

CHEBOYGAN-OTSEGO-PRESQUE ISLE ESD
Resolution Agreement
OCR Docket #15-16-7302

The Cheboygan-Otsego-Presque Isle ESD (the District) voluntarily submits this Resolution Agreement (Agreement) to the U.S. Department of Education, Office for Civil Rights (OCR), for the purpose of resolving the above-referenced complaint alleging violation of Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35.

“Accessible,” as used in this Agreement, means a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use. A person with a disability must be able to obtain the information as fully, equally, and independently as a person without a disability. Although this might not result in identical ease of use compared to that of persons without disabilities, it still must ensure equal opportunity to the educational benefits and opportunities afforded by the technology and equal treatment in the use of such technology.

The District hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the District’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, as described below.

Undue Burden and Fundamental Alteration. For any technology-related requirement in this Agreement for which the District asserts an undue burden or fundamental alteration defense, the District has the burden of proving that compliance with the requirement would result in a fundamental alteration in the nature of a service, program, or activity, or in undue financial and administrative burdens. Such assertions may only be made by the Superintendent or by an individual designated by the Superintendent and 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 Superintendent or designee. If such a determination is made, the certifying official will describe in the written statement how it will provide equally effective access. 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 an 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.

The District agrees to take the following actions:

1. By **May 31, 2018**, the District will draft and submit to OCR for review and approval a policy and/or procedures to ensure information provided through the District’s website(s) (online content) is accessible to students, prospective students, employees, guests, and visitors with disabilities, particularly those with visual, hearing, or manual impairments or who otherwise require the use of assistive technology to access information (Web Accessibility Policy). The Web Accessibility Policy will, at minimum, accomplish the following:
 - a. identify and adopt the specific technical standard(s) the District will use to determine whether online content is accessible (e.g., W3C’s Web Content Accessibility Guidelines (WCAG), Web Accessibility Initiative - Accessible Rich Internet Applications Suite (WAI-ARIA) techniques for web content, or other standard or combination of standards that will render online content accessible);¹
 - b. designate at least one individual (Web Accessibility Coordinator) and provide that individual with sufficient resources and authority to coordinate and implement the Web Accessibility Policy, and all other commitments relating to accessibility within this Agreement;
 - c. provide a procedure to ensure that online content provided or developed by third parties is accessible. This procedure should direct administrators and staff to ensure that any District acquisition or use of online content provided or developed by third parties and utilized by the District (e.g. vendors, video-sharing websites such as YouTube, other open sources) that the District chooses to make available on its website maintains accessibility of the online content.. The District will ensure that third-party online content linked from the District’s website that that allows members of the public to participate in or benefit from the District’s services, programs, or activities is accessible. The District may add the following language to its policy, “[t]he District makes no assurances to any content or open source software that is posted, hosted, or offered on the District’s websites by an individual or entity outside the control of the District. The District will take all steps reasonably calculated to prevent an individual or entity outside the control of the District from posting on the District’s websites, and agrees to promptly remove any inaccessible content once the District becomes aware of such content”;
 - d. annual training for any staff (e.g. administrators, faculty, support staff, student employees) responsible for creating or distributing information with online content to students, employees, guests, and visitors with disabilities, including, but not limited to, training on the Web Accessibility Policy and their roles and responsibilities to ensure that web design, documents, and multimedia content are accessible. The training will be facilitated, in whole or in part, by an individual with sufficient knowledge, skill, and experience to understand and employ the technical standard(s) adopted by the District;

¹ This Agreement does not imply that conformity with WCAG, WAI-ARIA and/or other electronic and information technology standard is either required or sufficient to comply with the requirements of either Section 504 or Title II. The technical standard(s) serve only as guidance with respect to whether the online content is accessible.

