



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

5 POST OFFICE SQUARE, 8TH FLOOR
BOSTON, MASSACHUSETTS 02109-3921

Charles M. Gobron, EdD.
Superintendent
Northborough-Southborough Public Schools
Margaret Neary Road
53 Parkeville Road
Southborough, MA 01772

Re: Complaint No.01-14-1010

Dear Superintendent Gobron:

This letter is to advise you of the resolution of the above-referenced complaint investigation conducted by the U.S. Department of Education, Office for Civil Rights (OCR). In this complaint, we assessed whether communications by the Northborough-Southborough Public Schools (District) with persons with disabilities are as effective as communications with persons who are not disabled. Specifically, the complaint required an examination of the accessibility of the District's web-site to persons with disabilities, especially those requiring the use of assistive technology to access the sites.

OCR initiated this complaint pursuant to Section 504 of the Rehabilitation Act of 1973 (Section 504) and its implementing regulation at 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) and its implementing regulation at 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. The District is a public elementary and secondary education system that receives Federal financial assistance from the Department and is, therefore, subject to the provisions of these statutes and regulations.

Based on this review, OCR identified compliance concerns with the website operated by the District because it is not readily accessible to persons with disabilities who require assistive technology. OCR determined, therefore, that the District was not in compliance with Section 504 and Title II. The District has voluntarily agreed to remedy these concerns, however, as set forth in the enclosed agreement. OCR will monitor the District's completion of the steps outlined in the agreement to ensure that it has fully implemented the provisions of the agreement and are in compliance with the above-referenced regulations.

Legal Standards

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

(a) General. No qualified handicapped person shall, on the basis of handicap, 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 handicap:

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

(ii) Afford a qualified handicapped person 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 handicapped 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 handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

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

The Title II regulations have similar requirements to Section 504. The regulations with general prohibitions against discrimination require, at 28 C.F.R. Section 35.130:

(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;
- (iv) Provide different or separate aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than is provided to others unless such action is necessary to provide qualified individuals with disabilities with aids, benefits, or services that are as effective as those provided to others;
- (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 requirements for communications, which in pertinent part requires at 28 C.F.R. Section 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 noted that several universities 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, including Frequently Asked Questions (FAQ), to provide further clarification. The FAQ makes clear that the Dear Colleague Letter also applies to elementary and secondary institutions, and further clarifies that students with disabilities, especially students with 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 explains that the educational institution must ensure that students with disabilities can access the educational opportunities and benefits 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

also makes clear that an accommodation or modification that is available only at certain times or under certain conditions (such as when an aide is available 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. Additionally, the FAQ states that on-line programs are covered under the June 29, 2010, and May 26, 2011 Dear Colleague Letters and stresses the importance of planning to ensure accessibility from the initial design. The policies set forth in these documents apply to all forms of information technology. OCR relied on these general principles for accessibility and effective communication.

Facts

The Northborough Public Schools serve children in grades Pre K through 8. There are four elementary schools: Lincoln Street School, Marguerite E. Peaslee School, Fannie E. Proctor School, and Marion Zeh School. These four schools educate children from Kindergarten through grade 5. The Zeh Elementary School also hosts Preschool classes. There is also the Robert E. Melican Middle School, which serves grades 6, 7, and 8. The Southborough Public Schools serves children in grades Pre K through 8.. There are three elementary schools, the Mary Finn School (Pre K-1), the Albert S. Woodward School (grades 2-3) the Margaret Neary School (grades 4-5), and one middle school, the P. Brent Trottier Middle School (grades 6-8). Algonquin Regional High School serves students in grades 9-12. The District enrolls approximately 4638 students in grades K-12 in 2013-14.

In its data response the District denied that its web-site was not accessible and it also indicated that it was not aware of any individuals with disabilities who had been denied access to information on the web-site. In early discussions with OCR, the District indicated that if there were accessibility issues with the web-site, it wanted to remedy those concerns.

