December 12, 2014

Mr. James P. Tressel
President
Youngstown State University
One University Plaza
Youngstown, Ohio 44555

Re: Case No. 15-13-6002
Youngstown State University

Dear Mr. Tressel:

This is to advise you of the resolution of the above-referenced compliance review that was initiated by the U.S. Department of Education, Office for Civil Rights (OCR), on May 6, 2013. OCR reviewed the accessibility of Youngstown State University (University)'s website to persons with disabilities, particularly those with sensory impairments who might require the use of assistive technology to access the sites.

OCR initiated this review under Section 504 of the Rehabilitation Act of 1973 (Section 504), as amended, 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. These laws prohibit discrimination on the basis of disability in programs or activities receiving financial assistance from the U.S. Department of Education (the Department) and by certain public entities. As a recipient of financial assistance from the Department and as a public entity, the University is subject to Section 504 and Title II.

During the course of this investigation, OCR identified compliance violations relating to the University's nondiscrimination notice, as well as the accessibility of particular pages on the University's website. Prior to the conclusion of OCR's investigation of the remaining issues in its review, the University expressed an interest in voluntarily resolving the investigation and entered into an agreement that commits the University to specific actions to address those issues. This letter summarizes the applicable legal standards, the information gathered during the investigation, and how the investigation was resolved.

Legal Standards

The regulation implementing Section 504, at 34 C.F.R. § I 04.4, provides:

(a) *General.* No qualified person with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives Federal financial assistance.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

(i) Deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified person with a disability with an aid, benefit, or service that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to persons or to any class of persons with disabilities unless such action is necessary to provide qualified persons with disabilities with aid, benefits, or services that are as effective as those provided to others;

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(vii) Otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

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(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified persons with disabilities to discrimination on the basis of disability, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program or activity with respect to persons with disabilities, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same State.

The regulation implementing Section 504, at 34 C.F.R. § 104.43, provides that no qualified student with a disability shall, on the basis of disability, "be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination under any postsecondary program or activity."

The regulation implementing Title II, at 28 C.F.R. § 35.130, has requirements similar to those in the regulation implementing Section 504. Additionally, the regulation implementing Title II has specific requirements for communication, which, in pertinent part, require that:

A public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others. 28 C.F.R. § 35.160(a)(l).

Entities subject to Title II are required to provide equally effective communication, regardless of the medium chosen for their communication. Communication by educational institutions includes the transfer of information and encompasses information conveyed through computer-related applications and online learning environments.

OCR and the U.S. Department of Justice, Civil Rights Division, issued a Dear Colleague Letter to college and university presidents on June 29, 2010 (June 2010 DCL). The letter states that requiring use of an emerging technology in a classroom environment when the technology is inaccessible to an entire population of individuals with disabilities-e.g., individuals with visual disabilities-is discrimination prohibited by Title II and Section 504 unless those individuals are provided accommodations or modifications that permit them to receive all the educational benefits provided by the technology in an equally effective and equally integrated manner. Specifically, the June 2010 DCL explains that the educational institution must ensure that students with disabilities can access the educational opportunity and benefit with "substantially equivalent ease of use" as students without disabilities.

OCR issued another Dear Colleague Letter on May 26, 2011 (May 2011 DCL), along with a questions and answers document (FAQ), to provide further clarification regarding the June 2010 DCL. The FAQ clarifies that students with disabilities, especially visual impairments, are to be afforded "the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as sighted students." The FAQ also clarifies that an accommodation or modification that is available only at certain times (such as an aide to read to the student) will not be considered "equally effective and equally integrated" where other students have access to the same information at any time and any location, as is the case with a website or other online content. The May 2011 DCL states that online programs are also covered and stresses the importance of planning to ensure accessibility from the outset.

While the May 2011 DCL and FAQ focus primarily on electronic book readers, the principles articulated in the documents apply to all forms of information technology. For instance, the FAQ cites as an example a school using a webmail system, stating that the system needs to be accessible to students through the use of screen reading technology. Ultimately, recipients and public entities must ensure equal access to the educational benefits and opportunities afforded by the technology and equal treatment in the use of the technology for all students, including students with disabilities.

