



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS

400 MARYLAND AVENUE, SW  
WASHINGTON, DC 20202-1475

REGION XI  
NORTH CAROLINA  
SOUTH CAROLINA  
VIRGINIA  
WASHINGTON, D.C.

March 8, 2013

Dr. Darrel W. Staat  
President  
South Carolina Technical College System  
111 Executive Center Drive  
Columbia, South Carolina 29210

Re: Compliance Review No. 11-11-6002

Dear Dr. Staat:

This letter is to advise you of the resolution of the above-referenced compliance review conducted by the U.S. Department of Education, Office for Civil Rights (OCR). OCR initiated this compliance review to assess whether the South Carolina Technical College System's (SCTCS) communications with persons with disabilities are as effective as communications with persons who are not disabled. SCTCS is operated by the State Board for Technical and Comprehensive Education (SBTCE). The review included an examination of the accessibility of SCTCS's websites to persons with disabilities, especially those requiring the use of assistive technology to access the sites. Although the review concerned the entire SBTCE, it focused on the websites of SCTCS and two campuses: Florence-Darlington Technical College (FDTC) and Horry-Georgetown Technical College (HGTC).

OCR conducted an extensive review of SCTCS, FDTC, and HGTC's websites, including email, course management systems, library resources and websites operated by them. OCR reviewed over 100 websites. Additionally, OCR interviewed staff, including those responsible for website design, technology adoption and provision of services to students with disabilities, and students who use assistive technology to access the internet.

OCR initiated this compliance review pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in any program or activity that receives Federal financial assistance from the Department. OCR also has jurisdiction as a designated agency under Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public elementary and secondary education systems, regardless of whether they receive Federal financial assistance from the Department. SCTCS is a public secondary education system that receives Federal financial assistance from the Department and is, therefore, subject to the provisions of these statutes and regulations.

*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

Based on this review, OCR identified compliance concerns with the websites operated by SCTCS and by two selected colleges and determined they were not readily accessible to persons who require assistive technology and therefore not in compliance with Section 504 and Title II. SBTCE has voluntarily agreed to remedy these concerns as set forth in the enclosed agreement. OCR will monitor SBTCE's/SCTCS's completion of the steps outlined in the agreement to ensure that they have fully implemented the provisions of the agreement and are in compliance with the above-referenced regulations.

### Legal Standards

The Section 504 implementing regulation at 34 C.F.R. § 104.4 provides:

(a) *General.* No qualified [disabled] person 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]:

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(iii) Provide a qualified [disabled] person 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 [disabled] persons or to any class of [disabled] persons unless such action is necessary to provide qualified [disabled] persons with aid, benefits, or services that are as effective as those provided to others;

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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 [disabled] persons 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 [disabled] persons, 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 Title II regulations have similar requirements to Section 504. The regulations, at 28 C.F.R. §35.130, contain general prohibitions against discrimination:

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.

(b) (1) A public entity, 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 individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual 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 individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

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

Additionally the Title II regulations have specific requirements for communications, at 28 C.F.R. § 35.160:

(a) (1) 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.

On June 29, 2010, OCR and the U.S. Department of Justice Civil Rights Division jointly issued a Dear Colleague Letter to all college and university presidents that addressed the use of emerging technologies. The letter stated in summary that several:

[U]niversities agreed not to purchase, require, or recommend use of...any...dedicated electronic book reader...unless or until the device is fully accessible to individuals who are blind or have low vision, or the universities provide reasonable accommodation or modification so that a student can acquire the same information, engage in the same interactions, and enjoy the same services as sighted students with substantially equivalent ease of use...

On May 26, 2011, OCR issued a Dear Colleague Letter and a questions-and-answers document (FAQ) to provide further clarification. The FAQ makes it clear 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 Dear Colleague Letter states 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. Should the educational institution use a device that is not fully accessible, the institution must provide “accommodations or modifications that permit

[students with disabilities] to receive all the educational benefits provided by the technology in an equally effective and equally integrated manner.” The FAQ further clarifies that an accommodation or modification that is only available 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 on-line content. The FAQ also makes it clear that on-line programs are also covered and stresses the importance of planning to ensure accessibility from the outset.

## **Background**

SBTCE operates SCTCS. SCTCS is comprised of sixteen technical colleges located strategically across the state of South Carolina. SCTCS also has a central administrative office with staff which is operated by SBTCE. SCTCS operates as a coordinating body of twenty different peer groups with representatives from each member technical college. The peer groups make recommendations to the Presidents Council, comprised of the sixteen individual college presidents and the SCTCS President. FDTC and HGTC are two of the sixteen member colleges.