The Department of Education’s Assistive Technology Team reviewed the District’s web-site to determine the accessibility of the site for assistive technology users. The District does not appear to have a policy on web-site accessibility and it does not have a provision for coverage of third party vendors or contractors.

To meet these basic principles, the Department of Education’s Assistive Technology Team currently utilizes the 16 Web Standards and 12 Software Standards of Section 508 as guidance in determining whether the web-site is accessible.

The analysis of the web-site revealed the following concerns (please see enclosed addendum for pictures and graphic examples of the issues identified below):

- Lack of keyboard accessibility for the main drop down menu and other menus on the web-site.
- The “Accessible Site Menu” is not available to users of assistive technology.

- Information is on style sheets that cannot be viewed by screen readers.
- Controls are not properly labeled.
 - Controllers are not keyboard accessible, and are missing synchronized captions.
 - Carousel buttons are to be read but there is no content to read with assistive technology.
- Flash is used to convey information that is not viewable by a screen reader.
 - No Flash controls on home pages.
- Form fields (i.e. Lunch Payment screen) lack proper structure and are missing label tags.
- Documents are not properly structured for use by assistive technology:
 - PDF's do not have tagging, are missing alternative text for graphics, do not have identified column headers, does not properly specify reading order, and tags on critical information such as watermarks and headings are missing.
- Images are missing alternative text. Some of the images that do have alt text have alt text that is not complete or informative.
- Alternative attributes are insufficient or missing and alt tags do not match graphics.
- Information contained for courses is not designed for accessibility – no monitoring of alt tags, captioning, or screen reader compatibility, images do not have alternate text and reading order not prescribed (in Power Point), PDFs do not have tagging
- No assurance of 508 or other accessibility compliance from vendors for websites for library.
- Tables are missing HTML code to show column headers
 - Calendar is not compatible with screen reader
 - Calendar is not complaint - labels for drop down boxes

Following the web-site review, OCR engaged the District in substantive discussions about some of the technical problems concerning its web-site. In those discussions, the District indicated that it had taken a proactive approach and had hired a consultant to review the web-site and to perform its own test on how accessible the web-site was and whether there were problems that it could identify. Through these steps, the District indicated to OCR that it was interested in finding solutions to the problems that had been identified and to working with OCR to resolve any concerns that we had identified.

Conclusion

Based upon the above analysis, there are number of concerns about the accessibility of the web-site used by the District. The most frequent concerns were lack of alternative text on buttons, especially on video controls, lack of synchronized captioning, inaccessible PDFs, and animations that were not fully labeled. Additionally, materials provided by third party vendors are also inaccessible. Based on this information, the District is not in compliance with Section 504 or Title II. Specifically, the District's web-site does not permit a person with disabilities, particularly those with visual, hearing, or manual impairments or who otherwise require the use

of assistive technology to access educational programs at the schools in an equally effective or integrated manner as compared to someone without a disability. Accordingly, there is not a “substantially equivalent ease of use” for students or parents with disabilities.

Pursuant to the terms of the resolution agreement that the District entered into voluntarily in order to resolve this matter, the District has agreed to ensure that the District– website and the websites of all the schools within the District 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 District’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, 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 you and XXXXXX, Director of Technology for the cooperation during the course of this complaint investigation. From the inception of our review, the District was cooperative and collaborative welcomed OCR’s guidance in looking at ways to improve the accessibility of the web-site. We look forward to working with you in the near term and continuing to work productively with you and your staff as we monitor District’s implementation of the enclosed agreement.

If you have any questions, please feel free to contact Ralph D’Amico, at (617) 289-0044 or email to: ralph.damico@ed.gov. You may also contact me at (617) 289-1111.

