



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

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September 11, 2014

Dr. Debra Derr  
President  
Mt. Hood Community College  
26000 SE Stark Street  
Gresham, Oregon 97030

Re: Mt. Hood Community College  
OCR Reference No. 10142224

Dear President Derr:

The Office for Civil Rights (OCR) of the U.S. Department of Education is discontinuing its investigation of the above-referenced complaint against Mt. Hood Community College. The complaint alleged that the college discriminated against an individual on the basis of disability when he was unable to register through the college's website for a summer 2014 on-line class because the website was inaccessible to him as a screen reader user and he was not offered an alternative way to register for the class. As described below, prior to completion of OCR's investigation, the college expressed an interest in voluntarily resolving the complaint and signed the enclosed resolution agreement (agreement) to address the allegation.

OCR accepted this complaint for resolution under the authority of section 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act of 1990 and those statutes' implementing regulations at 34 CFR Part 104 and 28 CFR Part 35. Section 504 and its implementing regulations prohibit recipients of financial assistance from the U.S. Department of Education ("recipients") from discriminating against individuals on the basis of disability, and Title II prohibits public entities from perpetrating such discrimination. Since the college receives financial assistance from the U.S. Department of Education and is a public entity, it is required to comply with these laws.

Section 504 and Title II generally require recipients and public entities to provide equal access to programs, activities, and services to qualified individuals with disabilities unless doing so would fundamentally alter those programs and activities or impose an undue burden. One way to help meet these requirements is to ensure that websites have accessible features for individuals with disabilities. Recipients and public entities with

inaccessible websites may also meet their legal obligations by providing alternative, equivalent ways for individuals with disabilities to access programs, activities, and services.

The Section 504 regulation at 34 CFR 104.4(a) states that no qualified disabled individual shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any recipient program or activity. The Section 504 regulations at 34 CFR 104.43(a) and (c) specifically applicable to postsecondary education institutions, state in part that no qualified disabled student shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in academic, research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other postsecondary education aids, benefits, or services, and prohibit such institutions from excluding any qualified disabled student from any course, course of study, or other part of an education program or activity on the basis of disability. Moreover, the Section 504 regulation at 34 CFR 104.44(d) requires postsecondary education institutions to take such steps necessary to ensure that no disabled student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination because of the absence of educational auxiliary aids.

Similarly, the Title II regulation at 28 CFR 35.130(a) prohibits public entities from excluding qualified disabled individuals from participation in, or denying them the benefits of, the public entities' programs, activities, or services, or otherwise subjecting disabled individuals to discrimination on the basis of disability. In addition, the Title II regulation at 28 CFR 35.133(a) requires public entities to maintain in operable working condition those features of facilities and equipment required to be readily accessible to and usable by individuals with disabilities.

The Title II regulations at 28 CFR 35.160(a) and (b) require that public entities take appropriate steps to ensure that communications with applicants, participants, and members of the public are as effective as communications with others. Public entities are required to furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, programs, activities, and services of those public entities. The Title II regulation at 28 CFR 35.163(a) requires public entities to ensure that interested individuals, including individuals with impaired vision or hearing, can obtain information as to the existence and location of accessible programs, activities, services, and facilities.

In addition to the above regulations, a Dear Colleague Letter jointly issued by the U.S. Departments of Education and Justice on June 29, 2010, reiterates that Section 504 and Title II reach equipment and technological devices when they are used by recipients and public entities as part of their programs, activities, and services.

In accordance with Section 302 of OCR's Case Processing Manual, a complaint may be resolved at any time when the institution expresses an interest in resolving the complaint before the conclusion of OCR's investigation. In such a case, the provisions of an agreement to resolve the complaint must be aligned with the complaint allegations or any information obtained during the discontinued investigation and be consistent with applicable regulations. Here, the college requested to resolve the complaint prior to the conclusion of OCR's investigation. Subsequent discussions with the college resulted in the enclosed agreement by the college to resolve the complaint.

The actions the college will take under the agreement include

- drafting for OCR's approval policies and procedures to ensure that all on-line programs, services, and activities are accessible to individuals with disabilities, including programs, activities, and services delivered on-line by the college through third-party vendors;
- notifying all college employees, faculty, students, and applicants about the on-line accessibility policies and procedures;
- conducting training about the on-line accessibility policies and procedures for specified college employees;
- conducting an audit to examine the accessibility of college programs, activities, and services delivered on-line and correcting any inaccessibility identified through the audit;
- drafting for OCR's approval disability discrimination grievance procedures; and
- offering the individual who is the subject of the complaint an opportunity to take, for credit, a college on-line class of his choosing without cost to him.

OCR will monitor the college's implementation of the agreement and will close the complaint when OCR determines that the provisions of the agreement have been satisfied.

Thank you for the assistance the college extended to OCR in resolving this complaint. I specifically thank the college's manager of the student union and specialized student services for his assistance to OCR. We look forward to receiving the college's first report about its implementation of the agreement by November 28, 2014.

If you have any questions, please contact Noel Nightingale, lead attorney, by telephone at (206) 607-1632 or by e-mail at [noel.nightingale@ed.gov](mailto:noel.nightingale@ed.gov).

Sincerely,

\_\_\_\_s\_\_\_\_

Kelli Lydon Medak  
Team Leader

Enclosure: Resolution Agreement

cc: Manager, Student Union and Specialized Student Services