

RESOLUTION AGREEMENT
Hampton City Schools
OCR Case No. 11-16-1165

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation into allegations that the Hampton City Schools (the Division) violated Section 504 of the Rehabilitation Act of 1973 and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 and its implementing regulation at 28 C.F.R. Part 35. Specifically, the complainant alleged that the Division's website, www.hampton.k12.va.us, contained barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the Division's programs, services, and activities and denying them effective communication necessary for full participation in the Division's programs, services, and activities.

To ensure compliance with Section 504 and Title II and their implementing regulations and to resolve the issues of this investigation, the Division voluntarily agrees to take the actions set forth below with respect to the programs and activities offered through its website.

Assurances of Nondiscrimination. The Division hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the Division'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) 1.0 techniques for web content, which are incorporated by reference.

Adherence to these accessible technology standards is one way to ensure compliance with the Division'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 Division programs, services, and activities delivered online, as required by Section 504 and Title II and their implementing regulations; and that they receive effective communication of the Division's programs, services, and activities delivered online.

Remedies and Reporting

- 1) Proposed Procedures Regarding New Online Content and Functionality. By April 15, 2017, the Division 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) The Plan for New Content will ensure that the Division provides equally effective alternative access when fundamental alteration or undue burden defenses apply, which means that the Division must take any actions that do not result in a fundamental alteration or undue financial and administrative burden, 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 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. This provision also applies to programs, services, and activities offered through the Division’s website that are developed by, maintained by, or offered through third-party vendors or open sources.¹ When using third party vendors or open sources, the Division will use best efforts to assure they adhere to the benchmarks for measuring accessibility outlined at the beginning of this agreement. If the Division learns that a vendor is carrying out the Division’s program, service, or activity in a way that is not fully accessible to people with disabilities, the Division will notify the vendor that it may be inaccessible and ask that they attempt to remove any barriers to access. If the request does not resolve the accessibility issue, the Division must provide an equally effective alternative to the inaccessible program, service, or activity that complies with Section 504 and Title II.² If the Division learns an open source is carrying out the Division’s

¹ This provision is limited to the programs, services, and activities offered by the Division and neither applies to supplemental resources or information linked on its webpage nor to benefits offered only to employees including those for whom reasonable accommodations are available if they have disabilities.

² When the Division has a contract with the vendor to provide online a program, service, or activity on behalf of the Division, and the vendor is unable to meet the benchmarks at the time the contract is renewed, the Division must change vendors at the expiration of the contract to one that can offer the Division’s program, service, or activity in a nondiscriminatory manner, or the Division must continue providing access to an equally effective alternative to the inaccessible program, service, or activity administered by the vendor.

program, service, or activity in a discriminatory manner, the Division will use due diligence to promptly change open sources so that the program, service, or activity is compliant with Section 504 and Title II, provided the Division can locate an open source through which it could provide its program, service, or activity on a nondiscriminatory basis.

- c) Within sixty (60) days of receiving OCR's approval of the Plan for New Content, the Division will officially adopt, and fully implement the amended procedures.
 - d) Reporting: Within ninety (90) days of receiving OCR's approval, the Division 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 Division asserts an undue burden or fundamental alteration defense, such assertion may only be made by the Superintendent or by an individual designated by the Superintendent 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 Division as their nondisabled peers.
- 3) Assessment of Existing Content and Functionality. The Division will assess all content and functionality on its website, including, but not limited to, the home page, all subordinate pages, and 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 personnel conducting the Assessment 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 Division will propose for OCR's review and approval the identity and bona fides of the Assessor (corporation or individual) prior to conducting the Assessment. During the Assessment, the Division will also seek input from members of the public with disabilities, including parents, students, employees, and others associated with the Division, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.

- a) Reporting: The Division has ~~will~~ submitted the *bona fides* of the proposed personnel conducting the Assessment to OCR for review and approval and OCR has determined the proposed assessor(s) have the requisite experience and knowledge to carry out an appropriate Assessment and to develop a Proposed Corrective Action Plan.

Within ninety (90) days of the signing of this Resolution Agreement, the Division will submit to OCR documentation of the steps taken by the assessor(s) during the Assessment, a description of the outreach it undertook and the input it received, and a detailed accounting of the results of the Assessment.

- 4) Proposed Corrective Action Plan. If required by the results of the Assessment, by July 1, 2017, the Division will submit to OCR for its review and approval a proposed Corrective Action Plan to address all inaccessible content and functionality identified during the Division's Assessment. 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 20 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. In its Corrective Action Plan, the Division will acknowledge that if all inaccessible content and functionality identified during the Assessment is not removed or made accessible on a timely basis, the Division 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 the Agreement consistent with the last paragraph of this Agreement.

Within 45 days of receiving OCR's approval of the proposed Corrective Action Plan, the Division will officially adopt and implement the Corrective Action Plan.

- a) Reporting: Within 60 days of receiving OCR's approval of the proposed Corrective Action Plan, the Division 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 implementation of the Corrective Action Plan has been completed.
- 5) Notice. Within 30 days of the date of this Agreement, the Division 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 Division 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 grievances under Section 504 and Title II. Within ten (10) days of receiving OCR's approval of the proposed Notice, the Division will officially adopt and prominently post the approved Notice on its home page and throughout its website (including all subordinate pages and intranet sites).³

- a) Reporting: Within 15 days of receiving OCR's approval of the Division's proposed Notice, the Division will provide documentation to OCR regarding the locations and content of its published Notice.
- 6) Training. Starting no later than 90 days from this date of this Agreement, and annually thereafter, the Division will deliver website accessibility training to all appropriate personnel, 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 the monitoring of this Agreement, the Division 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' credentials for giving such training.

The Division understands that OCR will not close the monitoring of this Agreement until OCR determines that the Division has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 and Title II, at 34 C.F.R. Part 104 and 28 C.F.R. Part 35.

The Division understands that by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, the Division understands that during the monitoring of this Agreement, OCR may visit the Division, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Division has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 and Title II, at 34 C.F.R. Part 104 and 28 C.F.R. Part 35, which was at issue in this case.

³ The Division has represented that it does not have any intranet sites.

The Division 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 Division written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

By: _____/s/_____

Date: _____03/14/2017_____

Dr. Jeffery Smith
Superintendent