



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

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REGION IV
ALABAMA
FLORIDA
GEORGIA
TENNESSEE

November 2, 2016

Dr. Debra Elliot
Executive Director
Heartland Educational Consortium
1096 US Hwy 27 N
Lake Placid, Florida 33852

Re: OCR Reference No. 04-16-4015

Dear Dr. Elliot:

This is to advise you of the resolution of the above-referenced complaint investigation of Heartland Educational Consortium (Consortium) by the United States Department of Education (Department), Office for Civil Rights (OCR). The complaint, which was received on March 24, 2016, alleged that the Consortium's main webpage is not accessible to students and adults with disabilities including, but not limited to, visual impairments.

OCR is responsible for enforcing section 504 of the Rehabilitation Act of 1973, as amended (Section 504), 29 U.S.C. § 794, and its implementing regulations at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities of recipients of federal financial assistance. OCR also is responsible for enforcing title II of the Americans with Disabilities Act of 1990, as amended (Title II), 42 U.S.C. §§ 12131, *et seq.*, and its implementing regulations at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability in programs, services, and activities of public entities. As a recipient of federal financial assistance from the Department and as a public entity, the Consortium is subject to OCR's jurisdiction under Section 504 and Title II.

This letter summarizes the applicable legal standards, the information gathered during the investigation, and how the investigation was resolved.

Legal Authority:

Section 504 and Title II prohibit individuals, 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; 28 C.F.R. § 35.130. Individuals with disabilities must have equal access to the recipients' programs, services, or activities unless doing so would fundamentally alter the nature of the programs, services, or activities, or would impose an undue burden. 28 C.F.R. § 35.164. Both Section 504 and Title II prohibit 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); 28 C.F.R. § 35.130(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); 28 C.F.R. § 35.130(b)(1)(iii). 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); 28 C.F.R. § 35.130(b)(1)(iv). Title II also requires public entities to take steps to ensure that communications with people with disabilities are as effective as communications with others, subject to the fundamental alteration and undue burden defenses. 28 C.F.R. § 35.160(a)(1). 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 and Title II.

Investigation to Date:

During the course of the investigation OCR examined a number of pages on the Consortium’s website to determine whether they are accessible to persons with disabilities. These web pages included:

- The Home page, at www.heartlanded.org;
- The Index, at www.heartlanded.org/index.htm; and
- The Legislative Network page, at www.heartlanded.org/region/legislative.htm

OCR evaluated the above-listed pages and determined that important images and links were missing text descriptions, called “alt tags,” that describe the images to blind and low-vision users who use special software; keyboard controls could not access all content and functions of the pages with the same ease of use as accessed with the mouse, which meant that content was not available to those who are blind, many who have low vision, and those with disabilities affecting fine motor control; visual contrast was problematic in some areas, making some content unavailable to individuals who are blind or have low vision; and no document language was identified to alert screen readers used by individual who are blind or have low vision to read the content of the page in the correct language. These barriers deny persons with disabilities access to programs, services, and activities offered on the website and may impede the Consortium’s communications with persons with disabilities.

Prior to the conclusion of OCR’s investigation, the Consortium expressed an interest in voluntarily resolving this case. In order to conclude OCR’s investigation of this complaint, OCR would have had to conduct interviews, review data response documents, and examine a broader range of pages on the Consortium’s website; OCR would have sought to learn, for example, whether the Consortium had received previous complaints of inaccessible website content or functionality, and how those complaints were resolved; and whether its information technology staff members and people responsible for uploading content or maintaining web pages had received training in website accessibility. In light of the Consortium’s willingness to address its website comprehensively without further investigation, OCR determined entering into a voluntary resolution agreement would be appropriate.

The Consortium submitted a signed resolution agreement (Agreement) to OCR on October 31, 2016, and committed to take actions such as:

- Making its new website and all website content and functionality accessible to people with disabilities;
- 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.

This concludes OCR's investigation of the complaint. These findings should not be interpreted to address the Consortium's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. OCR will monitor the Consortium's implementation of the Agreement. When OCR concludes the Consortium has fully implemented the terms 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 Consortium fails to implement the Agreement, OCR may seek compliance with the federal civil rights laws through any means authorized by law, including to enforce the specific terms of the Agreement.

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 Consortium 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 the Consortium extended to OCR in resolving this complaint. If you have any questions, please contact Stephanie Pessin at (404) 974-9343, or at Stephanie.Pessin@ed.gov, or me at (404) 974-9356.

Sincerely,

Wendy Gatlin
Compliance Team Leader

enc: Agreement