

Resolution Agreement
Hillsborough County School District, Florida
Case Number 04-16-1275

The Office for Civil Rights (OCR) of the U.S. Department of Education initiated an investigation into an allegation that the Hillsborough County School District (“the District”) violated Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (“Title II”) and its implementing regulation at 28 C.F.R. Part 35. Specifically, the complainant alleges that the District’s public website contains barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the District’s programs, services, and activities, and denying them effective communication necessary for full participation in the District’s programs, services, and activities.

Assurances of Nondiscrimination. The District hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the District’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 World Wide Web Consortium’s (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 District’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 District programs, services, and activities delivered online, as required by Section 504 and Title II and those statutes’ implementing regulations; and that they receive effective communications with District programs, services, and activities delivered online.

The District voluntarily agrees to take the actions set forth below.

Remedies and Reporting

- 1) Proposed Procedures Regarding New Online Content and Functionality. Within 60 days of the effective date of this Resolution Agreement, the District 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.¹

- a) When fundamental alteration or undue burden defenses apply, the Plan for New Content will require the District to provide equally effective alternative access. The Plan for New Content will require the District, 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 District's online content and functionality developed by, maintained by, or offered through a third-party vendor or by using open sources.
 - c) Procedure Adoption: The District will adopt, and fully implement new or amended procedures pursuant to its regular course of action within a period not to exceed ninety (90) days after receiving OCR's approval of the Plan for New Content.
 - d) Reporting: Within 15 days after adoption of new or modified procedures, the District will submit to OCR the new 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 District 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 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 District as their nondisabled peers.

¹ It is understood that the proposed procedures may be amended or modified after District personnel attend web accessibility training

- 3) Assessment of Existing Content and Functionality. No later than 60 days after District personnel receive web accessibility training², the District will conduct an assessment of its website, including, but not limited to, the home page, individual school websites, and all subordinate pages, to determine the specific portions, including online content and functionality developed by, maintained by, or offered through a third party vendor or an open source on behalf of District, that are inaccessible to persons with disabilities. The Assessment will use the Benchmarks for Measuring Accessibility set out above, unless the District receives prior permission from OCR to use a different standard as a benchmark. The personnel conducting the Assessment will have sufficient knowledge and experience in website accessibility to carry out all related tasks, including development of a proposed Corrective Action Plan. During the Assessment, the District will seek input regarding the accessibility of its website from persons knowledgeable about website accessibility, including employees, parents, students, and members of the public with disabilities.
 - a) Reporting: Within 15 calendar days of the date the District completes its Assessment of Existing Content and Functionality, the District will submit to OCR documentation of the steps taken during the Assessment and a detailed accounting of the results of the Assessment.
- 4) Proposed Corrective Action Plan. Within 90 calendar days of the date District completes its Assessment of Existing Content and Functionality, District will submit to OCR for its review and approval a proposed Corrective Action Plan to address all inaccessible content and functionality identified during the District's Assessment. The proposed Corrective Action Plan will set out a detailed schedule for:
 - a) addressing problems, taking into account identified priorities, with all corrective actions to be completed within 24 months of the date OCR approved the Corrective Action Plan;
 - b) setting up systems of accountability and verifying claims of accessibility by vendors or open sources; and
 - c) setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis.
- 5) Within thirty (30) days of receiving OCR's approval of the proposed Corrective Action Plan, the District will officially adopt and implement the Corrective Action Plan.
 - a) Reporting: Within forty-five (45) days of receiving OCR's approval of the proposed Corrective Action Plan, the District will submit to OCR the approved Corrective Action Plan, and documentation establishing that the approved Corrective Action Plan

² The District agrees to send at least one person to web accessibility training put on by a reputable third-party. It is agreed that the training could be conducted in-person or online and that it will be completed no later than January 31, 2017, and that the District will notify OCR within 7 days of the training being completed. Unless otherwise specified in this Agreement, all deadlines in this Agreement to be completed within a specified number of days shall start to run on the date that District personnel completes the web accessibility training

is being implemented according to the approved schedule. Reports will be due every sixth months thereafter until the Corrective Action Plan has been completed.

- 6) Notice. Within 30 days of the date of this Agreement, the District 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 District 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 District 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 fifteen (15) days of receiving OCR's approval of the District's proposed Notice, the District will provide documentation to OCR regarding the locations and content of its published Notice.

- 7) Training. Within ninety (90) days of receiving approval of the Plan for New Content and annually thereafter, the District will deliver website accessibility training to all appropriate personnel, including, but not limited to: 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 District 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; and the presenters' credentials for giving such training.

The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District 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.

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

The District 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 District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

9/23/2016

Mr. Jeff Eakins, Superintendent
For Hillsborough County School District

Date