Sincerely,

/s/ Thomas J. Hibino

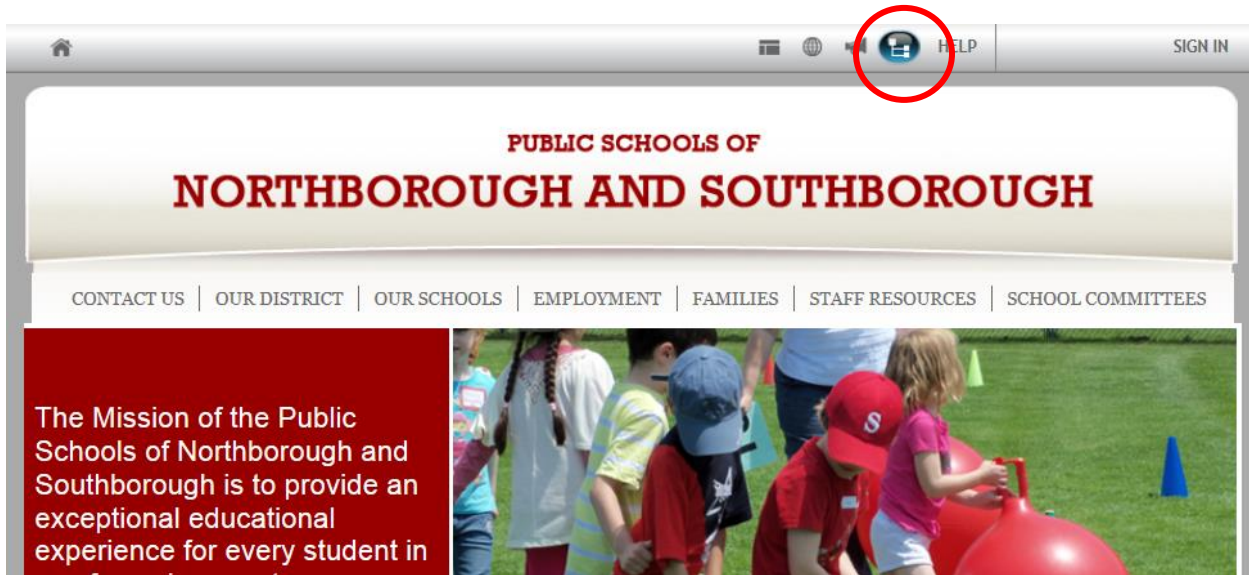
Thomas J. Hibino
Regional Director

Enclosure

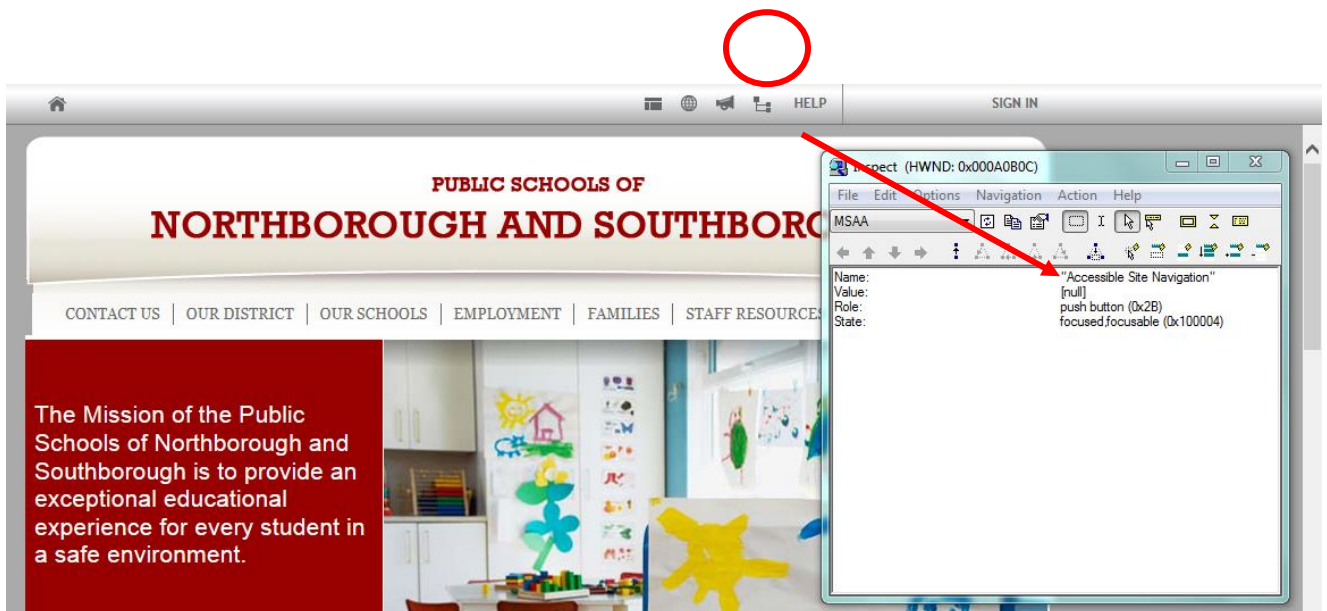
cc: Michael Joyce

ADDENDUM

Northborough and Southborough Public Schools



On the top “Navigation” bar there is a button that is entitled “Accessible Site Navigation”.



However, there are only two ways to activate it – using a mouse/pointing device or using a screen reader. Users who have to use a keyboard or a speech recognition program cannot get to it because there