Resolution Agreement

Western Kentucky University
OCR Docket No. 03-24-2206

To resolve the above-referenced complaint investigation brought under Section 504 of the Rehabilitation Act of 1973 (Section 504), and Title II of the Americans with Disabilities Act (Title II), the Office for Civil Rights (OCR) of the U.S. Department of Education and Western Kentucky University (the University) enter into the following Agreement. This Agreement is entered into voluntarily, and it does not constitute an admission of liability, non-compliance, or wrongdoing by the University.

OCR was investigating the allegations raised in this complaint and, as part of that investigation, conducted detailed manual testing of all pages listed by the Complainant, as well as some digital documents, and identified few barriers to access for people with disabilities. During the course of OCR's investigation, the University requested to resolve this matter consistent with Section 302 of OCR's Case Processing Manual.

The University has agreed to engage in the following activities to ensure its programs, services, and activities communicated or facilitated online are accessible to people with disabilities:

1. Engage in Manual Testing and Remediation. For the following web pages (and associated electronic documents and videos), the University will conduct manual testing consistent with Appendix A and will remediate any barriers identified through its testing and those listed below; all barriers will be remediated fully within 30 days of the signature date of this Agreement. Barrier remediation will conform to the University's chosen accessibility standard, the Web Content Accessibility Guidelines version 2.1, level AA.

    a. Identified Barriers:

        i. Individuals who are unable to use a mouse due to mobility impairments will be unable to access certain content on the Diversity page (https://www.wku.edu/diversity/), as the visual focus indicator was not consistently apparent.

        ii. Individuals with low vision or who have difficulty distinguishing between different colors will be unable to access content on the My WKU page (https://my.wku.edu/), as color contrast was insufficient.

    b. Reporting Provision: No later than 30 days after the date the University signed this Agreement, the University will notify OCR that it has fully remediated all barriers identified on the web pages listed in 1(a) and has completed additional manual testing consistent with Appendix A to this Agreement.

2. Update Testing and Remediation Protocols. Upon receipt of the notice provided in the preceding paragraph, or earlier if requested by the University, OCR will assess the effectiveness of the University's testing protocols and remediation steps by conducting its own testing of the web pages, including those listed in 1(a). The University will then participate in all video conferences requested by OCR, and, when appropriate, request that

relevant vendors participate in such conferences, so OCR can share concerns or violations regarding any remaining barriers that impede the ability of people with disabilities to have equal opportunities to enjoy the University's underlying programs, services, and activities.

a. Based on OCR's concerns or violations shared during the video conferences, the University will:

i. Make appropriate changes to its testing and remediation protocols, and may require its vendor(s) to engage in appropriate barrier removal;

ii. Re-test or engage in additional remediation tailored to address OCR's concerns as appropriate; and

iii. Within 10 days of the relevant video conference, notify OCR that the University is ready for OCR to conduct additional testing.

This process shall continue until, in OCR's judgment, the University's testing and remediation protocols result in equal opportunities for people with disabilities. If, at the conclusion of OCR's final test, OCR finds no concerns with the University's web pages, electronic documents, and videos, OCR will close its monitoring of this Agreement.

3. Disclaimer. Nothing in this Agreement should be construed to mean that any content and functionality – including lower-priority content and functionality – is not subject to the requirements of Section 504 and Title II.

4. Technical Assistance. OCR will provide technical assistance to the University, to the extent practicable, during the University's implementation of this Agreement. The University's duty to comply with this Agreement is not altered by the availability of technical assistance.

By signing the Agreement, the University agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. During the monitoring of the Agreement, if necessary, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of the Agreement.

The University understands that OCR will not close the monitoring of the Agreement until such time as OCR determines that the University is in compliance with the terms of the Agreement and the statute(s) and regulation(s) at issue in the case.

The University understands that OCR may initiate administrative enforcement proceedings or refer the case to the Department of Justice (DOJ) for judicial proceedings in the event of breach. Before initiating such proceedings, OCR will give the University notice of the alleged breach and 60 calendar days to cure the alleged breach.

This Agreement will become effective upon the signature of the representative for the University, set out below.

/s/ Andrea P. Anderson *for*	07/18/24
Timothy C. Caboni President Western Kentucky University	Date

Appendix A

For the purposes of this Agreement, testing must address these protocols and questions, which only represent a starting point, rather than a comprehensive set, for assessing digital technology to ensure access to people with disabilities. See OCR's video series for more information.

