

**Michigan Department of Education
Voluntary Resolution Agreement
OCR Docket #15-14-1110**

The Michigan Department of Education (MDE) 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.

Both MDE and the State of Michigan recognize the importance of ensuring their websites are accessible to those with disabilities. Under Executive Directive 2014-1, the State of Michigan is developing a long term strategy and plan for accessibility of all its documents, websites, and other printed materials. As such, to resolve the above-referenced complaint, MDE voluntarily assures OCR that it will take the actions detailed below (the Agreement). If MDE determines that it is unable to fulfill the terms of this Agreement, MDE will provide written notification to OCR. OCR will address any implementation problems or related modification of this agreement in accordance with OCR's Case Processing Manual. By making these assurances, MDE makes no admissions of any violations of accessibility laws.

Definitions

- "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 benefits and opportunities afforded by the technology and equal treatment in the use of such technology.
- "Days" as used in this Agreement means calendar days.
- "MDE web pages" as used in this Agreement means pages hosting or providing content for MDE on the website michigan.gov and state.mi.us web pages. "MDE web pages" do not include websites, applications, or content not owned and controlled by the State of Michigan.

1. Notice of Nondiscrimination and Section 504/Title II Coordinator

Within 30 days of the Effective Date of this Agreement, MDE will submit to OCR a notice of nondiscrimination to notify visitors to MDE web pages that MDE does not discriminate on the basis of disability (the Notice).

- a. MDE may comply with item 1 by using the language set out in OCR's August 2010 publication, "Notice of Nondiscrimination." The notice may be combined with other required notices concerning non-discrimination based on sex, race, national origin, color, and age as described in that publication. The Notice may be combined with other State of Michigan notices pertaining to non-- discrimination.
- b. The Notice will identify the person designated to ensure MDE's compliance with Section 504 and Title II. If MDE has designated a different person to ensure its compliance regarding its website, the Notice will identify its Section 504/Title II coordinator for web accessibility (MDE Website Accessibility Coordinator), including his or her: (1) name; (2) position or title; (3) office address; (4) telephone number; and (5) e-mail address.
- c. The Notice will be included in any new materials or other publications containing general information that MDE publishes and makes available to members of the public, employees, or others in written form or through MDE's website. Until the next date of regularly scheduled reprinting of published materials, electronic means may be used to provide the required notice. In addition, the Notice will be in a readily available position(s) on the MDE website, and accessible to persons with visual, hearing, or manual impairments or who otherwise require the use of assistive technology to access information. MDE may incorporate the Notice with a similar State of Michigan notice but must still make the incorporated notice readily available on the MDE website.

REPORTING REQUIREMENTS:

- Within 30 days of the Effective Date of this Agreement, MDE will submit to OCR for review a draft Notice consistent with item 1 above.
- Within 15 days of OCR's approval of the Notice, MDE will publish within the footer of MDE web pages the Notice or a link to the location of the State of Michigan combined notice and will notify OCR that item 1 has been completed.

2. Web Accessibility Policy

Within 90 days of the Effective Date of this Agreement, MDE will submit to OCR for review and approval a website accessibility policy communicating MDE's commitment to making information provided on its web pages accessible, including all elements of web pages erected regarding the rule promulgation process, to visitors with disabilities, particularly those with visual, hearing, or manual impairments or who otherwise require the use of assistive technology to access information (MDE Web Accessibility Policy). The MDE Web Accessibility Policy may be the same as or incorporate the State of Michigan's web accessibility policy, so long as it meets the requirements identified below. The MDE Web Accessibility Policy will, at minimum:

- a. include the Notice identified in item 1 above;
- b. identify the specific technical standard MDE will use to determine whether MDE web pages are accessible, which may be W3C's Web Content Accessibility Guidelines (WCAG) or other generally accepted accessibility technical standards¹;
- c. inform website visitors that they may request accommodations regarding a specific web page or element, report violations of the technical standards, file a formal complaint, and contact the applicable web accessibility coordinator with accessibility concerns;
- d. identify the responsibilities of and include a link to contact information for the MDE Website Accessibility Coordinator, including his or her: (1) role; (2) position or title; (3) office address; (4) telephone number; and (5) e-mail address. If the person serving in this capacity is the State of Michigan's Website Accessibility Coordinator, the policy will include the same contact information for this individual; and
- e. inform website visitors that MDE will develop a plan (pursuant to item 3, below) to ensure that the MDE Web Accessibility Policy is being implemented and provide information about how a visitor may request a copy of the plan.

REPORTING REQUIREMENTS:

- Within 90 days of the Effective Date of this Agreement, MDE will submit to OCR for review and approval the MDE Web Accessibility Policy consistent with item 2 above.
- Within 30 days of notification that OCR has approved the Policy, MDE will provide documentation to OCR that it has published the MDE Web Accessibility Policy. Documentation shall include the URL for the location of the MDE Web Accessibility Policy.