is no visual focus when it is tabbed to and it has no external label to identify what it is.

Accessible Site Navigation

Selected Links in Public Schools of Northborough and Southborough:

The purpose of this page is to help users with accessibility needs.

District Links

- [Public Schools of Northborough and Southborough](#)
- [Calendar](#)
- [Schools](#)
- [All Other Contents](#)

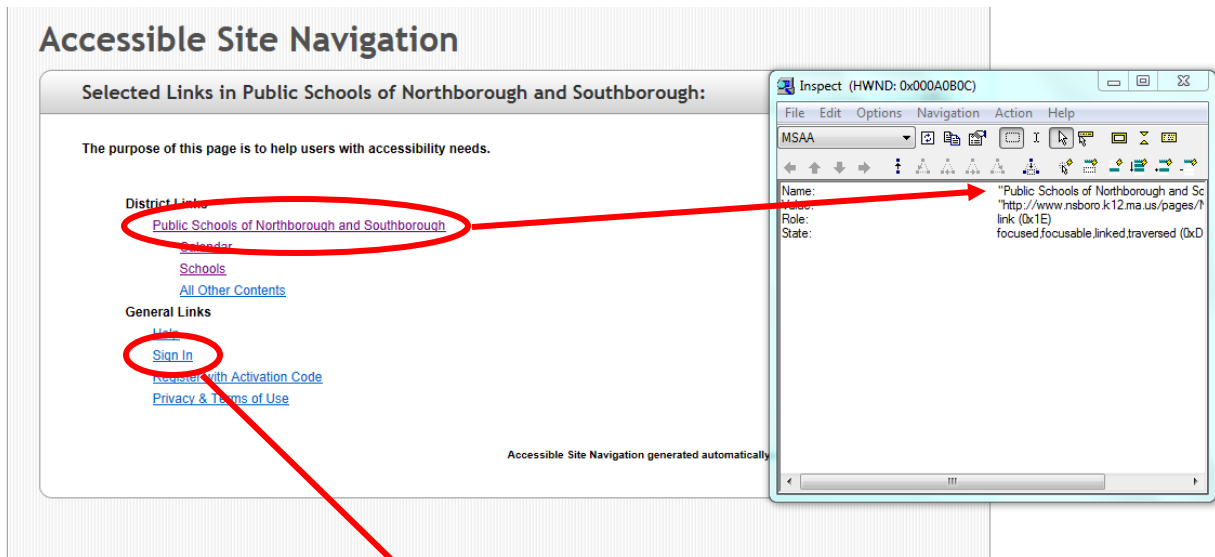
General Links

- [Help](#)
- [Sign In](#)
- [Register with Activation Code](#)
- [Privacy & Terms of Use](#)