In addition, the regulation implementing Section 504, at 34 C.F.R. § 104.7(a), states that a recipient that employs fifteen or more persons shall designate at least one person to coordinate its efforts to comply with regulation; the regulation implementing Title II contains a similar

provision at 28 C.F.R. § 35.107(a). The regulation implementing Section 504, at 34 C.F.R. §104.8(a), provides that a recipient that employs fifteen or more persons shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of disability in violation of Section 504. The notification is required to state, where appropriate, that the recipient does not discriminate in admission or access to, or treatment or employment in, its program or activity. The notification must also include an identification of the responsible employee designated pursuant to 34 C.F.R. § l04.7(a). The regulation implementing Title II contains a similar notice requirement for public entities at 28 C.F.R. § 35.106. The regulation implementing Section 504, at 34 C.F.R. § 104.8(b), states that if a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include the notice of nondiscrimination in those materials or publications. The regulation implementing Title II contains a similar requirement at 28 C.F.R. § 35.106.

Overview of the University

Youngstown State University is a public university in northeastern Ohio with an enrollment for 2013-2014of13,381 students.[1] According to the Integrated Postsecondary Education Data System (IPEDS) website at nces.ed.gov, the University reported that in 2011[2], 5% of its undergraduate students were registered with the University's disability services office.

The University maintains an overall website that contains information for current students, faculty, staff, alumni, and visitors. The website includes information for prospective students with respect to submission of online applications for admission; as well as information concerning its academic program, financial aid, library services, disability services, health services, housing, dining, recreation, and athletics. The University also utilizes course management software, Blackboard, which is a learning and communication system for course delivery and management.

In addition to the University's website, the University operates an online distance learning program, which includes peer-to-peer and faculty-student engagement via online postings and access to readings and exams. According to IPEDS, as of fall 2013, 3% of the University's undergraduate students were educated solely online through distance education programs, as were 13% of its graduate students. Additionally, 13% of its other undergraduate students and 5% of its other graduate students received some of their education online.

Summary of Review

In its investigation, OCR reviewed documentation provided by the University, including the University's policies related to the creation of websites. OCR also interviewed staff directly involved in overseeing the University's website, procuring software and technology, and working with students with disabilities. In addition, OCR contacted students with visual and

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[1] http://web.ysu.edu/gen/ysu _generated_ bin/documents/basic_ module/FastFacts.pdf.
[2] This is the most recent data available on IPEDS.

hearing disabilities who were registered with the University's disability services office for the 2011-2012 and/or 2012-2013 academic years, and interviewed the nine students who responded to OCR contacts. OCR also reviewed a sampling of the University's web pages to determine whether the pages are accessible to users with disabilities through the use of assistive technology; including but not limited to the University's homepage and pages related to financial aid, disability services, distance education, housing, and registration.

Information Obtained by OCR

Section 504/Title II Coordinator(s)

The University identified two Section 504/Title II coordinators--one for students and one for employees. The identified student coordinator is the assistant director of disability services. The identified employee coordinator is the chief human resources (HR) officer. The University also noted that the Director of the Office of Equal Opportunity and Policy Compliance is responsible for responding to complaints of discrimination by students, employees, or third parties. Accordingly, OCR determined that the University is in compliance with the regulations implementing Section 504, at 34 C.F.R. § 104.7(a), and Title II at 28 C.F.R. § 35.107(a), because the University has designated at least one person to coordinate its efforts to comply with regulations.

Nondiscrimination Notice

The University informed OCR that its notice of nondiscrimination is published through the Office of Disability Services in a brochure, and in its "Americans with Disabilities Act" policy (ADA policy); however, the brochure did not include a specific notice of nondiscrimination. The identified student coordinator's contact information is made available through the brochure. The coordinator's contact information is also readily available on the University's main disability services web page; however, she is not specifically identified as the Section 504/Title II coordinator there.[3]

The University also provided OCR with a copy of its ADA policy, which only prohibits discrimination in the workplace on the basis of disability and requires the University to provide appropriate employment accommodations to employees with disabilities. This policy does not state that the University does not discriminate on the basis of disability in all programs and activities, and thus does not comply with the notice requirements set forth in the regulations implementing Section 504 and Title II. OCR also found a notice in the "University Guidebook," which is available on the University's website. The Guidebook identifies the Director of the Office of Equal Opportunity and Policy Compliance as the administrator of the University's "Discrimination/Harrasment" policy; however, it does not specifically indicate that this person is the Section 504/Title II coordinator.[4] OCR also identified a nondiscrimination notice on the

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[3] http://web.ysu.edu/gen/ysu/Disability_Services_m695.html.
[4] http://web.ysu.edu/gen/ysu/DiscriminationHarrasment_m4211.html.

