

Grand Haven Area Public Schools
Resolution Agreement
OCR Docket #15-17-1027

Grand Haven Area Public Schools (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.

This Agreement has been entered into voluntarily, and does not constitute an admission that the District violated Section 504 or Title II or those statutes' implementing regulations.

“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. Provided, however, that the accessibility standards do not require the District to take any action that it can demonstrate would result in: (1) a fundamental alteration in the nature of a service, program, or activity; or (2) undue financial and administrative burdens.

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 October 16, 2017, 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 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), except where doing so would result in undue financial and administrative burdens a fundamental alteration in the nature of a service, program, or activity. 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. The Web Accessibility Coordinator may be 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;
 - c. provide a procedure to ensure that online content provided or developed by third parties for the District's use in providing its services, programs, or activities 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 will provide equal opportunity to access the educational benefits and opportunities afforded by the technology and equal treatment in the use of such technology. Third-party online content linked from the District's website is not required to comply with the technical standards unless the District uses the third-party online content to allow members of the public to participate in or benefit from the District's services, programs, or activities. The District makes no assurances to any content or open source software that is posted, hosted, or offered on the District's

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. The District agrees that, unless and until the federal regulations and the law relative to the applicable standards for web accessibility change, the District will follow the existing standards, identified in this Agreement, for web accessibility. The District will ensure that its online content is in compliance with and meets the standards articulated in the "Web Accessibility Policy". In the event that the standards or laws and regulations change, the District agrees that it will conform its policies and procedures and online content to satisfy the requirements pursuant to the regulations implementing Section 504 and Title II.

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. provide for annual training for any staff (e.g. administrators, teachers, staff, volunteers) 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. With regard to staff who have already been fully trained at least once on the Web Accessibility Policy, the annual training requirement can be satisfied by disseminating notice that includes the Web Accessibility Policy (e.g., via email with a link to the policy), highlights any policy updates, and provides the name and contact information of the Web Accessibility Coordinator to serve as a resource for staff with questions about the accessibility of online content;
- e. provide for 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 October 16, 2017, the District will provide for OCR's review and approval the Web Accessibility Policy drafted consistent with Item 1 of this Agreement.

- 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 its Web content is currently accessible, as measured against the technical standard(s) adopted by the Web Accessibility Policy. The District will document the results of the Audit and develop, if needed, a corrective action strategy to make its online content accessible to individuals with disabilities, particularly individuals with visual, hearing, or manual impairments or who otherwise require the use of assistive technology to access the online content. Any corrective action strategy will include a timeline with benchmarks denoted in number of elapsed calendar days from OCR's approval of the strategy for implementation of the corrective action strategy within 180 calendar days of OCR's approval of the strategy.

Reporting Requirements: 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, if needed, corrective action strategy, including the timeline for implementation of the corrective action strategy, and the credentials of its Web Accessibility Coordinator which show that the Coordinator has sufficient knowledge, skill, and experience to understand and employ the technical standard(s) adopted by the District so that he or she can certify (pursuant to Item 4 below) that the District's online content meets the technical requirements adopted in the Web Accessibility Policy.

4. Within 180 calendar days of OCR's approval of any corrective action strategy, including the timeline for implementation of the corrective action strategy and the credentials of the District's Web Accessibility Coordinator, the District will confirm to OCR 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.

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 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 120 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 120 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. Upon completion of the obligations under this Agreement, OCR will close this case.

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 effective immediately upon the signature of the District’s representative below.

/s/

8/22/17

Superintendent or Designee

Date