

Resolution Agreement
UNIVERSITY OF SAN FRANCISCO
Case Number 09-17-2436

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation into allegations that the University of San Francisco (“the recipient”) did not fully comply with Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104. In that regard, the complainant alleged that the recipient’s website contained 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.

Prior to the completion of OCR’s investigation, the recipient 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 an admission that the recipient is not in compliance with Section 504, and its implementing regulations. Accordingly, to ensure compliance with Section 504 and its implementing regulations and to resolve the issues of this investigation, the recipient voluntarily agrees to take the actions set forth below.

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 website online content and its 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 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 of the recipient programs, services, and activities delivered online, as required by Section 504 and its implementing regulations; and that they receive effective communication of the recipient’s programs, services, and activities delivered online.

Remedies and Reporting

1. Proposed Policies and Procedures Regarding New and Existing Online Content and Functionality: By February 1, 2018, the recipient will submit to OCR for its review and approval the proposed policies and procedures (“the Plan for New and Existing Web Content”) to ensure that new, newly-added, or modified online content and its functionality

on the University website 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 recipient to provide equally effective alternative access. The Plan for New and Existing Content will require the recipient, 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 and Existing Web Content must 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) Within sixty (60) days of receiving OCR's approval of the Plan for New and Existing Content, the recipient will officially adopt, and fully implement the amended policies and procedures.
 - d) Reporting: Within sixty (60) days of receiving OCR's approval, the 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 President of the recipient 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: The recipient will propose for OCR's review and approval the identity and bona fides of an Auditor (corporation or individual) to audit University website content and its functionality, including, but not limited to, the home page, subordinate pages, and intranet pages and sites, to identify any online content on the website or its functionality that is inaccessible to persons with disabilities, including online

content and its functionality that was 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 on and functionality of its website.

- a) Reporting: By February 1, 2018, the 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 ninety (90) days of receiving OCR's approval of the proposed Auditor, the 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. Audit Priority Plan: The Auditor will develop an Audit Priority Plan that will establish a detailed schedule for auditing the University's website (taking into account identified priorities) to identify any online content or functionality that is inaccessible to persons with disabilities, including website online content on and/or its functionality that is developed by, maintained by, or offered through a third-party vendor or an open source. The first identified audit priorities will include, but are not limited to, the University's home and office pages; University webpages that provide information about disabled student services, including Section 504 and Title II; University gateway pages; and frequently used University webpages.
5. 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 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 setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis.
6. Within 30 days of receiving OCR's approval of the proposed Corrective Action Plan, the recipient 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 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 sixth months thereafter until the Corrective Action Plan has been completed.

7. Notice: By February 1, 2018, 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 an internal formal grievance under Section 504. Within 10 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 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, and will ensure the applicable notice is linked from every page.
8. Training: By April 1, 2018 and annually thereafter, the recipient will deliver website accessibility training to all appropriate personnel, including, but not limited to: website content developers, webmasters, website procurement officials, and all others responsible for website 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 presenters’ professional background for giving such training.
9. The recipient understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the recipient understands that during the monitoring of this Agreement, OCR may visit the recipient, interview staff and students, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether the recipient 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), which was at issue in this case. Upon completion of the obligations under this Agreement, OCR shall close and dismiss the case.
10. The recipient 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 recipient written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

_____/s/_____
For the University of San Francisco

12/22/2017
Date