University's Equal Opportunity and Policy Compliance web page. That web page specifically identifies the Director of the Office of Equal Opportunity and Policy Compliance as the Section 504 Coordinator.[5]

The University's online undergraduate admission application contained an appropriate notice of nondiscrimination,[6] but the graduate admission application did not contain any notice of nondiscrimination.[7] Online job vacancy information also did not include a notice of nondiscrimination.[8]

Based on the above, OCR determined that the University has not published appropriate notices of nondiscrimination in at least some of the materials and publications containing general information that it makes available to participants, beneficiaries, applicants, or employees as required by the regulations implementing Section 504 at 34 C.F.R. § 104.8(b) and Title II at 28 C.F.R. § 35.106. Additionally, notices that the University provided did not always include an identification of the responsible employee designated pursuant to 34 C.F.R. § 104.7(a) and 28 C.F.R. § 35.106. Accordingly, OCR determined that the University is in violation of the regulations implementing Section 504 at 34 C.F.R. §§ 104.7(a) and 104.8(b) and Title II at 28 C.F.R. § 35.106.

University Use of Digital Information Technology

The University uses a variety of systems to convey digital information. A number are proprietary; that is, the University purchased the right to use them from outside vendors and uses them without modification. For example, students use the self-service portal part of a software program called Banner, where they register for courses, access unofficial transcripts, and see their grades. Information provided by the University supports that the University has not run accessibility checks on that system. The University uses Blackboard[9] as its learning management system (LMS). Blackboard can serve as a platform for delivering online courses, can store and manage course content, and can assist with assessing student achievement. The University's Information Technology Services Department (IT Department) does not test Blackboard for accessibility, but trains staff members responsible for the site. The University also uses Microsoft 365 to deal with functions such as electronic mail (e-mail), instant messaging, video conferencing, and file sharing. In addition, Starfish performs functions relating to student retention. The University also utilizes ContentM, "a content management system [CMS] specialized to help departments, professors and offices update the content of their websites without having the technical knowledge of HTML or web design."[10] The University uses various systems relating to library resources.

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[5] http://web.ysu.edu/gen/ysu/Section_504_Coordinator_m4227.html.

[6] http://web.ysu.edu/gen/ysu/How_to_Apply_ml40.html

[7] http://web.ysu.edu/gen/ysu/Domestic_Admissions_m2652.html

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https://jobs.ysu.edu/postings/search?utf8=./&query=&query_vO_posted_at_date=&1237=&query_organizational_tier_3_id=any&commit=Search .

[9] See http://www.blackboard.com/ for source information.

[10] http://web.ysu.edu/cmtraining

Further, the University maintains its own general website, which includes links to various department sites and other information. The University's website also includes links to accessibility-related training, a link to the University's Accessibility Guidelines, and tips for a successful website that include accessibility topics.

University staff informed OCR that the University makes approximately 50 to 60 computer labs around campus available for student use, with work stations that are wheelchair accessible and include computers with software needed for students with vision impairments. Finally, the University offers courses to students through distance education.

Web-Accessibility Policies and Provision of Training

The University provided OCR with copies of its policies and procedures relating to the creation, modification, and editing of websites, online courses, and systems. The web policy, University Guidelines 5015.01, entitled "University Websites," states that University divisions and departments may develop official University web pages, but that approval must be secured through a department or chair before publishing official pages; that all official and University-related pages must adhere to copyright laws, state law, and University policies and accessibility guidelines; and that faculty, staff, and student organizations may develop University-related web pages. The policy requires all websites being linked to an official University website or those residing on a server maintained by the University to abide by parameters as indicated in the University's Use Of University Computing Resources (4009.01)[11] OCR was able to locate the "University Websites" policy easily when searching from the University's home page. University staff informed OCR that when the policies are updated or changed, a University-wide e-mail announcement is sent to the campus community.

