



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

CALIFORNIA

REGION IX

50 UNITED NATIONS PLAZA
MAIL BOX 1200; ROOM 1545
SAN FRANCISCO, CA 94102

February 15, 2018

Via Electronic Mail

Willard Lewallen, Ph.D.
Superintendent/President
Hartnell College
411 Central Avenue
Salinas, California 93901

Re: OCR No. 09-17-2507

Dear President Lewallen,

This letter is to inform you of the disposition of the above-referenced complaint filed against Hartnell College (College) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), on July 27, 2017, alleging discrimination on the basis of disability. Specifically, the complaint alleged that certain of the College's web pages are not accessible to students and adults with disabilities, including vision impairments.

OCR is responsible for enforcing section 504 of the Rehabilitation Act of 1973, as amended (Section 504), 29 United States Code (U.S.C.) § 794, et seq., and its implementing regulations at 34 Code of Federal Regulations (C.F.R.) Part 104, which prohibit discrimination on the basis of disability in programs and activities of recipients of federal financial assistance. OCR also is responsible for enforcing Title II of the Americans with Disabilities Act of 1990, as amended (Title II), 42 U.S.C. § 12131, et seq., and its implementing regulations at 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability in programs, services, and activities of public entities. As a recipient of federal financial assistance from the Department and as a public entity, the College is subject to OCR's jurisdiction under Section 504 and Title II.

This letter summarizes the applicable legal standards, the information gathered during the investigation, and how the investigation was resolved.

Legal Authority:

Section 504 and Title II prohibit people, on the basis of disability, from being excluded from participation in, being denied the benefits of, or otherwise being subjected to discrimination by recipients of federal financial assistance or by public entities. 34 C.F.R. § 104.4 and 28 C.F.R. § 35.130. People with disabilities must have equal access to the programs, services, or activities

unless doing so would fundamentally alter the nature of the programs, services, or activities, or would impose an undue burden. 28 C.F.R. § 35.164. Both Section 504 and Title II prohibit affording individuals with disabilities an opportunity to participate in or benefit from aids, benefits, and services that is unequal to the opportunity afforded others. 34 C.F.R. § 104.4(b)(1)(ii); 28 C.F.R. § 35.130(b)(1)(ii).

Similarly, individuals with disabilities must be provided with aids, benefits, or services that provide an equal opportunity to achieve the same result or the same level of achievement as others. 34 C.F.R. § 104.4(b)(2); 28 C.F.R. § 35.130(b)(1)(iii). An individual with a disability, or a class of individuals with disabilities, may be provided with a different or separate aid, benefit, or service only if doing so is necessary to ensure that the aid, benefit, or service is as effective as that provided to others. 34 C.F.R. § 104.4(b)(1)(iv); 28 C.F.R. § 35.130(b)(1)(iv). Title II also requires public entities to take steps to ensure that communications with people with disabilities are as effective as communications with others, subject to the fundamental alteration and undue burden defenses. 28 C.F.R. § 35.160(a)(1). In sum, programs, services, and activities—whether in a “brick and mortar,” on-line, or other “virtual” context—must be operated in ways that comply with Section 504 and Title II.

Investigation To Date:

During the course of the investigation OCR examined a number of pages on the College’s website to determine whether they are accessible to persons with disabilities. These web pages included:

Homepage- <http://www.hartnell.edu>

- Twenty-seven linked images missing alt text
- Alt text tag is not an accurate description of the image of original campus buildings.
- 10 broken links; slide show, can’t stop or control images with keyboard.
- Links not descriptive; “More”, links described by file number.
- Hartnell Open Sections, hard to browse between pages of results with keyboard.
- Videos not captioned, can’t operate controls with keyboard; “Hartnell Careers”, “Steps to Success”, “Bright Futures”, PAWS “Registering for Classes”.
- Can’t operate tabs with keyboard in “Promotion Center”, “Training Calendar”.

Hartnell College A-Z Index - <http://www.hartnell.edu/a-to-z-index>

- “Skip to Main Content” link goes to letters; can’t navigate to links under letters without tabbing through all the letters and the headings on the page.

Department of Supportive Programs and Services- <http://www.hartnell.edu/department-supportive-programs-services-dsps>

- “Skip to Main Content” does not link to main links for DSPS webpage.