3. MDE Web Accessibility Plan

Within 90 days of the Effective Date of this Agreement, MDE will submit to OCR for review and approval an implementation and remediation plan (Web Accessibility Plan) to foster adherence with the MDE Web Accessibility Policy. The Web Accessibility Plan may be the same as or incorporate the State of Michigan's web accessibility plan. The Web Accessibility Plan will, at minimum, provide for:

¹ This Agreement does not imply that conformity with Section 508, WCAG, 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 MDE website is accessible.

- a. An implementation plan that will lay out a procedure to ensure that going forward all information presented on MOE web pages, including content provided or developed internally and by third-party contractors, is accessible.
 - i. This procedure should direct administrators and staff to consider whether web pages provided or developed internally and by third parties will ensure equal opportunity to the benefits and opportunities afforded by the technology and equal treatment in the use of such technology and identify a process for review of both internal and third-party-generated material or content prior to setting such content live on the MOE website.
 - ii. This procedure will provide for accessibility reviews using industry standard web accessibility tools at regular, defined intervals to measure MDE's web pages against the technical standards adopted in the MOE Web Accessibility Policy. Problems identified through accessibility reviews will be documented, evaluated, and, if necessary, remediated within a specific period of time designated by the plan. The Web Accessibility Plan may provide for exceptions to this review requirement for static content and web applications that met the adopted technical standards at initial publication and have not substantially changed since then. MOE will maintain documentation of any such excepted content or applications.
 - iii. This procedure will provide for initial and annual training for MDE content editors responsible for creating or distributing information via the MDE website to site visitors with disabilities, as well as the individuals responsible under item 3(b) below for completing the audit and implementing the remediation plan. The training will include, but not be limited to, training on the MDE Web Accessibility Policy, the Web Accessibility Plan, 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 standards adopted by MDE.
- b. A remediation plan that will lay out a procedure for identifying existing inaccessible content and establishing priorities for rendering existing content accessible.
 - I. This procedure will provide for MDE to complete an initial audit, through which MDE will examine whether information provided through all MDE web pages is currently accessible. MOE will document the results of the audit and develop a corrective action plan based on the audit findings that includes relevant timeframes for completion based upon the prioritization schedule for remediation outlined in the Web Accessibility Plan.
 - ii. This procedure will provide for initial and annual training for any individuals tasked with remediation responsibilities under item 3(b), to cover the MDE

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Web Accessibility Policy, the Web Accessibility Plan, 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 standards adopted by MDE.

REPORTING REQUIREMENTS:

- Within 90 days of the Effective Date of this Agreement, MDE will submit to OCR for review and approval the Web Accessibility Plan consistent with item 3 above.
 - Within 60 days of notification that OCR has approved the relevant portions of the Plan (i.e., item 3(a) "implementation plan" or item 3(b) "remediation plan"), MDE will provide OCR documentation that it has provided the initial training as described above. Documentation shall include the name(s) and credentials of the person(s) conducting 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).
 - Within 60 days of notification that OCR has approved the Plan, MDE will provide documentation to OCR that it has begun to implement the Web Accessibility Plan. Documentation shall include a copy of the audit report developed pursuant to the initial audit conducted under the Plan and documentation of the remediation plan and any responsive remediation completed.
 - By June 15, 2016, MDE will provide OCR with a report describing its efforts for the remainder of the 2015 and 2016 fiscal years to comply with its Web Accessibility Policy and Web Accessibility Plan, including information documenting any compliance issues discovered through the monitoring, audits, or complaints and the actions taken to correct those issues. Documentation of any MDE web pages pertaining to rule promulgation, audits of such pages, and any corrective actions taken to ensure accessibility should be included.
4. **Verification of Website Accessibility**
By June 15, 2017, MDE will ensure that its website is 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 website.

REPORTING REQUIREMENTS:

- By June 15, 2017, MDE will provide OCR with certification that its website meets the technical requirements adopted in the MDE Accessibility Policy. The

certification may be obtained from a third-party web accessibility consultant or an employee of MDE with sufficient knowledge, skill, and experience to understand and employ the technical standard(s) adopted by MDE. MDE will also provide OCR with the bases for this certification.

General Requirements

MDE understands that OCR will not close the monitoring of this Agreement until OCR determines that MDE 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 104.8, and Title II and its implementing regulation at 28 C.F.R. §§ 35.106, 35.130, and 35.160, which were at issue in this complaint.

MDE understands that, by signing this Agreement, it agrees to provide data and other information in a timely manner. Further, MDE understands that during the monitoring of this Agreement OCR may visit MDE, interview staff, and request such additional reports or data as are necessary for OCR to determine whether MDE 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 104.8, and Title II and its implementing regulation at 28 C.F.R. §§ 35.106, 35.130, and 35.160.

MDE 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 MDE written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

/s/
MDE Superintendent of
Public Instruction or Designee

06/05/15
Date (Effective Date of Agreement)