



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS, REGION XV

1350 EUCLID AVENUE, SUITE 325
CLEVELAND, OH 44115

REGION XV
MICHIGAN
OHIO

Michael K. Le Roy, Ph.D.
President
Calvin College
3201 Burton SE
Grand Rapids, Michigan 49546

Re: OCR Docket #15-17-2077

Dear Dr. Le Roy:

This letter is to inform you of the disposition of the above-referenced complaint filed against Calvin College (the College), with the U.S. Department of Education (the Department's Office for Civil Rights (OCR) on January 17, 2017, alleging discrimination based on disability. Specifically, the complaint alleged that all of the College's web pages are not accessible to individuals with vision- and print-related disabilities and those with physical impairments.

OCR is responsible for enforcing Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance. As a recipient of Federal financial assistance from the U.S. Department of Education, the College is subject to Section 504 and its implementing regulations. OCR, therefore, had jurisdiction to investigate this complaint.

Based on the complaint allegation, OCR opened an investigation of the following issue: whether the College, on the basis of disability, excluded qualified persons with disabilities from participation in, denied them the benefits of, or otherwise subjected them to discrimination in its programs and activities based on disability in violation of the regulation implementing Section 504 at 34 C.F.R. § 104.4.

Legal Authority

Section 504 prohibits people, on the basis of disability, from being excluded from participation in, being denied the benefits of, or otherwise being subjected to discrimination by recipients of Federal financial assistance. 34 C.F.R. § 104.4. People with disabilities must have equal access to recipients' programs, services, or activities unless doing so would fundamentally alter the nature of the programs, services, or

activities, or would impose an undue burden. Section 504 prohibits affording individuals with disabilities an opportunity to participate in or benefit from aids, benefits, and services that are unequal to the opportunity afforded others. 34 C.F.R. § 104.4(b)(1)(ii). Similarly, individuals with disabilities must be provided with aids, benefits, or services that provide an equal opportunity to achieve the same result or the same level of achievement as others. 34 C.F.R. § 104.4(b)(2). An individual with a disability, or a class of individuals with disabilities, may be provided with a different or separate aid, benefit, or service only if doing so is necessary to ensure that the aid, benefit, or service is as effective as that provided to others. 34 C.F.R. § 104.4(b)(1)(iv). In sum, programs, services, and activities—whether in a “brick and mortar,” on-line, or other “virtual” context—must be operated in ways that comply with Section 504.

Investigation To Date

To date, OCR has investigated this complaint by reviewing information provided by the Complainant and conducting a preliminary assessment of the accessibility of several pages from the College’s website.

The complaint alleged that the College’s website is not in compliance with Section 504 because it is inaccessible to individuals with vision and print disabilities and physical impairments. The Complainant used website accessibility evaluation tools (PowerMapper, A-Checker, and WAVE) and reported to OCR that the College website has accessibility issues for individuals with disabilities. She then provided OCR with a list of errors copied and pasted from the website accessibility evaluation tools that she used.

OCR conducted a preliminary examination of certain of the College’s web pages and found possible compliance concerns as to whether the College’s website is accessible to individuals with disabilities. For example, at the time of OCR’s review, keyboard controls were not visually apparent, keyboard controls did not allow access to all content and functions, and non-trivial graphics did not have alternative text.

Prior to the completion of OCR’s investigation, the College asked to resolve this complaint pursuant to Section 302 of OCR’s Case Processing Manual (CPM) and submitted the enclosed, signed resolution agreement (the Agreement) to OCR on October 24, 2017. When fully implemented, the Agreement will resolve the allegations in the complaint.

Resolution and Conclusion

In light of the commitments the College has made in the Agreement, OCR finds that the complaint is resolved, and OCR is closing its investigation as of the date of this letter. OCR will monitor the College’s implementation of the Agreement to ensure that the commitments made are timely and effectively implemented. OCR may request additional information as necessary to determine whether the College has fulfilled the terms of the Agreement and is in compliance with Section 504 with regard to the issues raised.

If the College fails to implement the Agreement, OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of the Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10) or judicial proceedings to enforce the Agreement, OCR shall give the College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This concludes OCR's investigation of the complaint and should not be interpreted to address the College's compliance with any other regulatory provision or to address any issues other than those addressed in this letter.

This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

Please be advised that the College may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the harmed individual may file a complaint alleging such treatment.

The Complainant may file a private suit in federal court, whether or not OCR finds a violation.

OCR looks forward to receiving the College's first monitoring report by January 10, 2018. For questions about implementation of the Agreement, please contact OCR attorney Chandra Baldwin, who will be monitoring the College's implementation, by e-mail at Chandra.Baldwin@ed.gov or by telephone at (216) 522-2669. For questions about this letter, please contact Donald Yarab, Supervisory Attorney/Team Leader, at (216) 522-7634.

Sincerely,

Meena Morey Chandra
Regional Director

Enclosure