

PROPOSED
Resolution Agreement
Indiana School for the Blind & Visually Impaired
OCR Complaint #05-16-1463

The Indiana School for the Blind & Visually Impaired (the Indiana School) submits the following resolution agreement ("Agreement") to the U.S. Department of Education, Office for Civil Rights ("OCR") in resolution of OCR complaint #05-16-1463. The Indiana School submits this Agreement to ensure its compliance with 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 (ADA), 42 U.S.C. §§ 12131 - 12134, and its implementing regulation, at 28 C.F.R. Part 35.

Assurances of Nondiscrimination. The Indiana School hereby reaffirms its commitment to ensure that individuals with disabilities have an opportunity equal to that of their nondisabled peers to participate in the Indiana School'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 techniques for web content, which are incorporated by reference.

Adherence to these accessible technology standards is one way to ensure compliance with the Indiana School'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 Indiana School programs, services, and activities delivered online, as required by Section 504 and Title II and their implementing regulations; and that they receive effective communication of the Indiana School's programs, services, and activities delivered online.

The Indiana School voluntarily agrees to take the actions set forth below.

Remedies and Reporting

- 1) Notice. Within 30 calendar days of the date of this Agreement, the Indiana School 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 Indiana School 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 with the Indiana School under Section 504 and Title II and the Indiana School's Section 504 and Title II coordinator(s). Within 10 calendar days of receiving OCR's approval of the proposed notice, the Indiana School will officially adopt and prominently post the approved notice on its home page and throughout its website (including all subordinate pages and intranet sites).

- a) Reporting. Within 15 calendar days of receiving OCR's approval of the Indiana School's proposed notice, the Indiana School will provide documentation to OCR regarding the locations and content of its published notice.
- 2) Auditor for the Plan for New Content By March 1, 2017, the Indiana School will propose for OCR's review and approval the identity and credentials of an Auditor (corporation or individual) to develop the Plan for New Content. The Auditor will have sufficient knowledge and experience in website accessibility for individuals with disabilities to carry out all related tasks, including developing a Proposed Plan for New Content. The Auditor will use the Benchmarks for Measuring Accessibility set out above, unless the Indiana School receives prior permission from OCR to use a different standard as a benchmark. During the Audit, the Indiana School will also seek input from members of the public with disabilities, including parents, students, employees, and others associated with the Indiana School, and other persons knowledgeable about website accessibility, regarding the accessibility of its online content and functionality.
 - a) Reporting: By March 1, 2017, the Indiana School will submit the credentials of its proposed Auditor to OCR for review and approval. OCR will evaluate whether the proposed Auditor has the requisite experience and knowledge to carry out an appropriate Audit and to develop a Proposed Plan for New Content.
- 3) Policies and Procedures Regarding New Online Content and Functionality. By March 31, 2017, the Indiana School 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 as outlined in Item 4, the Plan for New Content will require the Indiana School to provide equally effective alternative access. The Plan for New Content will require the Indiana School 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 individuals with and without disabilities, but must afford individuals 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 individual'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 Indiana School's online content and functionality developed by, maintained by, or offered through a third-party vendor or by using open sources.
 - c) Within thirty (30) days of receiving OCR's approval of the Plan for New Content, the Indiana School will officially adopt, and fully implement the amended policies and procedures.
 - d) Reporting: Within 45 calendar days of receiving OCR's approval, the Indiana School will submit to OCR the approved policies and procedures, evidence of their adoption and distribution, and a description of how they are being implemented.
- 4) Undue Burden and Fundamental Alteration. For any technology-related requirement in this Agreement for which the Indiana School 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 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 Indiana School as their nondisabled peers.
- a) Reporting: Within 30 calendar days of making the determination, the Indiana School will submit the written statement and appropriate supporting documentation to OCR for review and approval.
- 5) Plan for New Content: The Indiana School has represented that it is in the process of developing a new, accessible website that will "go live" by July 1, 2017. Within thirty (30) calendar days of receiving OCR's approval of the Auditor referenced in Item 2, the Indiana School will submit to OCR a detailed schedule for setting up the new website consistent with the Plan for New Content referenced in Item 3. The schedule and Proposed Plan for New Content will set up systems of accountability and verify claims of accessibility by vendors or open sources; and a system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis; the Proposed Plan for New Content will provide appropriate information about the systems of accountability and verification of claims of accessibility by vendors or open sources; and

the system of testing and accountability to maintain the accessibility of all online content and functionality on an ongoing basis.

- a) Reporting: Within ninety (90) calendar days of receiving OCR's approval of the Auditor referenced in Item 3, the Indiana School will submit to OCR documentation of the steps taken by the Auditor during the development of the Proposed Plan for New Content, a description of the outreach it undertook and the input it received, and a detailed accounting of the implementation and results of the Plan for New Content.
- 6) Training. By June 30, 2017, and annually thereafter, the Indiana School 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 Indiana School 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 Indiana School understands that OCR will not close the monitoring of this Agreement until OCR determines that the Indiana School has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.4, and Title II, at 28 C.F.R. §§ 35.130, and 35.160(a), which were at issue in this case.

The Indiana School 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 Indiana School understands that during the monitoring of this Agreement, if necessary, OCR may visit the Indiana School, interview staff, and request such additional reports or data, including simulated website accounts and passwords, as are necessary for OCR to determine whether the Indiana School has fulfilled the terms of this Agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.4, and Title II, at 28 C.F.R. §§ 35.130, and 35.160(a), which were at issue in this case.

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

On Behalf of the Indiana School

Date