The University also has a specific set of guidelines concerning web access[12] posted on its website that it has drawn from standards for web access set forth in Section 508 of the Rehabilitation Act (Section 508), 29 U.S.C. § 794d, as amended, and the World Wide Web Consortium (W3C)'s Web Content Accessibility Guidelines (WCAG; jointly, the "accessibility standards").[13] The University guidelines specify basic, required accessibility measures related to identifying graphics, photographs, and links; appropriate document formats; handling tables and contrast; and using YouTube for video uploading and captioning. In 2013, the University updated these standards by prohibiting the addition to the website of new documents in Portable Document Format (PDF)[14] as these pose accessibility-related challenges. OCR was able to locate the guidelines easily when searching from the University's home page.

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[11] Policy 4009.01 requires all users of University owned technology resources, among other things, to "comply with all federal, Ohio, and other applicable law; as well as applicable regulations, contracts, and licenses;" and to "comply with all applicable policies at Youngstown State University."

[12] http:!/web.ysu.edu/gen/ysu/Accessibility_ Guidelines_ m2997 .html

[13] Conforming to Section 508, WCAG, or other accessibility standards used to evaluate digital information access does not ensure compliance with Section 504 or Title II. Use of such standards may, however, assist institutions by serving as a guide to help assess whether individuals with disabilities can receive all the benefits provided by technology in an equally effective and equally integrated manner.

[14] Portable Document Format (PDF) is an image-based document that is often unreadable by screen reading technology.

Information provided by the University supports that faculty and students can obtain personal web space on University servers, but have to follow the guidelines (as do faculty, students, student organizations, and staff who may develop and maintain University web pages), but there is no ongoing monitoring process in place to make sure they are following the guidelines. The IT Department does not check material for accessibility before that material is posted, because staff members assume the guidelines were followed. University staff members indicated that they were not aware of whether the University monitors whether students have access issues, nor were University staff members interviewed aware of complaints filed during the 2013-2014 academic year.

OCR located no information on the University's Disability Services Office (DSO) pages that related to accessibility of its websites, nor any references to web accessibility policies, either through direct notification or through cross-references or links. Links from the DSO home page included notice that the University has adaptive technology computer work stations, which contain software programs such as Jaws 4.0 and Zoom Text to assist those with vision-related disabilities. These stations are available on the fourth floor of the University's Maag Library and at the DSO, although University staff informed OCR that software can be downloaded anywhere.

University staff members interviewed were unaware of any campus-wide training on web accessibility. The IT Department is responsible for training content editors-persons designated by a department or unit who are responsible for maintaining website content-to make them aware of the University's web access policies, but not all University staff go through the training provided to content editors. Staff informs new faculty of the need to make materials accessible at their orientation, but staff members are not provided training at that time on how to accomplish this task. If the DSO receives a complaint about website/distance learning access, the office refers it to the appropriate department or puts in a work order and provides accessible versions of materials in the meantime. The DSO also checks its website for accessibility and has also contacted a former student, who has a vision-related disability, to check that the DSO site is accessible. University staff stated that the University relies on content editors' training and efforts to ensure that the website adheres to the Section 508 guidelines and to the other guidelines the University has established.

Blackboard

Blackboard is a separate system that the IT Department does not work with; it is a "black box" or proprietary system used to deliver online learning, and the University uses it "as is." IT staff do not create, build, or control the content on that system, and University staff interviewed stated that the University does not actively make sure Blackboard is in compliance with laws such as Section 504 or Title II; rather, a staff member deals with exceptions when things are brought to his attention. In such a case, if a course does not meet accessibility guidelines, the faculty member involved would be contacted.

Distance Education Program

The University has developed its own process, known as the "eYSU Rubric Checklist," for creation of distance education courses. The checklist provides guidelines to faculty for developing online courses. The final standard required by the eYSU rubric is that "[c]ourse materials are provided in accessible formats." The rubric states that, "(t)o the extent possible, equivalent alternatives are provided for audio and visual content (a transcript of audio and a transcript or closed captioning for video)." The rubric also states that course creators should consult with the DSO on steps to take to make a course accessible.

The eYSU guidelines require that course creators use the Distance Education department's template and that courses applying for re-design are re-worked so that these "incorporate newer technologies to ensure equal access to all." The eYSU rubric contains links to electronic documents; including links to the University's accessibility guidelines, web accessibility guidelines, and Section 508 compliance documents.

