



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

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

February 6, 2018

Michael Joseph Brown, Ph.D.
President
Payne Theological Seminary
1230 Wilberforce-Clifton Road
P.O. Box 474
Wilberforce, Ohio 45384

Re: OCR Docket #15-17-2317

Dear Dr. Brown:

This letter is to inform you of the disposition of the above-referenced complaint filed against Payne Theological Seminary (the Seminary) with the U.S. Department of Education (Department), Office for Civil Rights (OCR), on September 18, 2017, alleging discrimination on the basis of disability. Specifically, the complaint alleged that certain of the Seminary'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://payne.edu>
2. Prospective Students – <http://payne.edu/student/>
3. Our Story – <http://payne.edu/about/>

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 Seminary 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 Seminary, 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 Seminary’s website.

The Complainant used website accessibility evaluation tools (PowerMapper and WAVE) and reported to OCR that the Seminary’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 three of the web pages identified by the Complainant, delineated above, and found possible compliance concerns as to whether the Seminary’s website is accessible to individuals with disabilities. For example, form controls did not exist, links were not meaningfully labeled, and the tab key was difficult to see when tabbing through the webpage and could not always access content contained on the webpage.

Prior to the completion of OCR’s investigation, the Seminary asked to resolve this complaint pursuant to Section 302 of OCR’s *Case Processing Manual* (CPM). On February 2, 2018, the Seminary 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 Seminary 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 Seminary'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 Seminary has fulfilled the terms of the Agreement and is in compliance with Section 504 with regard to the issues raised.

If the Seminary 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 Seminary 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 Seminary'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 Seminary 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 Seminary's first monitoring report. For questions about implementation of the Agreement, please contact XXXXXX, who will be monitoring the Seminary'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