## **Findings of Fact**

OCR obtained data from SCTCS, FDTC and HGTC that included policies and procedures and access to areas of the websites protected by passwords, such as email systems, course managements systems (on-line classes), student information systems (registration and grade reporting), and library. OCR interviewed ten students with disabilities who attend FDTC or HGTC, including some who required a screen reader to access the internet, about their experiences with FDTC or HGTC websites and their use of assistive technology. OCR also interviewed 17 employees at SCTCS, FDTC, and HGTC regarding web development and web accessibility. OCR also reviewed relevant information and documentation, including SBTCE’s policy regarding web accessibility (Policy #4-4-104), which states:

The South Carolina Technical College System is committed to ensuring access to its Internet-based resources in accordance with State and Federal legal requirements. All college and system office web sites... shall be designed to be accessible, so that people with disabilities have access to online information, data, and services comparable to that accorded to individuals who do not have disabilities.

Web Developers designing Web content for all official Web pages must consider accessibility issues during initial development. For all new Web pages and revisions to currently used Web pages, Web Developers must follow the minimum standards listed below.

All colleges and the system office shall follow the standards established under Section 508 of the Rehabilitation Act of 1973, amended in 1998 by the Work Force Investment Act (Section 1194.22 and its subsequent amendments), as their minimum requirements for Web accessibility.

It is recommended that all colleges and the System Office also follow the Web Content Accessibility Guidelines established by the World Wide Web Consortium's Web Accessibility Initiative (W3C-WAI) that are not addressed in Section 508. Each college and the system office may develop more specific guidelines for dealing with web accessibility in accordance with Section 508 of the Rehabilitation Act as well as the World Wide Web Consortium's Web Accessibility Initiative (W3C-WAI).

In addition, the Department of Education's Assistive Technology Team reviewed a sampling of websites at SCTCS, FDTC, and HGTC to determine whether the websites are accessible to users of assistive technology and, specifically, whether the websites permit students with disabilities to receive all the educational benefits provided by the technology in an equally effective and equally integrated manner as students without a disability.

OCR found multiple concerns during its review of SCTCS, FDTC, and HGTC's websites. For example, OCR found portable document format (PDF) files missing tagging, alternative text for graphics, identification on column headers, specified reading order, and tags on critical information such as watermarks and headings. Additionally, some videos were without proper labeling, keyboard control, or captioning. There were several times alternative attributes were insufficient or missing and fields which required filling out were missing labels to enable a screen reader user to fill them in. Also, tables were missing headings for a screen reader to fully access them. OCR found several different areas where a keyboard-only user would not be able to access information or use drop down menus. There were instances in which content in course management systems was missing captions, alternative texts, and other features required for accessibility. Finally, campus calendars were not fully accessible to a screen reader.

### **Analysis**

Based upon the review of the websites and interviews with the staff and students, OCR determined that a number of the aspects of the websites are not fully compliant with the Section 508 standards (while Section 508 standards apply to the federal government, SCTCS -- through Policy #4-4-104 -- chose to adopt them system-wide as a means to ensure accessibility) and are not generally accessible. The concerns OCR has identified do not permit a person with a visual impairment or other print-related disability to use the websites operated by SCTCS, HGTC, or FDTC in an equally effective and equally integrated manner as someone without a disability.

Pursuant to the terms of the resolution agreement that SBTCE/SCTCS entered into voluntarily in order to resolve this matter, SBTCE/SCTCS has agreed to ensure that the SCTCS website and the websites of all the colleges within the system are accessible to students with disabilities, to develop a resource guide that provides information about web accessibility requirements, standards, and links to reference materials, and to review and monitor the colleges' websites. OCR will monitor SBTCE's/SCTCS's implementation of the agreement.

Please be advised that this letter and the enclosed agreement cover only the issues investigated as part of this compliance review and should not be construed to address any other Section 504 or Title II issues not investigated at this time. Letters of finding are fact-specific dispositions of individual cases. They are not formal statements of OCR policy and should not be relied upon,

Dr. Darrel Staat

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cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public.

OCR would like to thank (b)(7)(C) and the staff of SCTCS, FDTC, and HGTC, for their cooperation during the course of this compliance review. From the inception of our review, OCR was welcomed by all three entities and ensured full cooperation from the staff. We look forward to working with you in the near term and continuing to work productively with you and your staff as we monitor SCTCS's implementation of the enclosed agreement.