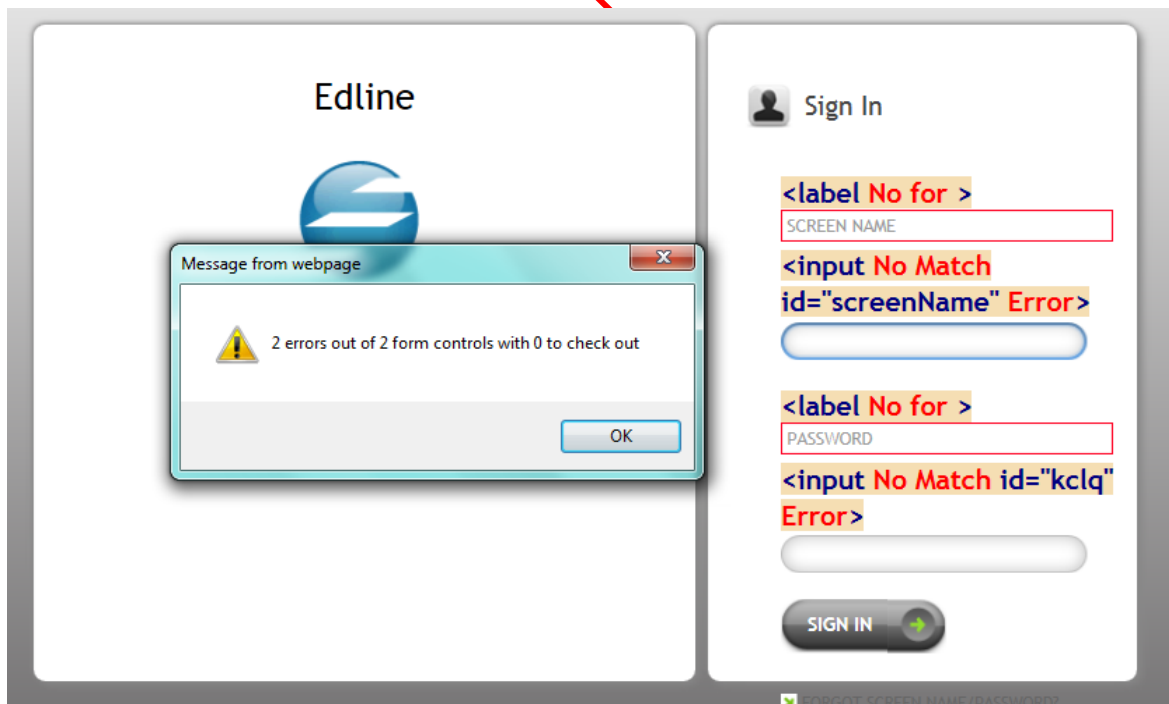
Accessible Site Navigation generated automatically on Mon Mar 03 14:35:06 CST 2014.

Once the user does activate the button, the user gets a simple “text only” page that does give some navigation of the site, but is not equal to the home page of the site. As can be seen from the screen shots above and below, the two pages are not equivalent.

The screenshot shows the homepage of the Public Schools of Northborough and Southborough. At the top, there is a navigation bar with icons for home, calendar, globe, and help, along with a 'SIGN IN' button. Below this is a large banner with the text 'PUBLIC SCHOOLS OF NORTHBOROUGH AND SOUTHBOROUGH' in red. Underneath the banner is a horizontal menu with links: 'CONTACT US | OUR DISTRICT | OUR SCHOOLS | EMPLOYMENT | FAMILIES | STAFF RESOURCES | SCHOOL COMMITTEES'. The main content area features a red box on the left with the text 'The Mission of the Public Schools of Northborough and Southborough is to provide an' and a photograph on the right showing several colorful, hand-painted ceramic pots on a green surface.