- e. an accessibility audit (Audit) to be completed at regular intervals under the direction of the Web Accessibility Coordinator, during which information provided by the District through its online content is measured against the technical standard(s) adopted in the Web Accessibility Policy. All problems identified through the Audit will be documented, evaluated, and, if necessary, remediated within a reasonable period of time; and
- f. inform students, prospective students, employees, guests, and visitors that they may report violations of the technical standard(s) used by the District, file a formal complaint through its Section 504 and Title II grievance procedure, and/or contact the Web Accessibility Coordinator with any accessibility concerns. The Web Accessibility Policy will include the name and/or title, office address and telephone number, and email address of the Web Accessibility Coordinator.

Reporting Requirement: By May 31, 2018, the District will provide for OCR’s review and approval the Web Accessibility Policy drafted consistent with Item 1.

2. Within 60 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will post the Web Accessibility Policy in a logical and readily identifiable location on its website and will provide notification to students, prospective students, employees, guests, and visitors. The notification will occur by written correspondence, email, and/or website notification and will further provide information on where the Web Accessibility Policy is located on the District’s website and, alternatively, where individuals may request or obtain a copy of such document.

Reporting Requirement: Within 60 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will provide documentation to OCR verifying its implementation of Item 2, including a copy of the notification(s) and the URL (web address[es]) for the location of its Web Accessibility Policy.

3. Within 180 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will complete an initial Audit to examine whether information provided through online content is currently accessible, measured against the technical standard(s) adopted by the Web Accessibility Policy. The District will document the results of the Audit and develop a corrective action strategy based on the audit findings that includes relevant timeframes for completion.

Reporting Requirement: Within 180 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will provide to OCR for review and approval a copy of its Audit report and corrective action strategy, including the timeline for implementation of the corrective action strategy, and the credentials of a third party web accessibility consultant or employee of the District with sufficient knowledge, skill, and experience to understand and employ the technical standard(s) adopted by the District that will be certifying (pursuant to Item 4 below) that the District’s online content meets the technical requirements adopted in the Web Accessibility Policy.

4. Within 30 calendar days of OCR’s approval of the corrective action strategy, including the timeline for implementation of the corrective action strategy and the credentials of the District’s consultant or responsible employee described above, the District will begin implementation of the corrective action strategy to make its online content accessible to individuals with disabilities, particularly students with visual, hearing, or manual impairments or who otherwise require the use of assistive technology to access the online content.

Reporting Requirements: Within 180 calendar days of OCR’s approval of the corrective action strategy, the District will submit documentation to OCR confirming implementation of the corrective action strategy consistent with established timeframes, including certification to OCR that its online content meets the technical requirements adopted in the Web Accessibility Policy. The District will also provide to OCR the bases for this certification including copies of any accessibility evaluation or report, dates of correction actions, and copies of any reports from interim audits conducted pursuant to the Web Accessibility Policy.

5. Within 60 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will develop and conduct training on how to ensure accessibility in web design and implementation. The training will be provided by qualified personnel, or through an online training program vetted by said qualified personnel, to all staff involved in web design and implementation, including but not limited to administrators, teachers, staff, and volunteers who develop content for online instruction and/or post material on District webpage(s)/portal(s). The training will include, at a minimum, training on the Web Accessibility Policy and the roles and responsibilities of District staff to ensure that web design, documents, course content, and multimedia videos or content are accessible.

Reporting Requirement: Within 60 calendar days of OCR’s approval of the District’s Web Accessibility Policy, the District will provide to OCR the name(s) and credentials of the individual(s) who conducted the training; a list of individuals, by name and title, who attended the training; and a copy of any training materials (e.g., pamphlets, presentation materials).

General Requirements

The District understands that, by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. § 104.4, and Title II and its implementing regulation at 28 C.F.R. §§ 35.130 and 35.160, which were at issue in this complaint. Upon completion of the obligations under this Agreement, OCR will close this complaint.

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

This Agreement will become effectively immediately upon the signature of the District's representative below.

/s/

2/12/2018

Superintendent or Designee

Date