If you have any questions, please feel free to contact Judith Risch, Civil Rights Attorney, at (202) 453-5925 or email to: [judith.risch@ed.gov](mailto:judith.risch@ed.gov). You may also contact me at (202) 453- 6020.

Sincerely,



Alice B. Wender  
Regional Director

Enclosure

**Resolution Agreement**  
**South Carolina Technical College System**  
**OCR Compliance Review No. 11-11-6002**

The State Board for Technical and Comprehensive Education (SBTCE) agrees to fully implement this resolution agreement (Agreement) to resolve Office for Civil Rights (OCR) Compliance Review No. 11-11-6002 regarding the accessibility of its website to person with disabilities, especially those requiring the use of assistive technology. Additionally, SBTCE agrees to assist OCR in regard to the accessibility of the websites at the sixteen colleges that comprise the South Carolina Technical College System (SCTCS) to persons with disabilities, especially those requiring the use of assistive technology. By entering into this Agreement, SBTCE makes no admissions of any violations of Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act. SBTCE has voluntarily agreed to adhere to the terms of this Agreement.

The purpose of this agreement is to ensure that all content on the SBTCE web-site and the content of the web-sites of all the member colleges are accessible to students with visual and other print-related disabilities, particularly those students requiring the use of assistive technology. Students with disabilities must have the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as other students. SBTCE must ensure that students with disabilities can access the information on the web-sites with substantially equivalent ease of use as students without disabilities. Furthermore, SBTCE must assist OCR in ensuring that the websites of the member colleges also allow students with disabilities to access the information on the individual colleges' websites with substantially equivalent ease of use as students without disabilities. Should SBTCE or its member colleges choose to provide the information in some other manner, the accommodations or modifications must permit students with disabilities to receive all the educational benefits provided by the technology in an equally effective and equally integrated manner.

**Definition of Accessible:**

"Accessible" means a person with a disability is afforded the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and equally integrated manner, with substantially equivalent ease of use. The person with a disability must be able to obtain the information as fully, equally and independently as a person without a disability. Although this might not result in identical ease of use compared to that of persons without disabilities, it still must ensure equal opportunity to the educational benefits and opportunities afforded by the technology and equal treatment in the use of such technology.

**Actions and Reporting**

1. By June 30, 2013, a directive will be drafted for OCR's review for OCR's review and approval.
  - a. The directive will be sent annually, prior to the start of the academic year, to the college presidents and appropriate System Office staff. This directive will include information about each college's responsibility to ensure that websites are accessible, information about accessibility standards, the expectation that the college will conduct annual website reviews to ensure compliance, and direct the college to identify the person that will be responsible for conducting the review, as well as overseeing any needed modifications.

- b. The directive will require each college and the System Office to submit an annual report documenting when the college conducted its website review, summarize the findings, and identify the steps that will be taken to correct any identified problems. The report will also include information about other web accessibility problems collected, evaluated, and addressed throughout the academic year.
- c. The System Office will designate one person to review all of the annual reports and to monitor steps taken to correct any problems.

**Reporting Requirements:**

By June 30, 2013, SCTCS will provide OCR with a draft of the directive and the contact information for the System Office staff member responsible for reviewing the results of the annual reviews and monitoring steps taken to insure compliance.

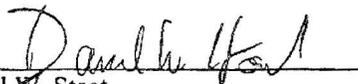
By October 1<sup>st</sup> of each following year for the next 3 years, a summary of the reports will be prepared and submitted to OCR.

- 2. By September 1, 2013, the SCTCS will develop a resource guide that provides information about web accessibility requirements, standards, and links to reference materials. The colleges will be asked to make this resource guide available to those offering and/or designing online courses and to those designing and maintaining college and System Office websites.

**Reporting Requirement:**

By July 30, 2013, the SBTCE will provide to OCR for its review and approval a draft or prototype of the resource guide

SBTCE understands that OCR will not close the monitoring of this Agreement until OCR determines that SBTCE has fulfilled its terms and is in compliance with the regulations implementing Section 504 at 34 C.F.R. Part 104 and Title II at 28 C.F.R. Part 35. SCTCS 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, SBTCE understands that during the monitoring of this agreement, if necessary, OCR may visit SBTCE or any of its member colleges, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether SBTCE has fulfilled the terms of this Agreement and is in compliance with Section 504, Title II, and the relevant regulations. SBTCE 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 SBTCE written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

  
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Darrel W. Staat  
President of South Carolina Technical College System

2/28/13  
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Date