

Resolution Agreement
Wisconsin Department of Public Instruction
Case Number 05-16-4023

The Wisconsin Department of Public Instruction (“WDPI”) submits the following resolution agreement (“Agreement”) to the U.S. Department of Education, Office for Civil Rights (“OCR”) in resolution of OCR complaint #05-16-4023. The WDPI submits this Agreement to ensure its compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. § 794, and its implementing regulation, at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12132, and its implementing regulation, at 28 C.F.R. Part 35.

This agreement has been entered into voluntarily and does not constitute an admission that WDPI violated Section 504 and Title II and those statutes’ implementing regulations.

Assurances of Nondiscrimination. The WDPI hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the WDPI’s programs, benefits, and services, including those delivered through electronic and information technology, except where doing so would impose an undue burden or create a fundamental alteration.

Benchmarks for Measuring Accessibility. For the purposes of this Agreement, the accessibility of online content and functionality will be measured according to the World Wide Web Consortium’s (W3C’s) Web Content Accessibility Guidelines (WCAG) 2.0 Level AA and the Web Accessibility Initiative Accessible Rich Internet Applications Suite (WAI-ARIA) 1.0 for web content, which are incorporated by reference.

Adherence to these accessible technology standards is one way to ensure compliance with the WDPI’s underlying legal obligations to ensure people with disabilities are able to acquire the same information, engage in the same interactions, and enjoy the same benefits and services within the same timeframe as their nondisabled peers, with substantially equivalent ease of use; that they are not excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any WDPI programs, services, and activities delivered online, as required by Section 504 and Title II and their implementing regulations; and that they receive effective communication of the WDPI’s programs, services, and activities delivered online.

The WDPI voluntarily agrees to take the actions set forth below.

Remedies and Reporting

- 1) Policies and Procedures Regarding New Online Content and Functionality. By September 31, 2016, the WDPI will submit to OCR for its review and approval proposed policies and procedures (“the Plan for New Content”) to ensure that all new, newly-added, or modified online content and functionality will be accessible to people with disabilities as measured

by conformance to the Benchmarks for Measuring Accessibility set forth above, except where doing so would impose a fundamental alteration or undue burden.

- a) When fundamental alteration or undue burden defenses apply as outlined in Item 2, the Plan for New Content will require the WDPI to provide equally effective alternative access. The Plan for New Content will require the WDPI, in providing equally effective alternate access, to take any actions that do not result in a fundamental alteration or undue financial and administrative burdens, but nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the same benefits or services as their nondisabled peers. To provide equally effective alternate access, alternates are not required to produce the identical result or level of achievement for persons with and without disabilities, but must afford persons with disabilities equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.
 - b) The Plan for New Content must include sufficient quality assurance procedures, backed by adequate personnel and financial resources, for full implementation. This provision also applies to the WDPI's online content and functionality developed by, maintained by, or offered through a third-party vendor or by using open sources.
 - c) Within thirty (30) days of receiving OCR's approval of the Plan for New Content, the WDPI will officially adopt, and fully implement the amended policies and procedures.
 - d) Reporting: Within 45 calendar days of receiving OCR's approval, the WDPI will submit to OCR the approved policies and procedures, evidence of their adoption and distribution, and a description of how they are being implemented.
- 2) Undue Burden and Fundamental Alteration. For any technology-related requirement in this Agreement for which the WDPI asserts an undue burden or fundamental alteration defense, such assertion may only be made by the State Superintendent or by an individual designated by the State Superintendent and who has budgetary authority after considering all resources available for use in the funding and operation of the service, program, or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion, including the cost of meeting the requirement and the available funding and other resources. The written statement will be certified by the determining official. If such a determination is made, the certifying official will describe in the written statement how it will provide equally effective alternate access, *i.e.*, other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the same benefits or services provided by the WDPI as their nondisabled peers.
 - 3) Assessment of Existing Content and Functionality. By October 30, 2016, the WDPI will conduct an assessment of all content and functionality on its website, including, but not limited to, the home page and all subordinate pages, to identify any online content or functionality that is inaccessible to persons with disabilities, including online content and functionality developed by, maintained by, or offered through a third party vendor or an

