

RESOLUTION AGREEMENT
Nebraska Department of Education
Complaint Number 07-17-4040

The U.S. Department of Education, Office for Civil Rights (OCR) and Nebraska Department of Education (Department), Lincoln, Nebraska, enter into this Agreement (Agreement) to resolve allegations of the above-referenced complaint. This Agreement does not constitute an admission by the Department of liability, noncompliance with Section 504, Title II, or any other law enforced by OCR, or any wrongdoing. The Department assures OCR that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104; and with Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131, and its implementing regulation at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance and public entities, respectively.

During OCR's rapid resolution process, and prior to OCR initiating any investigative activity, the Department agreed to resolve the issues of this investigation pursuant to Section 109 of OCR's *Case Processing Manual*. Accordingly, to resolve the allegations raised by the Complainant, the Department agrees to take the following actions:

1. **Current Online Content and Functionality.** The Department agrees it will take all actions necessary to ensure that the Complainant's husband has an equal opportunity or equally effective alternate access to participate in the Department's Step Up to Quality program (Program). To meet this commitment, the Department will, in consultation with the Complainant and her husband: Identify a reasonable accommodation for the Complainant's husband to participate in the Step Up to Quality program. The Department will continue to make available the option of completing a hard-copy paper documentation for full participation in the Program.
2. **Within ten (10) calendar days** from the date this Agreement is executed, the Department shall contact the Complainant in writing to schedule a meeting to be held at a mutually agreed date and time within the following three weeks. This meeting shall include the Complainant and anyone else the Complainant wishes to participate in the meeting. The Department will ensure that a representative from the Department's Assistive Technology Partnership attends and participates in the meeting to determine whether assistive technology may be available to ensure the Complainant's husband's equal access or equally effective alternate access to participate in the Program. At the meeting, the participants will develop a written strategy for identifying what barriers exist for the Complainant's husband's participation in the program and what actions are necessary by the Department to ensure he has equal access to the Program. If within ten days (10) from the date of invitation, the Complainant declines to participate, does not respond to the Department's written invitation for a meeting (pursuant to this provision), or does not agree to a date/time for the meeting to be held within the following three weeks, the Department's obligations under this agreement will be deemed to have been met.

3. **Undue Burden and Fundamental Alteration.** This agreement does not require the Department to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. However, if the Department can demonstrate that ensuring access to the Program for the Complainant’s husband would result in such an alteration or burden, the Department will ensure that, to the maximum extent possible, the Complainant’s husband receives the benefits or services provided to participants in the Program.

REPORTING REQUIREMENTS: Within forty-five (45) calendar days from the date this Agreement is executed the Department will submit to OCR for its review and approval documentation of the following:

- a. if the Complainant agrees to participate in the meeting, the Department will provide OCR with:
 - i. the identity of the participants in the meeting by name and title;
 - ii. all documents reviewed in preparation for or during the meeting;
 - iii. the written strategy for identifying what barriers exist for the Complainant’s husband’s participation in the program and what actions are necessary by the Department to ensure he has equal access to the Program.
- b. if the Department determines that ensuring equal access to the Program pursuant to online modifications would result in an undue burden or fundamental alteration, the Department shall provide a written explanation setting out its determination and the reasons therefore and shall further provide an explanation as to what actions the Department will take to ensure the Complainant’s husband receives the benefits or services provided to participants in the Program;
- c. if the Complainant declines to participate in the meeting, does not respond to the Department’s letter, or does not agree to a date/time for the meeting to be held within the following three weeks documentation demonstrating that the Complainant was provided and received the invitation to the meeting.

The Department understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the Department understands that during the monitoring of this Agreement, if necessary, OCR may visit the Department, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Department has fulfilled the terms of this Agreement and is in compliance with Section 504 and Title II. Upon completion of the obligations under this Agreement, OCR shall close this case and there will be no investigation and finding.

The Department 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 Department written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the Department's representative below.

Dr. Matthew L. Blomstedt

Date