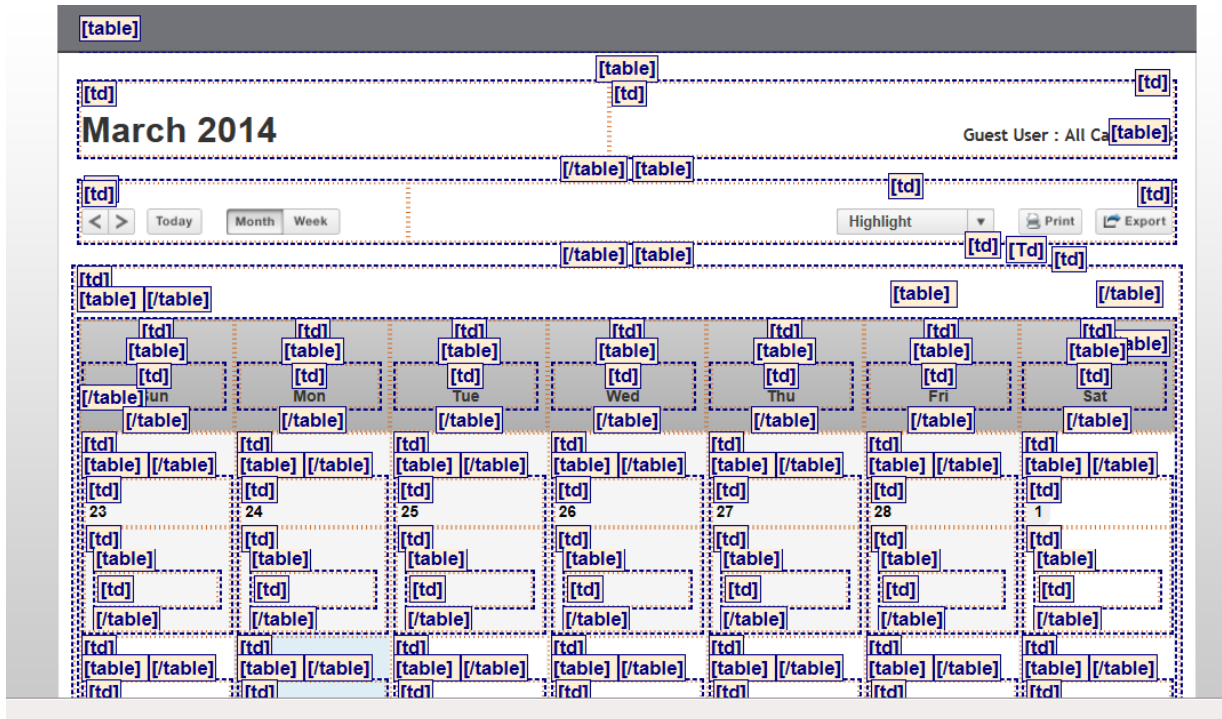


The links on the “Accessible Site Navigation” page have no visual focus so keyboard users have no way of knowing what link they are on in order to activate it.

