



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

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REGION IV
ALABAMA
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TENNESSEE

October 24, 2017

The Rev. J. Cameron West, President
Huntingdon College
1500 East Fairview Avenue
Montgomery, Alabama 36106

Re: OCR No. 04-17-2072
Huntingdon College

Dear Rev. West:

This is to advise you of the resolution of the above-referenced complaint investigation of the Huntingdon College (College) by the United States Department of Education (Department), Office for Civil Rights (OCR). The complaint, which was received on November 25, 2016, alleged that the College is discriminating, on the basis of disability, because its website is not accessible to persons with disabilities.

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 in programs and activities of recipients of federal financial assistance. As a recipient of federal financial assistance from the Department, the College is subject to OCR's jurisdiction under Section 504.

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

Legal Authority:

Section 504 prohibits 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. 34 C.F.R. § 104.4. Section 504 prohibits recipients, in providing any aid, benefit, or service, directly or through contractual, licensing, or other arrangements, on the basis of disability, to afford 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

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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:

The College has provided data in response to OCR’s data request letter. OCR examined the data provided. The College has acknowledged that, as seen in the e-mail communications provided by the College to OCR, it has been concerned with their website’s accessibility, and asserts that there has been no intentional disregard of required accessibility guidelines. However, the attached monitoring report is an acknowledgement that the College’s efforts regarding website accessibility have not been sufficient to date.

As of the date of the College’s response to OCR’s data request letter, the College has contacted multiple vendors regarding consulting services including but not limited to services as an OCR auditor of record. In addition, the College has expanded and/or re-assigned limited programming labor resources to expedite the work necessary to satisfy the requirements of a resolution agreement.

Before OCR conducted additional investigation of the College’s website, the College expressed an interest to negotiate a voluntary resolution agreement regarding website accessibility in order to resolve this case. In light of the College’s willingness to address its website comprehensively without further investigation, OCR determined entering into a voluntary resolution agreement is appropriate.

Resolution Agreement:

The College submitted a signed resolution agreement (Agreement) to OCR on October 9, 2017. When fully implemented, the Agreement will address the barriers noted above as well as resolve issues of accessibility pertaining to the rest of the College’s website. The College committed to take actions including:

- selecting an auditor who has the requisite knowledge and experience to identify barriers to access on the College’s website and conducting a thorough audit of existing online content and functionality;
- making all new website content and functionality accessible to people with disabilities;
- developing a corrective action plan to prioritize the removal of online barriers;
- 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.

OCR will monitor the College's implementation of the Agreement. When OCR concludes that the College has fully and effectively implemented the terms and obligations 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 College 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 College written notice of the alleged breach and sixty (60) calendar days to cure the breach.

This concludes OCR's investigation of the complaint. These findings should not be interpreted to address the College'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 College 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 that the College personnel extended to OCR in resolving this complaint. OCR looks forward to receiving the College's first monitoring report. OCR notes that the first report is due in 30 calendar days from the date of the Agreement with regard to **Item 6 pertaining to Notice**. If you have any questions, please contact me at (404) 974-9367.

Sincerely,

Ebony Calloway-Spencer
Compliance Team Leader

Enclosure: Resolution Agreement