The distance education course creation/re-design policy includes requirements that course creators participate in appropriate training as provided by Quality Matters [15] or the YSU Office of Distance Education. Trainings include but are not limited to: eYSU Rubric Training, Apply the Quality Matters Rubric Workshop (required by all developers), and LMS (Blackboard) training. [16]

Distance Learning courses are also required to undergo a Quality Matters (QM) review: a determination of whether the course is accessible to persons with disabilities. This accessibility requirement is cited on the University's Distance Education website at http://web.ysu.edu/gen/ysu/Quality_Matters_m3899.html. Included in the 2011-2013 QM guidelines are accessibility standards that require courses to employ accessible technologies and information as to how to obtain accommodations, to contain alternatives to auditory and visual content, to use design that facilitates readability and reduces distractions, and to accommodate the use of assistive technology.

A University staff member informed OCR that the majority of the time online videos are used for distance learning. The staff member stated that it was not clear if the training for those creating distance learning courses included instructions on how to make videos accessible, but presumably so.

University staff stated that distance education course creation is done by different departments. Faculty members use the standard course template if they request a distance education course for a term, which includes a statement on disability requirements. An instructional designer on staff,

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[15] According to the University, it participates in the Ohio Quality Matters Consortium, which is a peer-review system that offers a process for reviewing distance education courses. Part of the review is a determination of whether the course is accessible to persons with disabilities.

[16] http://web.ysu.edu/gen/ysu_generated_bin/documents/basic_module/Application_to_Develop_September_20131.pdf.

who is trained in accessibility and is also a master reviewer for QM, is available to any faculty member; and the Distance Education department recommends that any faculty member thinking about putting a course online should speak with the instructional designer for guidance.

University review of distance learning courses is required. The review includes the instructional designer, the content editor for the specific department, and the faculty member who designed the course. The eYSU rubric has 16 standards, with requirements and guidelines. The QM rubric has 32 standards, some that are required and some that are recommended. Courses have to meet all of the requirements of both, and many of the recommendations/guidelines, to pass review and be approved. Faculty can use the rubric, QM, or both. Faculty members also have to go through training with QM; that training discusses accessibility and how to put courses in an accessible format.

The Distance Education department offers training to all faculty on how to make material accessible under the eYSU rubric, but the training is not required except for the information about the rubric included during new faculty orientation.

Distance Education staff stated that the IT Department responds to complaints about accessibility that are web-related; if a complaint is course-related, the complaint would probably start with the Distance Education department. For complaints about website inaccessibility, Distance Education defers to IT unless the issue is with Distance Education's specific web page.

Distance Education staff stated that the Distance Education department monitors its own site; its web editor and the instructional designer are responsible for making sure that the campus accessibility policies are implemented. All of the department's web pages and courses are created and then reviewed before these go live. An OCR review of the Distance Education website demonstrated that, nonetheless, many links included on that page lead to documents that exhibit inaccessible features.

Procurement

University staff members interviewed were not aware if the University has any guidelines or procedures for purchasing assistive or accessible technology. Staff stated that the DSO provides assistive devices, and that the IT Department will install and provide the support necessary for such devices. The University's standard purchase order contains a provision that requires suppliers not to discriminate on the basis of disability, but no further language requires materials purchased to be accessible to persons with disabilities.

Accessibility of the University's Website

University staff interviewed stated that different schools or colleges within the University have different websites (sub-sites of the main University website) and control the posting of content themselves. A combination of staff, faculty, and students are responsible for website content management. A staff member interviewed stated that he was not aware of any quality control checks of the website; the University depends on the creators to make the sites compliant. Content editors are responsible for maintaining website content-for putting text and

photographs onto the site-and thus for ensuring text descriptions are provided for images onto websites, labeling hypertext links, and otherwise following the University's guidelines. Guidelines drawn from W3C and Section 508 are specifically brought to content editor's attention.

The University informed OCR that the University has addressed many of the accessibility issues found with its website through use of a text-only site. About 85% of the campus uses the CMS system, which puts a link to a text-only site in the upper left hand comer of web pages, where a screen reader would read it first on the page. The main website and its sub-sites all use the same CMS system. The University's homepage does not, however, use the CMS system and does not have the text-only link in the upper left hand comer; but a University staff member interviewed stated that the home page has been set up to be accessible and screen reader compatible.