open source. The personnel conducting the Assessment will have sufficient knowledge and experience in website accessibility for people with disabilities to carry out all related tasks, including developing a Proposed Corrective Action Plan. The Assessment will use the Benchmarks for Measuring Accessibility set out above, unless the WDPI receives prior permission from OCR to use a different standard as a benchmark. During the Assessment, the WDPI will also seek input from members of the public with disabilities, including parents, students, employees, and others associated with the WDPI, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.

- a) Reporting: Within fifteen (15) calendar days of date the WDPI completes the assessment, the WDPI will submit to OCR documentation of the steps taken during the Assessment, a description of the outreach it undertook and the input it received, and a detailed accounting of the results of the Assessment.
- 4) Proposed Corrective Action Plan. By February 1, 2017, the WDPI will submit to OCR for its review and approval a proposed Corrective Action Plan to address all inaccessible content and functionality identified during the WDPI's Audit. The proposed Corrective Action Plan will set out a detailed schedule for: (1) addressing problems, taking into account identified priorities, with all corrective actions to be completed within 18 months of the date OCR approved the Corrective Action Plan; (2) setting up systems of accountability and verifying claims of accessibility by vendors or open sources; and (3) setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis.
 - 5) Within 30 calendar days of receiving OCR's approval of the proposed Corrective Action Plan, the WDPI will officially adopt and implement the Corrective Action Plan.
 - a) Reporting: Within 45 calendar days of receiving OCR's approval of the proposed Corrective Action Plan, the WDPI will submit to OCR the approved Corrective Action Plan, and documentation establishing that the approved Corrective Action Plan is being implemented according to the approved schedule. Reports will be due every six months thereafter until the Corrective Action Plan has been completed.
 - 6) Notice. Within 30 calendar days of the date of this Agreement, the WDPI will submit to OCR for review and approval a revised notice to persons with disabilities. In addition to the current notice's information regarding how to request the webmaster or other appropriate person to provide access to (or notify the WDPI regarding) online information or functionality that is currently inaccessible, the revised notice will also include information or an accessible link to information instructing people how to file formal grievances under Section 504 and Title II and the Section 504 and Title II coordinator(s). Within 10 calendar days of receiving OCR's approval of the proposed notice, the WDPI will officially adopt and prominently post the approved notice on its home page and throughout its website (including all subordinate pages and intranet sites) in a manner similar to the WDPI's current notice.

- a) Reporting. Within 15 calendar days of receiving OCR’s approval of the WDPI’s proposed notice, the WDPI will provide documentation to OCR regarding the locations and content of its published notice.
- 7) Training. By October 30, 2016, and annually thereafter, the WDPI will deliver website accessibility training to all appropriate personnel, including, but not limited to: content developers, webmasters, procurement officials, and all others responsible for developing, loading, maintaining, or auditing web content and functionality.
- a) Reporting: For each training session required by this Agreement, until such time as OCR closes the monitoring of this Agreement, the WDPI will submit to OCR documentation that it has been delivered. The documentation will include a list of invitees and attendees, including titles; a description of the delivered training content; and the presenters’ credentials for giving such training.

The WDPI understands that OCR will not close the monitoring of this Agreement until OCR determines that the WDPI has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.4, 104.8, and Title II, at 28 C.F.R. §§ 35.130, and 35.160(a), which were at issue in this case. OCR shall promptly notify the WDPI in writing when OCR closes its monitoring of this Agreement.

The WDPI also understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the WDPI understands that during the monitoring of this Agreement, if necessary, OCR may visit the WDPI, interview staff, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether the WDPI has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.4, 104.8, and Title II, at 28 C.F.R. §§ 35.130, and 35.160(a), which were at issue in this case.

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

For the WDPI

Date