

Washtenaw Intermediate School District
Resolution Agreement
OCR Docket #15-16-1277

The Washtenaw Intermediate School District (the ISD) voluntarily submits this Resolution Agreement (the 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.

This Agreement has been entered into voluntarily and does not constitute an admission that the ISD violated Section 504 and Title II and those statutes' implementing regulations.

Assurances of Nondiscrimination. The ISD hereby reaffirms its commitment to ensure that people with disabilities have an opportunity equal to that of their nondisabled peers to participate in the ISD'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 ISD'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 ISD programs, services, and activities delivered online, as required by Section 504 and Title II and those statutes' implementing regulations; and that they receive effective communications with ISD programs, services, and activities delivered online.

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

Remedies and Reporting

1. **Undue Burden and Fundamental Alteration.** For any technology-related requirement in this Agreement for which the ISD asserts an undue burden or fundamental alteration defense, such assertion may only be made by the Superintendent or by an individual designated by the Superintendent 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 Superintendent 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. 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.

2. **Policies and Procedures for New Online Content and Functionality.** By **January 31, 2017**, the ISD 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) The Plan for New Content must contain sufficient quality assurance procedures for full implementation, including setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis, and backed by adequate resources. This requirement also applies to the ISD's online content and functionality developed by, maintained by, or offered through a third-party vendor or through the use of open sources, and includes setting up systems of accountability and verifying claims of accessibility by the third-party vendors or open sources.
 - b) When fundamental alteration or undue burden defenses apply, the Plan for New Content will require the ISD to provide equally effective alternate access. The Plan for New Content will require the ISD, 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.
 - c) Within 60 calendar days after receiving OCR's approval of the Plan for New Content, the ISD will officially adopt the amended policies and procedures.

Reporting Requirement: Within 30 calendar days of their adoption, the ISD will submit to OCR the approved policies and procedures, evidence of their adoption and distribution, and a description of how they are being implemented.

3. **Assessment of Existing Content and Functionality.** By **January 31, 2017**, the ISD will conduct an assessment of its website, including, but not limited to, the home page, and all subordinate pages, to determine the specific portions, including online content and functionality developed by, maintained by, or offered through a third-party vendor or an open source on behalf of the ISD, that are inaccessible to persons with disabilities. The Assessment will use the Benchmarks for Measuring Accessibility set out above, unless the ISD receives prior permission from OCR to use a different standard as a benchmark. The personnel conducting the Assessment will have sufficient knowledge and experience in website accessibility to carry out all related tasks, including development of a proposed Corrective Action Plan. During the Assessment, the ISD will seek input regarding the accessibility of its website from persons knowledgeable about website accessibility, including employees, parents, students, and members of the public with disabilities.

Reporting Requirement: Within 30 calendar days of the date the ISD completes its Assessment of Existing Content and Functionality, the ISD will submit to OCR documentation of the steps taken during the Assessment and a detailed accounting of the results of the Assessment.

4. **Proposed Corrective Action Plan.** Within 90 calendar days of the date the ISD completes its Assessment of Existing Content and Functionality, the ISD will submit to OCR for its review and approval a proposed Corrective Action Plan to address all inaccessible content and functionality identified during the ISD's Assessment. The proposed Corrective Action Plan will set out a detailed schedule for:
 - a) 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;
 - b) setting up systems of accountability and verifying claims of accessibility by vendors or open sources; and
 - c) setting up a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis.
5. Within 30 calendar days of receiving OCR's approval of the proposed Corrective Action Plan, the ISD will officially adopt and implement the Corrective Action Plan.

Reporting Requirements: Within 60 calendar days of receiving OCR's approval of the proposed Corrective Action Plan, the ISD 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.

6. **Notice.** By **January 31, 2017**, the ISD 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 notify the ISD regarding inaccessible online content or functionality. The proposed Notice will include information, or an accessible link to information, about how to file a grievance through the ISD's grievance procedure required by the Section 504 and Title II implementing regulations. Within 10 calendar days of

receiving OCR’s approval of the proposed Notice, the ISD will publish the approved Notice by prominently posting the Notice on its website.

Reporting Requirement: Within 30 calendar days of publishing the approved Notice, the ISD will provide documentation to OCR regarding the locations and content of its published Notice.

7. **Training.** Starting no later than 30 calendar days from the date of this Agreement, or 30 calendar days from the first day of the new school year for school-based staff, and annually thereafter, the ISD 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.

Reporting Requirements: Within 30 calendar days of conducting each training session required by this Agreement, until such time as OCR closes its monitoring of this Agreement, the ISD 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.

General Requirements

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

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

The ISD 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 the ISD written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

09/06/2016

Superintendent or Designee

Date