The University provided OCR with extensive records of discussions about the University's website and access for persons with disabilities. Those materials suggest awareness that University websites are not fully accessible, such as accessibility issues with the home page; methods of distributing data, such as PDF documents and videos, which required work to become accessible; a lack of guidance for content creators; no monitoring of what is on the University's website; a lack of a screen reader license; problems with access for online applications, particularly for prospective undergraduates and international students; and accessibility issues with Banner.

The records also document the University's efforts to gain information about website accessibility; including solicitations from outside vendors that assist in ameliorating access issues, conferences dealing with such issues, and a joint initiative between the Ohio Board of Regents and the Ohio Rehabilitation Services Commission to fund The Ohio State University to develop system-wide approaches to disability access. The University provided OCR with information concerning plans to, for example, make thousands of pages of PDFs on its website accessible.

During the investigation, OCR and the Department's Technology Team reviewed a sampling of pages on the University's website to determine whether these are accessible to users through assistive technology; specifically, whether the website permits students with disabilities to receive all University educational benefits provided by technology in an equally effective and equally integrated manner as students without disabilities.

OCR began its preliminary review of the University's website in February 2014. OCR selected a representative sampling of web pages for evaluation, using the following criteria: (a) web pages through which people are most likely to enter the website (e.g., the home page) and (b) web pages most likely to gamer the most traffic from its visitors and/or provide the most important information regarding the University's program; such as information pertaining to admissions, curriculum requirements, student handbook/code of conduct, services, and extracurricular activities. The Technology Team also reviewed the Distance Education website. The Technology Team reviewed and evaluated these University web pages for accessibility, using Section 508 standards as guidelines. OCR identified a number of technical deficiencies, including but not limited to the following:

- lack of alternative text on images;

- documents not posted in an accessible format;

- lack of captions on videos and the inability to operate video controls using assistive technology;

- improperly structured data tables;

- frames not titled with text that facilitates frame identification and navigation;

- improperly formatted and labeled form fields; and

- improper contrast between background and foreground colors.

The identified deficiencies are discussed in more detail below.

1. Lack of alternative text on images

Blind people, those with low vision, and people with other disabilities that affect their ability to read a computer display often use assistive technology so they can access the information displayed on a web page. Two commonly used technologies are screen reading software and refreshable Braille displays. These assistive technologies read text and produce audio or tactile versions of text that can be accessed by those with vision-related disabilities; but they cannot translate images into speech or Braille, even if words appear in the images. For example, these technologies cannot interpret a photograph of a stop sign, even if the word "stop" appears in the image. Because screen readers and refreshable Braille displays read only text, such assistive technology cannot interpret photographs; charts; color-coded information; or other graphic elements on a web page.

OCR's review of the University's website demonstrates that the website uses many images without providing a text equivalent, rendering some content inaccessible to screen readers, non-visual browsers, and Braille readers; thus, inaccessible to persons with disabilities who rely on such assistive technology to access web content. For example, numerous images on the University's admissions page do not contain text equivalents.

2. Documents are not posted in an accessible format

PDF documents, or those in other image-based formats, are often not accessible to people who are blind and who use screen readers and to people with low vision who use text enlargement programs or different color and font settings to read computer displays. The University posts numerous documents on its website in PDF format. The PDFs encountered during OCR's review of the University's website had multiple accessibility issues, including not being properly

tagged in order for the document to be accessible. [17] For example, a PDF available through the University's Disability Services web page entitled "Policy for Receiving Notes" is not properly tagged; thus, a person using screen reading software would not be able to identify or receive information from the document.

3. Lack of captions on videos

Captioning for the audio portion of a video is important, as individuals who are deaf or hard of hearing may not be able to hear auditory content. Captions provide a verbatim, textual equivalent of the auditory information. Synchronized captioning is also necessary so that a person reading captions can watch the speakers on a video and associate relevant body language and actions with the speech. Individuals who are blind or have low vision may require audio descriptions to access visual information in multimedia. Audio descriptions are verbal descriptions of the actions and images in a video that are inserted during pauses in the regular dialogue or audio track. Audio descriptions are necessary if significant information that is presented visually is not discernable from the dialogue or audio track.

Videos on the University's website have captions; however, these are the default YouTube captions, and are therefore incomplete or inaccurate and lack audio descriptions.

