

Resolution Agreement
Da Vinci Schools
OCR Reference No. 09-16-7027

The Office for Civil Rights (OCR) of the U.S. Department of Education initiated an investigation into an allegation that the Da Vinci Schools (“Schools”) violated Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and that statute’s implementing regulations at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (“Title II”) and that statute’s implementing regulations at 28 C.F.R. Part 35. Specifically, the complainant alleges that certain aspects of the Schools’ public website contains barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the Schools’ programs, services, and activities, and denying them effective communication necessary for full participation in the Schools’ programs, services, and activities.

This Agreement has been entered into voluntarily and does not constitute an admission that the Schools violated Section 504, Title II, those statutes’ implementing regulations, or any other applicable law.

Assurances of Nondiscrimination. The Schools hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the Schools’ 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 Schools’ 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 Schools programs, services, and activities delivered online, as required by Section 504 and Title II and those statutes’ implementing regulations; and that they receive effective communications with Schools programs, services, and activities delivered online.

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

Remedies and Reporting

1. Policies and Procedures for New Online Content and Functionality. By October 1, 2017, the Schools will submit to OCR for its review and approval proposed 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 Schools to provide equally effective alternate access. The Plan for New Content will require the Schools, 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, alternatives are not required to produce the identical result or level of achievement for persons with and without disabilities, but must afford persons with disabilities an 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 as possible and as 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 Schools’ online content and functionality developed by, maintained by, or offered through a third-party vendor or through the use of open sources.
 - c. Within 240 calendar days of receiving OCR’s approval of the Plan for New Content, the Schools will officially adopt, and fully implement, the amended procedures.
 - d. Reporting: Within 90 calendar days of receiving OCR’s approval and obtaining Schools’ Board approval, the Schools will submit to OCR the approved 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 Schools asserts an undue burden or fundamental alteration defense, such assertion may only be made by the Chief Executive Officer or by an individual designated by the Chief Executive

Officer and who has budgetary role in considering and dedicating 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 Chief Executive Officer or designee. 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 Schools as their nondisabled peers.

3. Notice. By October 15, 2017, the Schools will submit to OCR for review and approval a proposed Notice on its website to persons with disabilities regarding how to request the webmaster or other appropriate person to provide access to (or notify the Schools 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 more formal grievances under Section 504 and Title II. Within 30 calendar days of receiving OCR's approval of the proposed Notice, the Schools will officially adopt and publish the approved Notice by linking the approved Notice on its home page and throughout its website (including all subordinate pages and sites).
 - a. Reporting. Within 30 calendar days of receiving OCR's approval of the Schools' proposed Notice, the Schools will provide documentation to OCR regarding the locations and content of its published Notice.
4. Designation of auditor. By October 15, 2017, the Schools 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 and to identify any online content or functionality that is inaccessible to persons with disabilities. The Auditor will have sufficient knowledge and experience in website accessibility to carry out all related tasks including development of a Proposed Corrective Action Plan (if necessary). 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.
 - a. Reporting: Within 30 calendar days of receiving OCR's approval of the proposed Auditor, the Schools will submit to OCR documentation that it has assigned or retained the Auditor approved by OCR to conduct the Audit of existing content and functionality.
5. Audit of Existing Content and Functionality.

The Auditor approved by OCR will audit all content and functionality on the Schools' website, including but not limited to, the home page, all subordinate pages, and Schools 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 Audit will use the Benchmarks for Measuring Accessibility set out above, unless the Schools receives prior permission from OCR to use a different standard as a benchmark. During the Audit, the Schools will also seek input from members of the public with disabilities, including parents, students, employees, and others associated with the Schools, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.

- a. Reporting: Within 90 calendar days of receiving OCR's approval of the proposed Auditor, the Schools 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.
6. Proposed Corrective Action Plan. Simultaneously with the submission of the Audit, the Schools will submit to OCR for its review and approval a proposed Corrective Action Plan to address all inaccessible content and functionality identified during the Schools' Audit. The proposed Corrective Action Plan will set out a detailed schedule for addressing problems, taking into account identified priorities, with all corrective actions to be completed within 21 months of the date OCR approved the Corrective Action Plan. The Schools may prioritize the accessible content and functionality identified for the following landing pages: History; Admissions; Admissions Criteria; Outreach; Resources; Student/Parent Handbook; and completion of all corrective actions for these pages by November 1, 2017.
 - a. In its Corrective Action Plan, the Schools will acknowledge that if all inaccessible content and functionality identified during the Audit is not removed, made accessible on a timely basis, or if modifying such content requires a fundamental alteration of the content or imposes an undue burden on the Schools, the Schools will be in violation of this Agreement, Section 504, and Title II and OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement.
 - b. Within 90 calendar days of receiving OCR's approval of the proposed Corrective Action Plan, the Schools will officially adopt and implement the Corrective Action Plan.
 - c. Reporting: Within 90 calendar days of receiving OCR's approval of the proposed Corrective Action Plan, the Schools 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.

7. Training. Starting no later than 90 calendar days from the date of this Agreement, and annually thereafter, the Schools will deliver website accessibility training to all appropriate employed personnel responsible for web content, 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 its monitoring of this Agreement, the Schools will submit to OCR documentation that the training has been delivered. The documentation will include a list of invitees and attendees and their position titles, a description of the delivered training content, and the presenters' credentials for providing such training.
8. The Schools understands that OCR will not close the monitoring of this Agreement until OCR determines that the Schools has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. 104.4 and the regulations implementing Title II at 28 C.F.R. 35.130 and 35.160(a), which were at issue in this case.
9. The Schools 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 Schools understands that during the monitoring of this Agreement, if necessary, OCR may visit the Schools, interview staff members, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether the Schools has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. 104.4 and the regulations implementing Title II at 28 C.F.R. 35.130 and 35.160(a), which are at issue in this case.

10. The Schools 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 and 100.10), or judicial proceedings to enforce this Agreement, OCR shall give the Schools written notice of the alleged breach and 60 calendar days to cure the alleged breach.

/s/
Appropriate Administrator for Da Vinci Schools

05/22/2017
DATE