



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

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REGION IV  
ALABAMA  
FLORIDA  
GEORGIA  
TENNESSEE

November 29, 2017

Anthony Wise  
Pellissippi State Community College  
10915 Hardin Valley Road  
P.O. Box 22990  
Knoxville, TN 37933-0990

Re: OCR No. 04-17-2231

Dear Mr. Wise:

This is to advise you of the resolution of the above-referenced complaint investigation of Pellissippi State Community College (College) by the United States Department of Education (Department), Office for Civil Rights (OCR). The complaint, which was received on April 23, 2017, alleged that the College was discriminating, on the basis of disability. Specifically, the complainant alleged that the College's Homepage, Financial Aid, Types of Financial Aid, Financial Aid Facebook page, Academics, Academic Support Center, Tutoring for Students Taking Online Courses, Disability Services, Accessibility Resources, Libraries, and Online Education web pages are not accessible.

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.

OCR opened an investigation of the following issues:

1. Whether the College, 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 and the regulation implementing Title II at 28 C.F.R. § 35.130.
2. Whether the College failed to take appropriate steps to ensure that its communications with applicants, participants, members of the public, and companions with disabilities are as effective as its communications with others, in violation of the regulation implementing Title II at 28 C.F.R. § 35.160(a).

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

[www.ed.gov](http://www.ed.gov)

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 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:

The complaint alleges that the College’s website is not in compliance with Section 504 because it is inaccessible to individuals with vision disabilities, print disabilities, physical impairments, and hearing impairments. The Complainant used website accessibility checkers (PowerMapper and WAVE) and reported to OCR that the following pages on the College’s website are not accessible to individuals with disabilities: College’s Homepage, Financial Aid, Types of Financial Aid, Financial Aid Facebook page, Academics, Academic Support Center, Tutoring for Students Taking Online Courses, Disability Services, Accessibility Resources, Libraries, and Online Education web pages.

Before OCR conducted an investigation of the website, the College expressed an interest in voluntarily resolving this case pursuant to Section 302 of OCR’s *Case Processing Manual* (CPM). 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.

The College submitted a signed resolution agreement (Agreement) to OCR on November 16, 2017. When fully implemented, the Agreement will address any barriers 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 over an 18-month period;
- 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 to ensure that the commitments made are implemented timely and effectively. OCR may request additional information as necessary to determine whether 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.

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.

If you have any questions, please contact Malicia Hitch, General Attorney at (470) 231-1994 or the undersigned, at (404) 974-9366.

Sincerely,

Virgil Hollis  
Compliance Team Leader

Cc: Elizabeth Martin, counsel (via email)