

RESOLUTION AGREEMENT

Lancaster Independent School District OCR Reference No. 06-16-1617

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation into allegations that the Lancaster Independent School District (“the Recipient”) violated Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35. Specifically, the complainant alleged that the Recipient’s website contains barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the Recipient’s programs, services, and activities and denying them effective communication necessary for full participation in the Recipient’s programs, services, and activities.

In response to the OCR investigation and allegations, Recipient voluntarily offers this Resolution Agreement (“Agreement”), which outlines measures to ensure compliance with the OCR, for OCR review and approval. PLEASE NOTE, the efforts recipient agrees to make as set forth in the Agreement do not constitute an admission that Recipient violated Section 504, Title II and those statutes’ implementing regulations.

Assurances of Nondiscrimination. The Recipient hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the Recipient’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 techniques for web content, which are incorporated by reference.

Adherence to these accessible technology standards is one way to ensure compliance with the Recipient’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 Recipient 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 Recipient’s programs, services, and activities delivered online.

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

Remedies and Reporting

1) Proposed Policies and Procedures Regarding New Online Content and Functionality.

By **July 1, 2017**, the Recipient 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, the Plan for New Content will ensure that Recipient provides equally effective alternative access. While providing equally effective alternate access, the Plan for New Content will ensure Recipient’s actions do not result in a fundamental alteration or undue financial and administrative burdens; but nevertheless, ensure to the maximum extent possible, individuals with disabilities receive the same benefits or services as their nondisabled peers.

Please note, to provide equally effective alternate access, alternate solutions are not required to produce the identical results or level of achievement for persons with and without disabilities, but will 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 will include sufficient quality assurance procedures, backed by adequate personnel and financial resources, for full implementation. This provision also applies to the Recipient’s online content and functionality developed by, maintained by, or offered through a third-party vendor or by using open sources.
- c) **OCR Approval: Within 30 calendar days of receiving OCR’s approval of Recipient’s Plan for New Content, Recipient will officially adopt, and fully implement the amended policies and procedures.**
- d) **Reporting: Within 45 calendar days of receiving OCR’s approval, Recipient 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 Recipient asserts an undue burden or fundamental alteration defense, such assertion may only be made by the Superintendent or by an individual designated by the 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 Recipient as their nondisabled peers.

3) Audit of Existing Content and Functionality.

By **September 1, 2017**, Recipient will propose for OCR's review and approval the identity and *bona fides* of an Auditor (corporation or individual) to audit all content and functionality on its website, including, but not limited to, the home page, all subordinate pages, and intranet pages and sites, 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 Auditor 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 Audit will use the Benchmarks for Measuring Accessibility set out above, unless the Recipient receives prior permission from OCR to use a different standard as a benchmark. During the Audit, the Recipient will also seek input from members of the public with disabilities, including parents, students, employees, and others associated with the Recipient, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.

- a) **Reporting: By September 1, 2017, Recipient will submit the *bona fides* of its proposed Auditor to OCR for review and approval. OCR will evaluate whether the proposed Auditor has the requisite experience and knowledge to carry out an appropriate Audit and to develop a Proposed Corrective Action Plan.**

Within 90 calendar days of receiving OCR's approval of the proposed Auditor, Recipient will submit to OCR documentation of the steps taken by the Auditor during the Audit, a description of the outreach it undertook and the input it received, and a detailed accounting of the results of the Audit.

4) Proposed Corrective Action Plan.

Simultaneously with the submission of the Audit, the Recipient will submit to OCR for its review and approval a proposed Corrective Action Plan to address all inaccessible content and functionality identified during the Recipient'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 24 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, Recipient 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, Recipient 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 Recipient will submit to OCR for review and approval a proposed Notice to persons with disabilities regarding how to request the webmaster or other appropriate person to provide access to (or notify the Recipient regarding) online information or functionality that is currently inaccessible. The proposed notice will also include information or an accessible link to information instructing people how to file formal grievances under Section 504 and Title II.

Within 10 calendar days of receiving OCR's approval of the proposed Notice, the Recipient will officially adopt and prominently post the approved Notice on its home page and throughout its website (including all subordinate pages and intranet sites).

a) **Reporting. Within 15 calendar days of receiving OCR's approval of the Recipient's proposed Notice, the Recipient will provide documentation to OCR regarding the locations and content of its published Notice.**

- 7) Training.

By **September 1, 2017**, and annually thereafter, until such time as OCR closes its monitoring of this Agreement, the Recipient 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 Recipient 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 presenter's credentials for giving such training.**

- 8) Recipient understands and acknowledges that if OCR accepts the terms of this Proposed Agreement:
- a) OCR will not close the monitoring of Recipient based on this Proposed Agreement until OCR determines that Recipient has fulfilled the terms of this Proposed Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.4 (a) and (b), 104.8, and 104.21, and Title II, at 28 C.F.R. §§ 35.130, 35.149, and 35.160, which were at issue in this case;
 - b) Recipient agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Proposed Agreement;
 - c) Recipient understands while being monitored, if necessary, OCR may visit Recipient, interview staff, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether Recipient has fulfilled the terms and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.4 (a) and (b), 104.8, and 104.21, and Title II, at 28 C.F.R. §§ 35.130, 35.149, and 35.160, which were at issue in this case; and
 - d) OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Proposed Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Proposed Agreement, OCR shall give Recipient written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Dr. Michael D. McFarland
Superintendent
Lancaster Independent School District

Date