

RESOLUTION AGREEMENT
Emory & Henry College
OCR Case No. 11-17-2456

The U.S. Department of Education, Office for Civil Rights (OCR), initiated an investigation into allegations that the Emory & Henry College (the College) 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 College's website contained barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the College's programs, services, and activities and denying them effective communication necessary for full participation in the College's programs, services, and activities.

To ensure compliance with Section 504 and its implementing regulations and to resolve the issues of this investigation, the College voluntarily agrees to take the actions set forth below. By signing this Agreement, the College makes no admission of violation of Section 504 or its implementing regulation at 34 C.F.R. Part 104.

This agreement is made given the relatively small size of the College and its online presence; the planned adoption of a new website prior to notification of this complaint that will make it more likely the College will continue to ensure the accessibility of its online programs, services, and activities after this Agreement has expired; the fact that its relatively small number of current informational technology (IT) staff and administrators responsible for uploading and maintaining the College's online programs, services, and activities have already received appropriate website accessibility training since being notified about OCR's investigation; the fact that the College has attempted to remove many of the identified barriers and other facts unique to this case.

Assurances of Nondiscrimination. The College hereby reaffirms its commitment to ensuring that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the College'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 College'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 College programs, services, and activities delivered online, as required by Section 504 and its implementing regulation.

Remedies and Reporting

- 1) By April 4, 2018, the College will identify and remediate all barriers to access to people with disabilities using or attempting to use College's online programs, services, and activities in accordance with the Benchmarks for Measuring Accessibility. If, on or before April 4, 2018, OCR confirms that all such barriers have been removed, this Agreement will be terminated, the College will have no further obligations under this Agreement, and OCR's investigation of the College (OCR Case No. 11-17-2456) will be closed. If, however, as of close of business April 4, 2018, OCR determines that there are still barriers to access and so notifies the College, the College shall then be required to fulfill all the remaining terms of this Agreement as set forth in Section 2 and below.

- 2) Proposed Policies and Procedures Regarding New Online Content and Functionality. If OCR notifies the College the site is not in compliance by April 4, 2018 as part of Item 1, thirty (30) calendar days from this notification from OCR, the College 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 College to provide equally effective alternative access. The Plan for New Content will require the College, 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, 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 the College's online content and functionality developed by, maintained by, or offered through a third-party vendor or by using open sources.
 - c) Within thirty (30) days of receiving OCR's approval of the Plan for New Content, the College will officially adopt and fully implement the amended policies and procedures.
 - d) Reporting: Within forty-five (45) days of receiving OCR's approval, the College will submit to OCR the approved policies and procedures, evidence of their adoption and distribution, and a description of how they are being implemented.

- 3) Undue Burden and Fundamental Alteration. For any technology-related requirement in this Agreement for which the College asserts an undue burden or fundamental alteration defense, such assertion may only be made by the College's General Counsel or by an individual designated by the College's General Counsel 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 College as their nondisabled peers.

- 4) Audit of Existing Content and Functionality. If the College fails to be in compliance by April 4, 2018, then the College will propose, as outlined below, for OCR's review and approval the identity and bona fides of an Auditor (corporation or individual internal or external to the College) to audit 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 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 College receives prior permission from OCR to use a different standard as a benchmark. During the Audit, the College will also seek input from members of the public with disabilities, including parents, students, employees, and others associated with the College, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.

Reporting:

- a) If OCR notifies the College the site is not in compliance by April 4, 2018 as part of Item 1, thirty (30) calendar days from this notification from OCR the College 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.

 - b) Within ninety (90) days of receiving OCR's approval of the proposed Auditor, the College 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.
- 5) Proposed Corrective Action Plan. Provided the College has any obligations to OCR under this Agreement after April 4, 2018, then simultaneously with the submission of the Audit, the College will submit to OCR for its review and approval a proposed Corrective Action

Plan to address all inaccessible content and functionality identified during the College'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 eighteen (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 (3) setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis.

Within thirty (30) days of receiving OCR's approval of the proposed Corrective Action Plan, the College will officially adopt and implement the Corrective Action Plan.

- a) Reporting: Within forty-five (45) days of receiving OCR's approval of the proposed Corrective Action Plan, the College 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 the Corrective Action Plan has been completed.
- 6) Notice. If OCR notifies the College the site is not in compliance by April 4, 2018 as part of Item 1, fifteen (15) calendar days from this notification, the College will prominently post on its home page notice that its website is in the process of being updated to ensure compliance with Section 504 of the Rehabilitation Act and that in the interim website accessibility concerns may be brought to the attention of the College's Director of Human Resources.

If OCR notifies the College the site is not in compliance by April 4, 2018 as part of Item 1, thirty (30) calendar days from this notification, the College 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 College 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. Within ten (10) days of receiving OCR's approval of the proposed Notice, the College will officially adopt and prominently post the approved Notice on its home page and throughout its website (including all subordinate pages and intranet sites).

Reporting:

- a) Within ten (10) days of posting notice on its home page that the website is being updated to ensure compliance with Section 504, the College will provide verification of the posting.
- b) Within fifteen (15) days of receiving OCR's approval of the College's proposed Notice, the College will provide documentation to OCR regarding the locations and content of its published Notice.
- 7) Training. If OCR notifies the College the site is not in compliance by April 4, 2018 as part of Item 1, ninety (90) calendar days from this notification , and annually thereafter until

OCR determines that that College is in compliance as contemplated by Section 8 below, the College 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: On a quarterly basis, until such time as OCR closes the monitoring of this Agreement, the College will submit to OCR documentation that training 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.
- 8) Duration. If this Agreement has not been terminated by April 4, 2018, the terms of Sections 2 through 10 herein become applicable. The College understands that OCR will not close the monitoring of this Agreement until OCR determines that the College has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504, at 34 C.F.R. Part 104.
- 9) Acknowledgements. The College understands that by signing this Agreement, it agrees to provide data and other information relevant to this investigation and requested by OCR, to OCR in a timely manner. Further, the College understands that during the term of this Agreement, OCR may visit the College, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Section 504 at 34 C.F.R. Part 104, which is at issue in this case.
- 10) Enforcement and Opportunity to Cure. The College 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 College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

By: _____/s/_____
Jake B. Schrum
President

Date: _____12/15/2017_____