4. Improperly Structured Data Tables

The purpose of data tables is to present information in a grid or matrix and to have columns or rows that clarify the relationship between types of information in the grid. When screen readers read straight through data tables-especially large ones-it is easy for users to get lost. In order for a data table to be appropriately accessible, the table must have the proper markup designation in HyperText Markup Language (HTML). When the proper HTML markup is in place, users of screen readers can navigate through data tables one cell at a time, and they will hear the column and row headers spoken to them so that the information and relationship of information in the various columns and rows are understandable.

The tables encountered during OCR's review of the University's website were not properly marked up; therefore, table formatting will prevent assistive technology from reading and interacting with them correctly. An example of an improperly structured table was found on the University's financial aid website at the tuition and costs page, where a student or parent would input information to estimate the cost of tuition.

5. Frames not Titled with Text that Facilitates Frame Identification and Navigation

A "frame" is a part of a web page or browser window. A frame displays content that is independent of the frame itself; using frames, a website can load content independent of itself, such as media content from an outside source. To increase the accessibility of frames, it is

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[17] PDF tags provide a hidden, structured, textual representation of the PDF content that is presented so that screen reading software can access that information for persons with disabilities. Tags exist for accessibility purposes only and have no visible effect on the PDF file to those not using assistive technology.

important to title each frame. The frame name or title should provide meaningful information identifying the purpose of each frame, so that a person using a screen reader has a general idea of what type of information is contained within each frame. Thus, it is important to include meaningful titles for each frame element in order to facilitate frame identification and navigation.

The frames encountered during the review were not properly marked; therefore, the lack of markings will prevent assistive technology from reading/interacting with the frames correctly. For example, one page on the University's website provides a "virtual tour" of the University, using content from an independent site; but the frames were not properly identified so as to be readable by a screen reader and therefore understandable by a person with a disability who needs to use such technology.

6. Improperly Formatted and Labeled Form Fields

When electronic forms are designed to be completed online, the form should allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form; including all directions and cues. Electronic forms pose accessibility problems when web developers separate a form element from its associated label or title. For instance, if an input box is intended for receiving a user's last name, the web developer must be careful that the words "last name" (or some similar text) are somehow associated with the input box; otherwise, a person using assistive technology will not be able to tell what information should be typed in the box. Mere visual proximity of a form element and its title offers no guarantee that a screen reader will associate the two or that this association will be obvious to a user of assistive technology.

The forms encountered during OCR's review of the University's website were not properly marked up; therefore, the lack of markups will prevent assistive technology from reading and interacting with the forms correctly. An example of such a form is the Test Request Form on the Center for Student Progress page.

7. Improper Contrast between Background and Foreground Colors

Many people with low vision do not see web pages in the same way as do people without low vision. Some can see only small portions of a computer display at one time. Others cannot see or understand text or images that are too small for them to perceive or interpret. Still others can see website content only if it appears in specific colors. For these reasons, many people with low vision use specific color and font settings when they access the Internet-settings that are often very different from those other people use. For example, many people with low vision need to use high contrast settings, such as bold white or yellow letters on a black background. Others need just the opposite-bold black text on a white or yellow background. Many must use softer, more subtle color combinations. Users, therefore, need to be able to manipulate color and font settings in their web browsers and operating systems in order to make pages readable for themselves.

OCR identified multiple pages on the University's website, including the University's Financial Aid page, where the colors chosen are in a range that makes reading or interacting with parts of the site difficult or impossible for users with low vision or those who cannot see color.

8. Other Website Accessibility Concerns

Other technical deficiencies impacting the ease of use and/or access to content located on the University's website include scripting (computer programming) language in dropdown menus that is not identified with functional text. When web page authors do not put functional text with a script, a screen reader will often read the content of the script itself as a meaningless jumble of numbers and letters. Although this jumble is text, it cannot be interpreted or used.

The navigation menus on the site, such as ones found on the University's home page and on a "Test Request" form located on the Center for Student Progress, and the controls on the "slide show" on the front page cannot be used without a mouse and are therefore unusable by many people who use assistive technology.

The University's website also lacks a method for skipping repetitive navigation links on many University pages, which can decrease efficiency and usability for keyboard users and those using screen reading software. The "Test Request" form mentioned above exhibits this characteristic.

Based on the above, OCR determined that the University was in violation of the regulation implementing Section 504, at 34 C.F.R. §§ 104.4 and 104.43, and regulation implementing Title II, at 28 C.F.R. §§ 35.130 and 35.160(a)(l), with respect to web pages analyzed.

