

Resolution Agreement
Covenant College, Georgia
OCR Complaint No. 04-17-2357

The U.S. Department of Education (Department), Office for Civil Rights (OCR) and Covenant College (College) enter into this agreement to resolve the allegations in the above-referenced complaint. The College assures OCR that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 29 U.S.C. Section 794, and its implementing regulations at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance.

Prior to the completion of OCR's investigation, the College agreed to resolve the issues of this investigation pursuant to Section 302 of OCR's Case Processing Manual. Accordingly, to resolve the issues of this investigation, the College agrees to take the following actions.

Assurances of Nondiscrimination. The College hereby reaffirms its commitment to ensure that individuals 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 purpose 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) 1.1 techniques 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 individuals 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 College programs, services, and activities delivered online, as required by Section 504 and its implementing regulations; and that they receive effective communications with the College's programs, services, and activities delivered online.

Remedies and Reporting

- 1) Proposed Policies and Procedures Regarding New Online Content and Functionality. By **May 1, 2018**, 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 individuals 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 alternative 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, alternates are not required to produce the identical result or level of achievement for persons with and without disabilities, but must afford persons with disabilities 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 by using open sources.
 - c) Policy Adoption: Within thirty (30) 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 15 days after formal adoption of new or modified policies and procedures, the College will submit to OCR the new policies, 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 President or by an individual designated by the President 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 determining official. 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. Audit of Existing Content and Functionality. By **May 1, 2018**, 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, including, but not limited to, the home page, all subordinate pages, and intranet pages and sites, to identify any online content or functionality that is inaccessible to individuals 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 Corrective Action 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 ninety (90) days of receiving OCR's approval of the proposed Auditor, 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.
4. 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: (1) addressing problems, taking into account identified priorities, with all corrective actions to be completed within 18 months of the date OCR approved the Corrective Action Plan; (2) 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. 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 the Agreement.
5. Within thirty (30) days of receiving OCR's approval of the proposed Corrective Action Plan, the College will officially adopt and implement the Corrective Action Plan.
 - a) Reporting: Within forty-five (45) 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.

6. Notice. Within 30 days of the date of this Agreement, the College will submit to OCR for review and approval a proposed Notice to individuals 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 formal grievances under Section 504. Within 10 days of receiving OCR's approval of the proposed Notice, the College will officially adopt and prominently post the approved Notice on its home page and throughout its website (including all subordinate pages).
 - a) Reporting. Within fifteen (15) 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.

7. Training. Starting no later than 90 days from the date of this Agreement, and annually thereafter, 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 the monitoring of this Agreement, the College will submit to OCR documentation that it has been delivered. The documentation will include a list of invitees and attendees, including titles; a description of the delivered training content; and the presenters' credentials for giving such training.

The College understands that by signing this Agreement, it agrees to provide the foregoing 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 and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. Section 504, at 34 C.F.R. §§ 104.4 (a) and (b), 104.8, and 104.21. Upon completion of the obligations under this Agreement, OCR shall close and dismiss this case.

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, 100.10), or

judicial proceedings to enforce this Agreement, OCR shall give the College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the College's representative below.

/s/

February 21, 2018

President or Designee

Date

Printed Name and Title