- Can't sign up for services or make an appointment on-line.
- Contact information for OCR-SF is outdated and incorrectly states 180-day complaint filing period policy.

Library- <http://www.hartnell.edu/library>

- Links inaccurately described; screen reader user may not recognize the "search" link when it receives keyboard focus.
- Three orphaned form labels and five empty form labels in "search" function.
- Two videos captioned, but captions have very low contrast.
- "Information Literacy 6" is a PDF not organized for a screen reader, information about call numbers is in graphic format.
- Can't navigate these links with the keyboard: "For Students", "Research Help" and "For Faculty".
- Very low contrast for "Visit These Links".

Nursing and Allied Health- <http://www.hartnell.edu/NAH>

- No heading structure for "Net Price Calculator", Missing Alt Tag for "Previous" and "Continue" linked images.
- Eleven missing field sets; group of radio buttons not enclosed by a field set.
- Forty unlabeled form elements with titles.
- Devise dependent event handler for link; "Invierte En Tu Futuro", can't be operated with keyboard.
- Link to "Net Price Calculator" not descriptive of function.
- Four PDF picture flyers can't be accessed by a screen reader; "Are you Interested...", "Respiratory Nursing Program", "Blood Drive", "Respiratory Therapy Open House", missing alt text tags.

Orientation- <http://www.hartnell.edu/online-orientation-new-students>

- Screen shot of PAWS orientation page needs descriptive alt text tag.

OCR evaluated the above-listed pages and determined that important images were missing or had in accurate text descriptions, called "alt tags," that describe the images to blind and low-vision users who use special software; some important content of the website could only be accessed by people who can use a computer mouse, which meant that content was not available to those who are blind, many who have low vision, and those with disabilities affecting fine motor control; parts of the website used color combinations that made text difficult or impossible for people with low vision to see; and audio recordings were not provided with captions or a transcript, so they were inaccessible to people who are deaf. These barriers deny persons with disabilities access to programs, services,

and activities offered on the website and may impede the College's communications with persons with disabilities.

Prior to the conclusion of OCR's investigation, the College expressed an interest in voluntarily resolving this case. In order to conclude OCR's investigation of this complaint, OCR would have had to conduct interviews, review documents, and examine a broader range of pages on the College's website; OCR would have sought to learn, for example, whether the College had received previous complaints of inaccessible website content or functionality, and how those complaints were resolved; and whether its information technology staff members and people responsible for uploading content or maintaining web pages had received training in website accessibility. In light of the College's willingness to address its website comprehensively without further investigation, OCR determined entering into a voluntary resolution agreement would be appropriate.

Resolution Agreement:

The College submitted a signed resolution agreement (Agreement) to OCR on February 12, 2017. The College committed to take actions such as:

- Creating new webpages that are accessible to persons with disabilities;
- Developing a corrective action plan to create and test the functionality and content of all College webpages within 18-months of OCR's approval of the corrective action plan;
- Making all new website content and functionality accessible to people with disabilities;
- Posting a notice to persons with disabilities about how to request access to online information or functionality that is currently inaccessible; and
- Providing website accessibility training to all appropriate personnel.

This concludes OCR's investigation of the complaint. These findings should not be interpreted to address the College's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. OCR will monitor the College's implementation of the Agreement. When OCR concludes the College has fully implemented the terms of the Agreement and is in compliance with the statutes and regulations at issue in the case, OCR will terminate its monitoring and close the case. If the College fails to implement the Agreement, OCR may seek compliance with the federal civil rights laws through any means authorized by law, including to enforce the specific terms of the Agreement.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. The complainant may have the right to file a private suit in federal court whether or not OCR finds a violation.

Please be advised that the College may not harass, coerce, intimidate, discriminate or otherwise retaliate against any individual because he or she asserted a right or privilege under a law enforced

by OCR or filed a complaint, testified, or participated in the complaint resolution process. If this happens, the individual may file a retaliation complaint with OCR.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, OCR will seek to protect, to the extent provided by law, personally identifiable information that could reasonably be expected to constitute an unwarranted invasion of personal privacy if released.

For questions about implementation of the Agreement, and about this letter, please contact David LaDue Civil Rights Attorney at 415-486-5528 or David.LaDue@ed.gov.

Sincerely,

/s/

Zachary Pelchat
Team Leader

C.c. Romero Jalomo, V.P. Student Affairs

Enclosure Resolution Agreement