

Resolution Agreement

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

To resolve the above-referenced complaint brought under Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act, the Office for Civil Rights (OCR) of the U.S. Department of Education and Florida International University (the University) enter into the following Agreement. This Agreement supersedes any prior agreement between OCR and the University addressing the accessibility of the University's learning management system.¹ The parties to this Agreement acknowledge that it is entered into voluntarily, and that it does not constitute an admission of liability, non-compliance, or wrongdoing by the University.

1. Learning Management System Content and Functionality.² The University agrees that it will, in a reasonably timely manner, and in no case longer than 12 months, develop and take substantial steps in the implementation of a strategy to ensure qualified students and applicants with disabilities who are impacted by technological barriers to access have an equal opportunity to participate in the University's programs and activities offered through the University's LMS, by making the LMS content and functionality accessible,³ or, if necessary, providing equally effective alternate access. To meet this commitment, the University will develop a strategy for identifying and addressing inaccessible LMS content and functionality for qualified individuals with disabilities who are impacted by technological barriers to access. The University's strategy will designate the standard that the University will use to determine the accessibility of LMS content and functionality (e.g., WCAG 2.1 level AA or a similar standard).

This strategy will address both existing LMS content and functionality published up to the effective date of this Agreement, and new or updated LMS content or functionality that is published, developed, procured, or used after the effective date of this Agreement. The strategy may include setting priorities for addressing LMS content and functionality by, for instance, placing a high priority on first making accessible: (1) site navigation and templates;

¹ "Learning management system" ("LMS") means a software application, which the University makes available to students and applicants and uses to plan, create, administer, document, track, report, deliver, and maintain electronic educational courses and course content and assess student performance—including by enabling collaboration and communication among members of the class and between the class and instructor; by supporting the assessment of learning outcomes; and by supporting formative and summative feedback to students.

² "LMS content" means any information published to the LMS by a content provider for consumption by a student or an applicant, including students and applicants who have relevant disabilities. It does not include information published to the LMS that the University determines will not be delivered or available to students or applicants who have relevant disabilities, such as for a course where none of the enrolled students have disabilities, the material is published after the drop-add date, and the materials are not intended for use in future editions of the course or other courses. Such determinations must be based on evidence, not stereotypes.

³ "Accessible" refers to information or technology that, at a minimum, affords a person with a disability the opportunity to acquire the same information, engage in the same interactions, and enjoy the same programs and activities as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use.

(2) key information concerning matters such as course syllabi, calendars, modules, assignments, quizzes, announcements, grades, and procedures for reporting accessibility barriers and requesting academic accommodations, academic adjustments, and auxiliary aids; (3) courses for which there is a strong likelihood or actual notice that they will be attended by one or more students or applicants with disabilities who are impacted by technological barriers to access; (4) the most popular courses available on the LMS that the University identifies; (5) portions of the LMS that are of high importance to students or applicants with disabilities; and (6) LMS content and functionality about which the University has received accessibility complaints, or which has been flagged for accessibility problems by individual users.

Nothing in this provision should be construed to mean that any content and functionality is not subject to the requirements of Section 504 and Title II.

2. Accessible Alert Process. The University agrees that it will, in a reasonably timely manner, and in no case longer than one (1) month, implement and maintain an accessible process for LMS users to alert the University to LMS content that has accessibility problems.
3. Undue Burden and Fundamental Alteration. This Agreement does not require the University to take any action that it demonstrates in writing, in OCR's reasonable determination, would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens.
4. Technical Assistance. Upon request, OCR will provide technical assistance to the University, to the extent practicable, during the University's implementation of this Agreement. The University's duty to comply with this Agreement is not altered by the availability of technical assistance.
5. Reporting Provision. By 12/3/2021, the University will submit a report to OCR demonstrating that it has fully satisfied the terms of this Agreement. The report will discuss the strategy developed, benchmarks that the University has used to measure progress in making its LMS content and functionality accessible, ongoing efforts to ensure the accessibility and usability of the University's LMS content and functionality, and the accessible process for users to alert the University to accessibility problems with its LMS.

The University understands that by signing this Agreement, it agrees to provide data and other information in a reasonably timely manner in accordance with the reporting requirement of this Agreement. Further, the University understands that during OCR's monitoring of this Agreement, if necessary, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this Agreement. Upon the University's satisfaction of the commitments made under this Agreement, OCR will close the case.

The University 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 the Agreement, OCR will give the University written notice of the alleged breach, and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective upon the signature of the representative for the University, set out below.

/s/

12/4/2020

Dr. Mark B. Rosenberg
President (or designee)
Florida International University

Date