



**UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS**

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December 7, 2020

By email only to president@fiu.edu

Dr. Mark Rosenberg
President
Florida International University
11200 Southwest 8 Street
Modesto A. Maidique Campus, PC-528
Miami, Florida 33199-0001

Re: OCR Docket No. 04-19-2029
Florida International University

Dear President Rosenberg:

This letter is to advise you of the resolution of the complaint that the U.S. Department of Education (Department), Office for Civil Rights (OCR) investigated in Florida International University (University). The Complainant alleged that the University's learning management system (LMS) was not accessible to students and adults with disabilities including, but not limited to, XXX. OCR investigated whether the University's LMS and some course materials excluded qualified persons with disabilities from participation in, deny them the benefits of, or otherwise subject them to discrimination under any program or activity, in violation of Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. §104.4, and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35. In addition, OCR investigated whether the University failed to take appropriate steps to ensure that communications on its LMS with students and staff 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).

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in any program or activity receiving Federal financial assistance from the Department. OCR also enforces Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. The University receives Federal financial assistance from the Department and is a public entity, so it is subject to both laws.

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

OCR conducted an assessment of the University's LMS, as well as the online course materials for the XXX courses in which the Complainant was enrolled during XXXXX, and noted possible compliance concerns including, but not limited to:

- Users with disabilities who use computer keyboards for navigation due to a disability were unable to tell visually where they were on a page, as visual focus indicators were missing or not consistently visible.
- Form fields were missing programmatic labels or titles, posing a barrier to people with vision disabilities who use screen readers.
- Important graphics, images, or links were missing meaningful alternative text, posing a barrier to people with vision disabilities who use screen readers.
- Links were not meaningfully labeled or titled, posing a barrier to people with vision disabilities who use screen readers.
- Documents provided in portable document format (pdf) were not created in a way to be inaccessible to people with vision disabilities who use screen readers.
- The foreground and background colors of important content lacked sufficient contrast, posing a barrier to people with low vision.
- Videos did not have meaningful captions, posing a barrier to people who are deaf or hard of hearing.
- Videos containing important graphics and images did not have meaningful audio descriptions, posing a barrier to people with vision disabilities who use screen readers.
- Data tables lacked table headers necessary for them to be compatible with assistive technology.
- The page did not reflow properly when it was magnified between 200% and 400%, posing a barrier to people with low vision.

Before OCR completed its investigation, the University expressed a willingness to resolve the complaint. OCR determined that it is appropriate to resolve the complaint pursuant to Section 302 of the OCR's Case Processing Manual because the investigation has identified issues that can be addressed through a resolution agreement.

On December 4, 2020, the University signed the enclosed Resolution Agreement (Agreement) to voluntarily resolve the complaint allegations pursuant to Section 302 of OCR's Case Processing Manual. When fully implemented, the Agreement will address all of the allegations investigated. OCR will monitor the implementation of the Agreement. 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 and Title II with regard to the issues raised.

This concludes OCR's investigation. This letter 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 directed investigation. 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 a 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, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the harmed individual may file a complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released, to the extent provided by law.

If you have any questions, you may contact me at (312) 730-1510 or by email at Tamara.Perry@ed.gov.

Sincerely,

/s/

Tamara Perry
Attorney Advisor

Enclosure

Courtesy copy by email only to:

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