



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, DC

XXXX

Via Email [bbateman@randolphcollege.edu](mailto:bbateman@randolphcollege.edu)

Dr. Bradley W. Bateman  
President  
Randolph College  
2500 Rivermont Avenue  
Lynchburg, Virginia 24503-1526

Re: OCR Docket #11-17-2464  
Resolution Letter

Dear Dr. Bateman

This letter is to inform you of the disposition of the above-referenced complaint filed against the Randolph College (the College) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), on XXXX, 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, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance. As a recipient of Federal financial assistance, the College is subject to Section 504 and its implementing regulation. Accordingly, OCR had jurisdiction to investigate this complaint.

Based on the complaint allegations, OCR opened an investigation of the issue: whether the College, on the basis of disability, excluded qualified persons with disabilities from participation in, denied them the benefits of, or otherwise subjected them to discrimination in its programs and activities based on disability, in violation of the regulation implementing Section 504 at 34 C.F.R. § 104.4.

Legal Authority:

Section 504 prohibits 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. Section 504 prohibits 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). 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). 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). 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.

#### Investigation To Date:

The complaint alleges that the College’s website is not in compliance with Section 504 because it is inaccessible to individuals with vision disabilities, print disabilities, physical impairments, and hearing impairments. The Complainant used website accessibility checkers (PowerMapper and WAVE) and reported to OCR several of the College’s webpages have accessibility issues for individuals with disabilities. She then provided OCR with a list of errors copied and pasted from the website accessibility checker that she used.

OCR conducted a preliminary examination of the web pages identified by the Complainant and found possible compliance concerns as to whether the College’s website is accessible to individuals with disabilities. For example:

- All parts of the website are not fully accessible to the keyboard, which means that a person who is blind or has low vision who requires a screen reader is not provided all content because he/she cannot access all content on the website
- Documents in Portable Document Format (PDFs) are not correctly labeled to permit screen reader to be able to fully access it, which means a person who is blind or has low vision who requires a screen reader is not provided all content; and
- Videos were not accurately captioned, so they were inaccessible to people who are deaf.

During the investigation, OCR held a meeting with screen sharing software where we explained the barriers to access that had been identified by OCR. During that meeting, the College staff expressed a commitment to removing all barriers without delay. On November 13, 2017, the College informed OCR that the College had successfully removed all remaining barriers to access for people with disabilities throughout the College’s website. At the same time, the College also informed OCR that it had not been successful in removing barriers from its Athletics Department Websites hosted at: <http://randolphwildcats.com/> (Athletics Site). OCR verified the rest of the College’s site was accessible. Therefore, since OCR could not identify any issues, aside from those on the Athletics Site, OCR is closing its investigation of all parts of the College’s websites, aside from the Athletics Site, as of the date of this letter and will take no further action since there is insufficient evidence of current noncompliance of Section 504 regarding the remainder of the website, aside from the Athletics Site.

With regard to the Athletics Site, OCR reviewed this site again on December 5, 2017, and found continued issues. For example:

- All parts of the website are not fully accessible to the keyboard and the focus is not always apparent, which means that a person who is blind or has low vision who requires a screen reader is not provided all content because he/she cannot access all content on the website;
- Important images were missing text descriptions, called “alt tags,” that describe the images to blind users who use special software;
- Documents in Portable Document Format (PDFs) are not correctly labeled to permit screen reader to be able to fully access it, which means a person who is blind or has low vision who requires a screen reader is not provided all content;
- Videos were not accurately captioned, so they were inaccessible to people who are deaf; and
- Parts of the website used color combinations that made text difficult or impossible for people with low vision to see.

Prior to the completion of OCR’s investigation of the Athletics Site, the College asked to resolve the issues with the Athletics Site pursuant to Section 302 of OCR’s *Case Processing Manual* (CPM). On January 8, 2018, the College submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the allegations in the complaint pertaining to the College’s Athletic Site.

In light of the commitments the College has made in the Agreement, OCR finds that the issues pertaining to the Athletic Site are resolved, and OCR is closing its investigation as of the date of this letter. OCR will monitor the College’s implementation of the Agreement to ensure that the commitments made are implemented timely and effectively. OCR may request additional information as necessary to determine whether the College has fulfilled the terms of the Agreement and is in compliance with Section 504 with regard to the issues raised.

If the College fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce the Agreement, OCR shall give the College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This concludes OCR’s investigation of the complaint and 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.

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.

Please be advised that the College may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the harmed individual may file a complaint alleging such treatment.

The Complainant may file a private suit in federal court, whether or not OCR finds a violation.

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

Thank you for the assistance the recipient's personnel, extended to OCR in resolving this complaint. We look forward to receiving the recipient's first reports about its implementation of the Agreement by May 1, 2018. If you have any questions, please contact Judith Risch at 202-453-5925 or at [Judith.Risch@ed.gov](mailto:Judith.Risch@ed.gov).

Sincerely,

/s/

Ralph A. Suris, Chief Attorney  
Acting Team Leader, Team V  
Office for Civil Rights  
District of Columbia Office

Enclosure: Resolution Agreement

cc: Josh D. Whitlock