

Resolution Agreement

Harvey Mudd College
OCR Reference No. 09-16-2238

The Office for Civil Rights (OCR) of the U.S. Department of Education initiated an investigation into an allegation that Harvey Mudd College (College) violated Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and that statute’s implementing regulations at 34 C.F.R. Part 104. Specifically, the complainant alleges that the College’s website contains barriers to access for people with disabilities, thereby denying them an equal opportunity to participate in the College’s programs, services, and activities, and denying them effective communication necessary for full participation in the College’s programs, services, and activities.

This Agreement has been entered into voluntarily and does not constitute an admission that the College violated Section 504 and the statute’s implementing regulations.

Assurances of Nondiscrimination. The College hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the College’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.

Benchmarks for Measuring Accessibility. For the purposes of this Agreement, the accessibility of online content and functionality will be measured according to the World Wide Web Consortium’s (W3C’s) Web Content Accessibility Guidelines (WCAG) 2.0 Level AA and the Web Accessibility Initiative Accessible Rich Internet Applications Suite (WAI-ARIA) 1.0 for web content, which are incorporated by reference.

Adherence to these accessible technology standards is one way to ensure compliance with the College’s underlying legal obligations to ensure people with disabilities are able to acquire the same information, engage in the same interactions, and enjoy the same benefits and services within the same timeframe as their nondisabled peers, with substantially equivalent ease of use; that they are not excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any the College’s programs, services, and activities delivered online, as required by Section 504 and the statute’s implementing regulations; and that they receive effective communications with the College’s programs, services, and activities delivered online.

The College voluntarily agrees to take the actions set forth below.

Remedies and Reporting

1. Policies and Procedures for New Online Content and Functionality. By October 31, 2016, the College will submit to OCR for its review and approval proposed policies and procedures (“the Plan for New Content”) to ensure that all new, newly-added, or modified online content and functionality will be accessible to people with disabilities as measured by conformance to the

Benchmarks for Measuring Accessibility set forth above, except where doing so would impose a fundamental alteration or undue burden.

- a) When fundamental alteration or undue burden defenses apply, the Plan for New Content will require the College to provide equally effective alternate access. The Plan for New Content will require the College, in providing equally effective alternate access, to take any actions that do not result in a fundamental alteration or undue financial and administrative burdens, but nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the same benefits or services as their nondisabled peers. 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.
 - b) The Plan for New Content must include sufficient quality assurance procedures, backed by adequate personnel and financial resources, for full implementation. This provision also applies to the College's online content and functionality developed by, maintained by, or offered through a third-party vendor or through the use of open sources.
 - c) Within 30 calendar days of receiving OCR's approval of the Plan for New Content, the College will officially adopt, and fully implement, the amended policies and procedures.
 - d) Reporting: Within 45 calendar days of receiving OCR's approval, the College will submit to OCR the approved policies and procedures, evidence of their adoption and distribution, and a description of how they are being implemented.
2. Undue Burden and Fundamental Alteration. For any technology-related requirement in this Agreement for which the College asserts an undue burden or fundamental alteration defense, such assertion may only be made by the College's President ("President") or by an individual designated by the President 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 President or designee. If such a determination is made, the certifying official will describe in the written statement how it will provide equally effective alternate access, *i.e.*, other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the same benefits or services provided by the College as their nondisabled peers.
 3. Designation of Auditor. By January 13, 2017, the College will propose for OCR's review and approval the identity and bona fides of an Auditor (corporation or individual) to audit all content and functionality on its website, consistent with the Audit Priority Plan, to identify any online content or functionality that is inaccessible to persons with disabilities, including online content and functionality developed by, maintained by, or offered through a third-party vendor or an open

source. The Auditor will have sufficient knowledge and experience in website accessibility for people with disabilities to carry out all related tasks, including developing a proposed Audit Priority Plan and a proposed Corrective Action Plan.

