

Resolution Agreement
Arizona Summit Law School
Case Number 08-17-2221

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation into allegations that Arizona Summit Law School (“School”) 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 School’s website contained barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the School’s programs, services, and activities and denying them effective communication necessary for full participation in the School’s programs, services, and activities.

This resolution has been entered into voluntarily between the parties and does not constitute a finding or admission that the School 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 School voluntarily agrees to take the actions set forth below.

Assurances of Nondiscrimination. The School hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the School’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 Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794 (d)) and its updated accessibility guidelines effective January 2018, which are incorporated by reference.

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

Remedies and Reporting

- 1) Proposed Policies and Procedures Regarding New Online Content and Functionality. By January 15, 2018, the School 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 School to provide equally effective alternative access. The Plan for New Content will

- require the School, 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 School'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 School will officially adopt, and fully implement the amended policies and procedures.
 - d) Reporting: Within 45 days of receiving OCR's approval, the School 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 School asserts an undue burden or fundamental alteration defense, such assertion may only be made by the Dean or by an individual designated by the Dean 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 School as their nondisabled peers.
- 3) Audit of School's Online Programs, Services, and Activities Hosted by Third Party Providers. By January 2, 2018, School will propose for OCR's review and approval the identity and bona fides of an Auditor (corporation or individual) to audit 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 School receives prior permission from OCR to use a different standard as a benchmark.
- a) Reporting: By January 2, 2018, the School 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 School 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 Regarding Third Party Providers. Simultaneously with the submission of the Audit, the School will submit to OCR for its review and approval a proposed Corrective Action Plan Regarding Third Party Providers to address all of the School's online content and functionality developed by, maintained by, or offered through a third party vendor or an open source. The proposed Corrective Action Plan Regarding Third Party Providers 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 Regarding Third Party Providers; (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.
- 5) Within 30 days of receiving OCR's approval of the proposed Corrective Action Plan, the School 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 School 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.
- 6) Permanent Notice. The School will adopt and prominently post throughout its website the following notice:

"It is the School'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 Schools and Administration. If you are searching for information that is currently not accessible to you due to a disability, please submit your request via email to fquebara@azsummitlaw.edu. The School's Website Team 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 fquebara@azsummitlaw.edu."
- 7) Training. Starting no later than 30 days from this date of this Agreement, and annually thereafter, the School 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 School 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.

- 8) The School understands that OCR will not close the monitoring of this Agreement until OCR determines that the School 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.

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

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

/s/

12/12//17

For the School

Date