Students' Experiences

The University provided to OCR a list of students with sensory impairments. Nine students responded to OCR's inquiries. All nine reported that the University's DSO offered them disability-related assistance. Seven of the nine students reported using the University's e-mail system, course registration, grade reporting systems, campus libraries, and Blackboard. One student reported using only the University's online library system. Two of the nine students reported taking a University course online.

Two students reported having difficulty accessing a University system--one due to the light blue color of e-mail text, which the student and a professor resolved, and another student who resolved issues on her own. None of the nine students reported knowing of difficulties accessing University systems that other students with disabilities had experienced.

In addition, information provided by the University supported that a student who uses a screen reader had informed a University staff member in 2010 that various parts of the University's website were inaccessible, including several applications for programs and a housing application. The student also reported problems encountered when trying to purchase a book online and problems related to using Banner. The staff member reported these issues, but she stated that she heard nothing further.

Resolution Agreement

As noted above, OCR identified violations of the regulations implementing Section 504 and Title II with respect to the required notice of nondiscrimination, 34 C.F.R. § 104.8 and 28 C.F.R. § 35.106. OCR also identified violations of the regulations implementing Section 504 and Title II with respect to the content from the University's website that OCR analyzed, including denying qualified persons with disabilities the opportunity to participate in or benefit from its online learning environment, affording such persons an opportunity to participate in or benefit from that environment that is not equal to that afforded to others, providing such persons with benefits or services through its online learning environment that are not as effective as those provided to others, and failing to take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others, 34 C.F.R. § 104.4(b) and 28 C.F.R. § 35.160(a).

Information received to date indicates that a number of other pages on the University's website may not be accessible to persons with disabilities and that the University's policies relating to web access may not be adequate to ensure access for persons with disabilities. Furthermore, information received to date also indicates that persons with disabilities may not have access to University computer labs comparable to that provided to persons without disabilities and/or may receive incomplete notice as to where services are available. During the course of OCR's investigation, the University expressed interest in resolving these other possible compliance concerns without further investigation.

On November 25, 2014, the University agreed to implement the enclosed resolution agreement to resolve the compliance review. In the resolution agreement, the University committed to developing and publishing one consistent, appropriate notice of nondiscrimination, including clear identification of the Section 504/Title II coordinators, in all recruitment materials or publications concerning general information that it makes available to participants, beneficiaries, applicants, and employees.

The University will also develop or revise, adopt, and provide notice of a web accessibility policy and an implementation and remediation plan to ensure adherence to the policy; provide training to those responsible for web page and content development, including faculty and students, as appropriate; review its website and e-learning platform(s) to identify and ameliorate any accessibility problems, as well as to put in place mechanisms to ensure that the sites continue to be accessible (i.e. conduct an electronic and information technologies audit); provide certification from a third-party web accessibility consultant or an employee of the University with sufficient knowledge, skill, and experience that the University's electronic and information technologies meet the technical standard(s) adopted by the University; and provide OCR with reports describing its efforts for multiple subsequent academic years to comply with its web accessibility policy and plan, including information documenting any compliance issues discovered through the monitoring, audits, or complaints and the actions taken to correct those issues.

Finally, the University will ensure that access to computer labs, especially regarding provision of assistive technology, is comparable to that of students without disabilities; and that accurate notice is given to students, faculty, staff, and other beneficiaries able to utilize University computer labs that such services are available.

Based on the commitments the University made in the resolution agreement described above, OCR determined that it is appropriate to close the investigative phase of this compliance review.

This letter should not be interpreted to address the University'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 compliance review. 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 University may not harass, coerce, intimidate, or discriminate against any individual because he or she has participated in the compliance review resolution process. If this happens, that person may file a complaint alleging such treatment.

Under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

OCR greatly appreciates the ongoing cooperation received from the University during the investigation and resolution of this case. If you have any questions regarding the resolution of this compliance review, please contact Karla K. Ussery, Review Leader, at (216) 522-2683, or by e-mail at Karla.Ussery@ed.gov. Ms. Ussery will also be monitoring the University's implementation of the agreement. Should you choose to submit future monitoring reports electronically, please send them to OCRCleMonitoringReports@ed.gov.

Sincerely,

Meena Morey Chandra
Director

Enclosure

cc: Holly Jacobs, Esq.
        General Counsel