

Resolution Agreement
Chapman University
Case Number 09-17-2492

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation into allegations that the University (“Recipient”) violated Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104. Specifically, 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/or the implementing regulations. Accordingly, to ensure compliance with Section 504 and their 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 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) 1.1 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) **Creation of a Task Force or other convening of knowledgeable staff to Develop a Strategic Action Plan.** Within sixty (60) days of entering into this Agreement, the

University will develop a Task Force made up of qualified members of the University community to develop a detailed Strategic Action Plan to:

- (A) review (and revise, as necessary) its policies and procedures designed to address the accessibility of all new online content and functionality,
- (B) set up a system to review and ensure the accessibility of its critical and highly utilized online content and functionality (including the sites listed in the Complaint),
- (C) develop a process to ensure that, upon request, inaccessible content and functionality will be made accessible in an expedient manner and consistent with the terms of this Agreement, and
- (D) develop a plan for website accessibility training, including identification of personnel to complete the training and frequency of training delivery.

The Strategic Action Plan will also include a strategy for identifying inaccessible content and functionality for individuals with disabilities and include opportunities for individuals accessing the University online environment to report to the University barriers to accessibility and usability (e.g., an accessible site map with general information including an alternative means of contact). As part of the Strategic Action Plan development, the Task Force may want to consider options which may help increase consistency and provide for a more streamlined process (e.g., archiving noncritical documents, use of gatekeepers, etc.) and will define critical and highly utilized online content and functionality as may be referenced in its policy and procedures. To the extent that students and/or individuals with disabilities are not included on the Task Force, they will be consulted by the Task Force in the creation of the Strategic Action Plan. The University will share this Strategic Action Plan with OCR no later than June 29, 2018.

- 2) Assessment of Existing Content and Functionality. The Strategic Action Plan, referenced in Section 1, will define a detailed approach to ensure that its existing content and functionality is appropriately updated to reflect the needs of the community and other users, including individuals with disabilities. The University will strive to make its “critical and highly utilized online content and functionality”, including the pages referenced by the Complainant, fully accessible within twelve (12) months.
- 3) Proposed Policies and Procedures Regarding New Online Content and Functionality. By May 1, 2018, the Recipient 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 Recipient to provide equally effective alternative access. The Plan for New Content will require the Recipient 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.
 - c) Within thirty (30) days of receiving OCR's approval of the Plan for New Content, the Recipient will officially adopt, and fully implement the amended policies and procedures.
 - d) Reporting: Within forty-five (45) 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.
- 4) 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, the University will maintain a written statement of the reasons for reaching that conclusion, including the cost of meeting the requirement and the available funding and other resources. If such a determination is made, the University 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 extent possible, individuals with disabilities receive the same benefits or services provided by the Recipient as their nondisabled peers.
- 5) Notice. By May 15, 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 formal internal grievances 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.
 - b) Reporting. Within 30 days of receiving OCR's approval of the Recipient's proposed Notice, the Recipient will ensure the applicable notice is linked from every page.

- 6) **Summary Reporting:** Given the on-going nature of accessibility and usability of the University's website and the extensive amount of new online content and functionality that will be created and assessed each academic year, the Strategic Action Plan will incorporate specific benchmarks, including timeframes, that the University will implement on an ongoing basis moving forward. The University will provide to OCR a Summary Report of its efforts to effectuate this Agreement and the Strategic Action Plan, as well as the on-going efforts to maintain web accessibility and usability of the University's website by the beginning of the 2018-2019 academic year. The University will meet and consult with OCR following the submission of this Summary Report with the expectation that OCR will provide in a clear and good faith manner, any remaining issues necessary to close the monitoring of this Agreement.
- 7) 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, as are necessary for OCR to determine whether the Recipient has fulfilled the terms of this Agreement. Upon completion of the obligations under this Agreement, OCR shall close and dismiss the case.
- 8) 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.

For the Recipient
Vice President and General Counsel
Chapman University

03/05/2018
Date