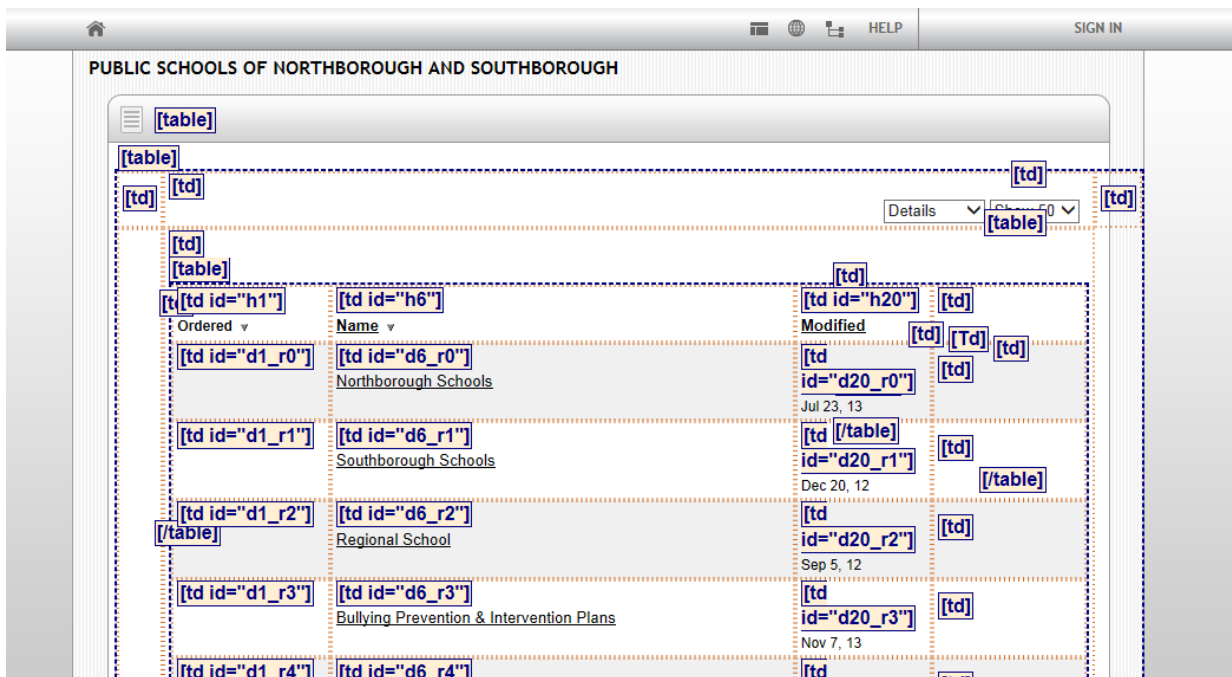


The “Sign In” link on the “Accessible Site Navigation” page links to a form that is not accessible to Assistive Technology users.

The Calendar link and the Public Schools link on the “Accessible Site Navigation” page lead to tables that are not coded properly and are not accessible to Assistive Technology users.



This is the "Calendar" page



This is the listing of "Public Schools".

Resolution Agreement
Northborough-Southborough Public School District
OCR Compliance Review No. 01-14-1010

The Northborough-Southborough Public Schools (District) agrees to fully implement this resolution agreement {Agreement) to resolve Office for Civil Rights (OCR) Complaint No. 01-14-1010 regarding the accessibility of its web-site to person with disabilities, especially those requiring the use of assistive technology. By entering into this Agreement, District makes no admissions of any violations of Section 504 of the Rehabilitation Act and Title II of the Americans with Disabilities Act. The District has voluntarily agreed to adhere to the terms of this Agreement.

The purpose of this agreement is to ensure that all content on the District web-site is accessible to students with visual, audio and 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. The District 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, District must assist OCR in ensuring that its web-site also allows students with disabilities to access the information on the individual school websites with substantially equivalent ease of use as students without disabilities. Should the District 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 July 15, 2014, a notice will be drafted for OCR's review and approval.
 - a. The notice will be sent annually, prior to the start of the school year, to the school principals and appropriate District staff. This notice will include information about each schools' responsibility to ensure that web-sites are accessible, information about accessibility standards, information on how to assess website accessibility in reviews, the expectation that the school will conduct annual web-

site reviews to ensure compliance, and direct the school to identify the person that will be responsible for conducting the review, as well as overseeing any needed modifications .

- b. The notice will require each school and the District's Administrative Office to submit an annual report documenting when the school conducted its web-site review, the method to be used and standards applied in its review, summarize the findings, identify the steps that will be taken to correct any identified problems, and a timeline for completing those steps. The report will also include information about other web accessibility problems collected, evaluated, and addressed throughout the school year.
- c. The District will designate one person to review all of the annual reports and to monitor steps taken to correct any problems.

Reporting Requirements:

By August 1, 2014, the District will provide OCR with a draft of the notice and the contact information for the District staff member responsible for reviewing the results of the annual reviews and monitoring steps taken to insure compliance.

