

Resolution Agreement
Isaac School District No. 5
Case Number 08-17-1463

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation into allegations that Isaac School District No. 5 (“the District”), violated Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 34 Code of Federal Regulations (C.F.R.) Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II) and its implementing regulation at 28 C.F.R. Part 35. Specifically, the Complainant alleged that the District’s website contained barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the District’s programs, services, and activities and denying them effective communication necessary for full participation in the District’s programs, services, and activities.

Prior to the completion of OCR’s investigation, the District agreed to resolve the issues of this investigation pursuant to Section 302 of OCR’s Case Processing Manual (CPM). This resolution has been entered into voluntarily between the parties and does not constitute a finding or admission that the District is not in compliance with Section 504, Title II, and/or their implementing regulations. Accordingly, to ensure compliance with Section 504 and Title II and their implementing regulations and to resolve the issues of this investigation, the District voluntarily agrees to take the actions set forth below.

Assurances of Nondiscrimination. The District hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the District’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 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 District’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 of the District’s 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 District’s programs, services, and activities delivered online.

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

Remedies and Reporting

- 1) Proposed Policies and Procedures Regarding New Online Content and Functionality. By April 2, 2018, the District 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 require the District to provide equally effective alternative access. The Plan for New Content will require the District, 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 subject to the Undue Burden and Fundamental Alteration provisions of this Agreement, for full implementation. This provision also applies to the District'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 District will officially adopt, and fully implement the amended policies and procedures.
 - d) Reporting: Within 45 days of receiving OCR's approval, the District 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 District asserts an undue burden or fundamental alteration defense, such assertion may only be made by the District or by an individual designated by the District 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 District as their nondisabled peers.
 - 3) Replacement of Website. If, for reasons unrelated to this Resolution Agreement, the District intends to replace its existing website, it will notify OCR of its intention to do so by February 1, 2018. The new website, including its content and functionality, will be thoroughly tested for access for people with disabilities prior to launch and, except as permitted by Section 5 ("Regarding Third Party Providers") herein, any content or functionality not strictly conforming to the Benchmarks for

Accessibility will not be included in the launch of the new website. The parties agree and understand this Agreement does not obligate nor require the District to replace its website.

- a) Reporting: If the District chooses to replace its website, the District will confirm to OCR no later than May 1, 2017, that the new website is “live” and that all of the District’s content and functionality on the new website supports the ability of people with disabilities to have an equal opportunity to enjoy the District’s programs, services, and activities. If the District finds it is unable to meet its intended launch date, it will immediately report to OCR the new anticipated launch date and a detailed plan for OCR’s review and approval regarding how it intends to ensure that it is meeting its ongoing nondiscrimination obligations under Section 504 and Title II in the meantime, with respect to its online programs, services, and facilities. If OCR notifies the District that the new website contains barriers to access that interfere with the District’s ability to meet its ongoing nondiscrimination obligations, the District will immediately remove such barriers and report back to OCR within 30 days that it has done so.
- 4) Audit of the District Online Programs, Services, and Activities. By February 1, 2018, the District will propose for OCR’s review and approval the identity and *bona fides* of an Auditor (corporation or individual) to audit the District’s online content and functionality. 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 District receives prior permission from OCR to use a different standard as a benchmark.
 - a) Reporting: By February 1, 2018, the District 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 ninety (90) days of receiving OCR’s approval of the proposed Auditor, the District will submit to OCR documentation of the steps taken by the Auditor during the Audit and a detailed accounting of the results of the Audit.
 - 5) Proposed Corrective Action Plan. Simultaneously with the submission of the Audit, the District will submit to OCR for its review and approval a proposed Corrective Action Plan to address all of the District’s online content and functionality. 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 relevant online content and functionality on an ongoing basis.
 - 6) Within 30 days of receiving OCR’s approval of the proposed Corrective Action Plan, the District will officially adopt and implement the Corrective Action Plan.
 - a) Reporting: Within 45 days of receiving OCR’s approval of the proposed Corrective Action Plan, the District 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 sixth months thereafter until the Corrective Action Plan has been completed.

- 7) Interim Notice. Within 30 days of the date of this Agreement, the District will adopt and prominently post throughout its website the following notice:

"The District recognizes that our current website does not meet all requirements for full compliance with Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. It is The District's intention to achieve compliance for all persons who wish to engage with our School. The District is working to achieve this compliance. If you are searching for information that is currently not accessible, please submit your request via email to **(insert the District's website coordinator's email information here)**. The District will respond directly to your inquiry by providing the requested information in an alternate format or by otherwise making our online program, service, or activity accessible to you. To find information on how to file a formal grievance under Section 504 and Title II, please contact our Section 504 Coordinator at **(insert the District's Section 504 email contact information here)**."

- 8) Permanent Notice. Simultaneously with the launch of the new website, if any, or with the successful completion of the Corrective Action Plan in accordance with this Agreement, the District will adopt and prominently post throughout its website the following notice:

"It is the District's intention to achieve full compliance with Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act for all persons who wish to engage with our School. If you are searching for information that is currently not accessible to you due to a disability, please submit your request via email to **(insert the District's website coordinator's email information here)**. The District will respond directly to your inquiry by providing the requested information in an alternate format or by otherwise making our online program, service, or activity accessible to you. To find information on how to file a formal grievance under Section 504 and Title II, please contact our Section 504 Coordinator at **(insert the District's Section 504 email contact information here)**."

- 9) Training. Starting no later than 90 days from this date of this Agreement, and annually thereafter, the District 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 District 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.

- 10) The District understands that OCR will not close the monitoring of this Agreement until OCR determines that the District has fulfilled the terms of this 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.

- 11) The District 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 District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether the District has fulfilled the terms of this 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.

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

/s/

12/15/17

Isaac School District No. 5

Date