For web pages: Check the following across different browsers using different types of hardware (for documentation, please specify the browsers by version and different desktop/laptop configurations):

- Keyboard access: Can users access all functions and content, and complete all tasks, independently by using only the keyboard (<tab>, <enter>, <spacebar>, <esc>, and arrow keys)? Verify in particular:
    - There are no keyboard traps that would prevent a user from advancing through the entire page, such as an automatically-refreshing social media embedded feed *(tip: try to tab very, very slowly through any such feed to observe whether a user can close it, or move past it, at a reasonable point; if the feed keeps refreshing by automatically adding additional entries to be shown, it causes a trap for those who are unable to use quick keyboard strokes – or a mouse - to navigate)*; and
    - Expandable elements can not only be expanded, but can also be collapsed automatically or with a keyboard command, so they do not block other content.
- Logical reading order: Does keyboard navigation follow a logical, predictable order?
- Skip links: Can keyboard-only users bypass long navigation menus, embedded social media feeds, etc., without having to use excessive tabbing?
- Visual focus indicator: Can users visually track where they are located on the page while navigating with a keyboard?
- Alternative (Alt) text: Are all important images and graphics labelled with meaningful text, associated captions, or adjoining descriptions so, for example, people who are blind and use assistive technology will have access to the relevant information contained in the image or graphic? For linked images, does the alternative text tell users where the link will take them, rather than describe the image?
- Links: Are links well-named and unambiguous so users who are blind– without having to read nearby content – will understand the purpose and destination of each link? Common examples of ambiguous link names include “click here,” “read more,” “see all,” “http://…”-type, or “event notice,” and other ambiguous phrases.

- Color alone: Are there any instances where color alone distinguishes an object or state? If so, add another way to distinguish the object or state. For example, make sure color is not the only way to distinguish link text from the surrounding paragraph text, and ensure color-coding is not the exclusive way used to convey important calendar dates (e.g., "no school" dates are marked in purple).

- Color contrast: Using an eyedropper tool or other manual method (automated testing is generally insufficient unless manually verified), is there at least a 4.5:1 contrast ratio for normal size text and a 3:1 contrast ratio for large scale text, comparing foreground and background colors of all text elements and text inside graphics? Text inside logos can be ignored for these purposes.

- Tables: Does the page avoid using layout tables? If data tables are present, are they necessary to convey information, or could a more accessible means of presentation be considered instead? If a data table is used, is it simple, so no cells span multiple columns or rows? Are column and row headers programmatically labelled?

- Buttons, form controls, and other operable elements: Are they labelled appropriately, both programmatically and visually? Do the visual labels continue to be properly associated with the elements when the screen is enlarged? If the elements have different states (such as form fields that are required for successful submission), are those conveyed by something other than color alone?

- Heading structure: Are headings programmatically labelled with a meaningful hierarchy, so people who are blind and using a screen reader can navigate a page according to its headings, listen to a list of headings, and skip to where they want to begin reading?

- Embedded videos and slide carousels: Where there are embedded videos or carousels, if they launch or rotate automatically, is that behavior necessary? If so, can a user pause or stop the video or carousel, and later replay the video or carousel, with keyboard commands? The ability to stop the video or carousel rotation can be important, not just while users are on the video or carousel, but while they are in other parts of the page.

- Magnification: Have you re-tested everything when content is magnified to the "point of reflow," or in "responsive mode," when the formatting changes to be more mobile-friendly (typically around 200% on standard laptop screens)? Are all contents and all functionality preserved and useful?

    - Paying particular attention to any "hamburger menus," or expandable menus, can they be opened, navigated (including any sub-level items), and closed automatically or easily with the keyboard?

    - Is logical reading order on the page preserved, without the need to scroll right to left? If vertical scrolling is required inside windows or objects, can it be done with the keyboard?

- Do elements meant to be together (such as form labels and text entry boxes) stay together upon magnification?

For electronic documents: In addition to addressing the questions above, have you conducted an accessibility review of your documents using the software's accessibility checker (e.g., "Check Accessibility" feature in Microsoft Word, "Accessibility Check" feature in Adobe Acrobat Pro DC, etc.)?

For videos:

- Is captioning present or is a transcript available? Transcripts should only be used when the audio can be fully understood separately from viewing the video and does not reference video content.

- Does the captioning or transcript meaningfully convey the contents of the audio track (not just phonetically)?

- Does the captioning or transcript indicate the names or appropriate descriptions of the speakers, if more than one person is speaking?

- Does the captioning or transcript use capitalization and punctuation appropriately, if that is important to understanding the contents?

- Is important on-screen information also conveyed audibly, so people who are blind or have low vision have access to the contents?

For social media posts:

- If graphic images are used, are they accompanied by text that conveys the same information?

- If videos are used, are they accessible as described above?