the assistance of the University's Chief of Operations & Compliance, Mr. Justin Kraynack, extended to OCR in resolving this complaint. For questions about implementation of the Agreement, please contact Equal Opportunity Specialist Beth Cavallucci at (215) 656-6939 or by email at [elizabeth.cavallucci@ed.gov](mailto:elizabeth.cavallucci@ed.gov) or me at (215) 656-8526 or [melissa.corbin@ed.gov](mailto:melissa.corbin@ed.gov).

Sincerely,

/s/

Melissa M. Corbin  
Team Leader

Enclosure: Resolution Agreement

cc: Mr. Justin Kraynack *via email only*