



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

1350 EUCLID AVENUE, SUITE 325  
CLEVELAND, OH 44115

REGION XV  
MICHIGAN  
OHIO

January 31, 2018

Dr. Herman J. Felton, Jr.  
President  
Wilberforce University  
1055 N. Bickett Road  
P.O. Box 1001  
Wilberforce, Ohio 45384

Re: OCR Docket #15-18-2027

Dear Dr. Felton:

This letter is to inform you of the disposition of the above-referenced complaint filed against Wilberforce University (the University) on October 30, 2017, alleging discrimination based on disability. Specifically, the complaint alleged that certain of the University's web pages are not accessible to students and adults with disabilities including, but not limited to, 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 University is subject to this law. Accordingly, OCR had jurisdiction to investigate this complaint.

Based on the complaint allegations, OCR opened an investigation of the following issue: whether the University, 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. 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). 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 conducting a preliminary assessment of the accessibility of several pages from the University’s website.

The complaint alleges that the University’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 evaluation tools (PowerMapper and WAVE) and reported to OCR that the University’s website, including but not limited to the pages noted above, have 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.

OCR conducted a preliminary examination of the web page identified by the Complainant and found possible compliance concerns as to whether the University’s website is accessible to individuals with disabilities. For example, some of the pages (at the time of OCR’s review) lacked skip navigation, keyboard controls were not visually apparent and could not access all functions, alternative text was missing, and visual contrast was low.

Prior to the completion of OCR’s investigation, the University asked to resolve this complaint pursuant to Section 302 of OCR’s *Case Processing Manual* (CPM). On January 30, 2018, the University 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 University 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 University’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 University has fulfilled the terms of the Agreement and is in compliance with Section 504 with regard to the issues raised.

If the University 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 University 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 University'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 University 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.

OCR looks forward to receiving the University's first monitoring report by March 1, 2018. For questions about implementation of the Agreement, please contact XXXXXXXXXXXX, who will be monitoring the University's implementation, by e-mail at XXXXXXXXXXXX@ed.gov, or by telephone at XXX-XXX-XXXX. For questions about this letter, please contact XXXXXXXXXXXXXXXX, at (216) XXX-XXXX.

Sincerely,

/s/

Lisa M. Lane  
Supervisory Attorney/Team Leader

Enclosure