



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION XV

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CLEVELAND, OH 44115

REGION XV  
MICHIGAN  
OHIO

November 29, 2017

Jason L. Byrne, Esq.  
Warner, Norcross & Judd LLP  
900 Fifth Third Center  
111 Lyon Street NW  
Grand Rapids, Michigan 49503-2487

Re: OCR Docket #15-17-2281

Dear Mr. Byrne:

This letter is to inform you of the disposition of the above-referenced complaint filed against Alma College (the College) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), on July 24, 2017, alleging discrimination on the basis of disability. Specifically, the complaint alleged that certain of the College's web pages were not accessible to students and adults with disabilities including, but not limited to, vision and hearing impairments. These include:

1. Homepage – <http://www.alma.edu>
2. About page – <http://www.alma.edu/about/>
3. Admissions & Aid page – <http://www.alma.edu/admissions/>
4. Disability Support Services page – <http://www.alma.edu/academics/support/center-for-student-opportunity/disability-support-services.php>

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 these laws. Accordingly, OCR had jurisdiction to investigate this complaint.

Based on the complaint allegations, OCR opened an investigation of 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 also 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

To date, OCR has investigated this complaint by reviewing information provided by the Complainant and by conducting a preliminary assessment of the accessibility of several pages from the College’s website.

The Complainant used website accessibility evaluation tools (PowerMapper and WAVE) and reported to OCR that the College’s website, including but not limited to the homepage, the About page, the Admissions & Aid page, and the Disability Support Services page, had accessibility issues for individuals with disabilities. She then provided OCR with a list of errors copied and pasted from the website accessibility tools that she used.

During the investigative stage of the complaint, OCR conducted a preliminary examination of four of the web pages identified by the Complainant, delineated above, and found possible compliance concerns as to whether the College’s website is accessible to individuals with disabilities. For example, all of the web pages contained poor contrast, two of the web pages had problems with video captioning, and two web pages contained photographs that did not have meaningful alternative text.

Prior to the completion of OCR’s investigation, the College asked to resolve this complaint pursuant to Section 302 of OCR’s *Case Processing Manual* (CPM). On November 29, 2017, the College submitted the enclosed signed resolution agreement (the Agreement) to OCR. When fully implemented, the Agreement will resolve the allegations in the complaint.

In light of the commitments the College has made in the Agreement, OCR finds that the complaint is 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.

OCR looks forward to receiving the College's first monitoring report. For questions about implementation of the Agreement, please contact XXXXXX, who will be monitoring the College's implementation, by e-mail at XXXXXX or by telephone at XXXXXX. For questions about this letter, please contact me at (216) 522-7640.

Sincerely,

/s/

Sacara M. Martin  
Supervisor/Team Leader

Enclosure