- a) Reporting: OCR will evaluate whether the Auditor proposed according to Paragraph 3 has the requisite experience and knowledge to carry out an appropriate Audit and to develop a proposed Audit Priority Plan and proposed Corrective Action Plan. Within 7 calendar days of receiving OCR's approval of the proposed Auditor, the College will submit to OCR documentation that it has assigned or retained the Auditor approved by OCR to conduct the Audit of existing content and functionality.
4. Audit Priority Plan. The Auditor will develop an Audit Priority Plan that will establish a detailed schedule for auditing the College's website (taking into account identified priorities) to identify any online content or functionality that is inaccessible to persons with disabilities, including online content and functionality developed by, maintained by, or offered through a third-party vendor or an open source. The first identified audit priorities will include, but are not limited to, the College's home and office pages; all College webpages that provide information about resources and services for students with disabilities, including Section 504; College gateway pages (such as admissions, enrollment and registration, financial aid, etc.); and frequently used College webpages.
 - a) Reporting: Within 60 calendar days of OCR's approval of the Auditor, the College will submit for OCR's review and approval the Audit Priority Plan.
5. Audit of Existing Content and Functionality. The Auditor approved by OCR will audit all content and functionality of the College's website, in accordance with the OCR approved Audit Priority Plan. The Audit will use the Benchmarks for Measuring Accessibility set out above, unless the College receives prior permission from OCR to use a different standard as a benchmark. During the Audit, the College will also seek input from members of the public with disabilities, including parents, students, employees, and others associated with the College, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.
 - a) Reporting: Within 180 calendar days of OCR's approval of the Audit Priority Plan, the College will submit to OCR documentation of the steps taken by the Auditor during the Audit, a description of the outreach it undertook and the input it received, and a detailed accounting of the results of the Audit.
6. Proposed Corrective Action Plan. Simultaneously with the submission of the Audit, the College will submit to OCR for its review and approval a proposed Corrective Action Plan to address all inaccessible content and functionality identified during the College's Audit. The proposed Corrective Action Plan will set out a detailed schedule for addressing problems, taking into account identified priorities, with all corrective actions to be completed within 24 months of the date OCR approved the Corrective Action Plan, setting up systems of accountability and verifying claims of

accessibility by vendors or open sources; and setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis.

- a) In its Corrective Action Plan, the College will acknowledge that if all inaccessible content and functionality identified during the Audit is not removed or made accessible on a timely basis, the College will be in violation of this Agreement, and Section 504, and OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this agreement.
 - b) Within 30 calendar days of receiving OCR's approval of the proposed Corrective Action Plan, the College will officially adopt and implement the Corrective Action Plan.
 - c) Reporting: Within 45 calendar days of receiving OCR's approval of the proposed Corrective Action Plan, the College will submit to OCR the approved Corrective Action Plan, and documentation establishing that the approved Corrective Action Plan is being implemented according to the approved schedule. Reports will be due every six months thereafter until the Corrective Action Plan has been completed.
7. Notice. Within 60 calendar days of the date of this Agreement, the College will submit to OCR for review and approval a proposed Notice on its website to persons with disabilities regarding how to request the webmaster or other appropriate person to provide access to (or notify the College regarding) online information or functionality that is currently inaccessible. The proposed Notice will also include information or an accessible link to information instructing people how to file more formal grievances with the College under Section 504. Within 10 calendar days of receiving OCR's approval of the proposed Notice, the College will officially adopt and publish the approved Notice by prominently posting the approved Notice on its home page and throughout its website (including all subordinate pages and intranet pages and sites).
- a) Reporting: Within 15 calendar days of receiving OCR's approval of the College's proposed Notice, the College will provide documentation to OCR regarding the locations and content of its published Notice.
8. Training. Starting no later than 120 calendar days from the date of this Agreement, and annually thereafter until such time as OCR closes its monitoring of this Agreement, the College, will deliver website accessibility training to all appropriate personnel, including, but not limited to: content developers, webmasters, procurement officials, and all others responsible for developing, loading, maintaining, or auditing web content and functionality.
- a) Reporting: For each training session required by this Agreement, until such time as OCR closes its monitoring of this Agreement, the College will submit to OCR documentation that the training has been delivered. The documentation will include a list of invitees and attendees and their position titles, a description of the delivered training content, and the presenters' credentials for providing such training.

9. The College understands that OCR will not close the monitoring of this Agreement until OCR determines that the College has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. 104.4, which were at issue in this case.
10. The College also understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this agreement. Further, the College understands that during the monitoring of this agreement, if necessary, OCR may visit the College, interview staff members, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether the College has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. 104.4, which are at issue in this case.
11. The College 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 and 100.10), or judicial proceedings to enforce this agreement, OCR shall give the College written notice of the alleged breach and 60 calendar days to cure the alleged breach.

_____/S/_____
College President

_____/08/09/2016_____
Date