By October 1st of each following year, beginning October of 2015, for the next two (2) years, a summary of the reports will be prepared and submitted to OCR.

2. By September 1, 2014, the District will develop an accessibility procedure that is posted prominently on its web-site and informs students, employees, parents, guests, and visitors with disabilities, particularly those with visual, hearing, or manual impairments or who otherwise require the use of assistive technology on the basis of disability to access information concerning the District's educational programs that if they have difficulty accessing information on the web-site, they should contact (District Designee at email/phone) and that individual accommodations will be made to ensure access to any web-site content.

Reporting Requirements:

By September 15, 2014, the District will provide OCR with a draft of the procedure and the contact information for the District staff member responsible for arranging for the individual accommodation.

3. The District will develop a resource guide that provides information about web accessibility requirements, standards, and links to reference materials. Each school will be asked to make this resource guide available to those posting information on the web-site and maintaining school and District web-sites.

Reporting Requirement:

By September 15, 2014, the District will provide to OCR for its review and approval a draft or prototype of the resource guide

4. By September 1, 2014, the District will implement the following measures for its website:
- Ensure that there are label tags for all Form fields (e.g. on the Lunch Payment screen); and
 - Ensure that there are alternative attributes tags to match graphics.

Reporting Requirement:

By September 15, 2014, the District will implement the measures specified above and provide OCR with contact information for the District staff members responsible to implementing the above measures.

5. By December 31, 2014, the District will implement the following measures for its website:

Ensure that the website has the following accessible keyboard features:

- Main drop down menu
 - Assistive technology for users of the Accessible Site Menu
 - Menus for keyboard users
 - Style Sheet Information (viewed by screen reader)
 - Ensure that the website has label controls, provides keyboard accessible features, and synchronized captions.
 - Add readable content with assistive technology to Carousel buttons
 - Make Flash information viewable by a screen reader.
 - Provide Flash controls on home pages
- Assurance of accessibility compliance from vendors for websites for library.
Add HTML code in tables to show column headers
- Make Calendar compatible with screen reader
 - Provide labels for drop down boxes in Calendar

Reporting Requirement:

By January 15, 2015, the District will implement the measures specified above and provide OCR with contact information for the District staff members responsible for implementing the above measures.

6. By May 31, 2015, the District will implement the following measures for its website:
- Structure documents for use by assistive technology:

-For all documents created subsequent to April 15, 2014, the District will include appropriate tagging, alternative texts for graphics, column headers for reading, and PDFs including tags on critical information such as watermarks and headings. Such measures will include the addition of alternative text for images and complete alternative text for images with partial alternative text. For updating of PDF documents, the District will give priority to PDF homework and reading postings by teachers and information concerning school programs and activities. For other PDF's on- the site, the District will identify which documents (District policies and procedures, school handbooks, etc.) are used most frequently and update those documents. For all other PDF documents, the District will make corrections when updates are made. If there is an immediate need for a document, the District's Technology Office will provide an individually accommodated copy.

- Provide accessible course information by adding alt tags, captioning, and screen reader compatibility. Add alternative text to images and prescribe reading order in Power Point.

Reporting Requirements:

By January 15, 2015, the District will provide a summary to OCR regarding the progress made towards implementing the measures specified above and provide OCR with contact information for the District staff member(s) responsible for implementing the above measures.

By May 31, 2015, the District will have implemented the measures specified above and provide OCR with contact information for the District staff member(s) responsible for implementing the above measures.

7. Training

By December 31, 2014, the District will develop and conduct training on how to ensure accessibility in web design and implementation. The training will be provided to all staff involved in web design and implementation, including teachers who develop content for on-line instruction. The training will cover, at a minimum, the accessibility procedure referenced in paragraph 2, accessibility plans, and the roles and responsibilities of the District staff to ensure that web design, documents, lessons and multimedia videos or content are accessibility.

Reporting Requirement

By January 15, 2015, the District will provide to OCR documentation of the training provided pursuant to this Agreement, including the name(s) and credentials of the

