

## **RESOLUTION AGREEMENT**

### **New York Institute of Technology OCR Case No. 02-13-2323**

In order to resolve Case No. 02-13-2323, New York Institute of Technology (the Institute) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it will take the actions detailed below pursuant to the requirements of 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.

#### **Action Item 1: Accessibility Issues Related to Student Parking**

The OCR investigation found accessibility issues for students with disabilities related to the student parking lot, and the route from the student parking lot to the Institute's Academic Quad (including Salten Hall), as set forth in Appendix A and Appendix B.

To resolve these issues, the Institute will, at its option, take one of the two following alternative Actions:

*Option I:* By November 30, 2018, the Institute will make the following changes to the Brookville Parking Lot and to the route from the Brookville Parking Lot to the Academic Quad: (a) increase the number of accessible spaces in the Brookville Parking Lot to equal 2% or more of the total spaces in the lot, in accordance with Appendix A; (b) add appropriate accessible signage in the Brookville Parking Lot, in accordance with Appendix A; (c) ensure that the accessible parking spaces in the Brookville Parking Lot, are located on the shortest accessible route from parking to an accessible entrance, in accordance with Appendix A; and, (d) make the structural changes set forth in Appendix B, regarding the route from the Brookville Parking Lot to the Academic Quad (including Salten Hall). In the interim, by October 15, 2018, the Institute will adopt a plan to ensure that each program and activity operated in Salten Hall, when viewed in its entirety, is readily accessible to individuals with disabilities.

*Option II:* As an alternative to adding accessible spaces to the Brookville Parking Lot<sup>1</sup> and making the changes to the ramp leading from the Brookville Parking Lot to Salten Hall, by October 30, 2018, the Institute will ensure that a total of sixteen (16) accessible spaces are made available at Harry Shure/East 300 Road Parking Areas and Salten Hall/West 300 Road Parking Areas, of which three (3) would be van accessible, and that appropriate signage is installed at the entrances to the Brookville Parking Lot and the road leading to Harry Schure and Salten Hall to notify disabled students and visitors that they may park in accessible parking spaces located at Harry Schure/East 300 Road Parking Areas and Salten Hall/West 300 Road Parking Areas.<sup>2</sup>

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<sup>1</sup> Any remaining accessible spaces in the Brookville Parking Lot must comply with Section 502.6 of the 2010 ADA Standards, as referenced in Appendix A.

<sup>2</sup> Pursuant to Section 208.2 of the 2010 ADA Standards, where more than one parking lot is provided at a site, the number of accessible spaces is to be calculated according to the number of spaces required for each parking lot; however, pursuant to Exception 2 of Section 208.3.1, accessible parking spaces may be located in different parking lots if substantially equivalent or greater accessibility is provided in terms of distance from an accessible entrance. The Institute advised OCR that in addition to the four designated accessible spaces in the Brookville Parking Lot,

**Reporting Requirements:**

- a) By October 15, 2018, the Institute will provide to OCR, for review and approval, its election of Option I or Option II, and in the event that it elects Option I, its interim plan for ensuring that each program and activity operated in Salten Hall, when viewed in its entirety, is readily accessible to individuals with disabilities.
- b) By October 19, 2018, the Institute will provide documentation to OCR demonstrating that the Institute has adopted and begun implementation of the OCR-approved interim plan, in the event the Institute elects Option I.
- c) By October 19, 2018, the Institute will provide documentation to OCR (invoices/receipts, blueprints and/or engineering proposals) confirming plans for the structural changes set forth in Appendix B, in the event the Institute elects Option I.
- d) By October 30, 2018, the Institute will provide documentation to OCR (e.g., copies of paid invoices, photographs) confirming completion of the changes set forth in Option II, in the event the Institute elects Option II.
- e) By November 30, 2018, the Institute will provide documentation to OCR (e.g., copies of paid invoices, photographs) confirming completion of the changes set forth in Appendix A and Appendix B, in the event the Institute elects Option I.

**Action Item 2: Notice of Nondiscrimination**

The Institute has evidenced to OCR that it has revised its notice of nondiscrimination, which is titled “Statement of Non-Discrimination” (the Non-Discrimination Statement) to state that the Institute does not discriminate on the basis of disability (and other bases). The Non-Discrimination Notice includes an identification of the person(s) designated to coordinate the Institute’s efforts to comply with Section 504 and its implementing regulation. The bottom of each page of the Institute’s website includes a link to the Non-Discrimination Statement. By October 30, 2018, the Institute will ensure that any online recruitment materials or publications containing general information that the Institute makes available to participants, beneficiaries, applicants or employees contains the Non-Discrimination Statement and/or a link thereto; and, the Institute will also ensure that any hard copies of recruitment materials or publications containing general information that the Institute makes available to participants, beneficiaries, applicants or employees contains, at a minimum, an insert with the Non-Discrimination Statement, until the hard copy recruitment materials or publications are reprinted.

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there are 13 designated accessible spaces at Harry Schure/East 300 Road Parking Areas (of 33 total spaces) and two designated accessible spaces at Salten Hall/West 300 Road Parking Areas (of 42 total spaces); however, signage for Harry Schure and Salten Hall states that parking therein is “[F]or Faculty and Staff only,” and that there is “[n]o student parking in this area.” The total number of spaces in the Brookville Parking Lot and Harry Schure/East 300 Road and Salten Hall/West 300 Road areas is 781 spaces.

**Reporting Requirements:**

- a) By October 30, 2018, the Institute will provide documentation to OCR demonstrating that the Non-Discrimination Statement has been published consistent with Action Item 2 above; such as a copy of revised materials and publications containing the notice of nondiscrimination, and/or a link to the on-line version of the materials and publications.

**Action Item 3: Grievance Procedures**

By October 30, 2018, the Institute will revise its grievance procedures to ensure that these incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging all forms of discrimination (including harassment) on the basis of disability (and may include other bases); and will then publish such grievance procedures. If not already included, the procedures will be revised to include provisions addressing the following, at a minimum:

- a. notice of the procedures, including where complaints may be filed, that is easily understood, easily located, and widely distributed;
- b. application of the procedures to complaints alleging discrimination or harassment carried out by employees, students, and third parties;
- c. adequate, reliable, and impartial investigation, including an opportunity to present witnesses and evidence;
- d. designated and reasonably prompt timeframes for major stages of the grievance process;
- e. notice to parties of the outcome and any appeal; and
- f. an assurance that the institution will take steps to prevent further harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

**Reporting Requirements:**

- a) By October 30, 2018, the Institute will provide a copy of its proposed revised grievance procedures to OCR for review and approval.
- b) By November 30, 2018, or within thirty (30) days of OCR's approval of the revised grievance procedures, whichever is later, the Institute will provide documentation to OCR demonstrating that it adopted the approved procedures and updated its printed and on-line publications to include the revised procedures (inserts may be used pending reprinting of publications).
- c) By June 30, 2019, the Institute will submit documentation to OCR of the Institute's responses to all complaints and reports (oral or written) of discrimination (including harassment) on the basis of disability made during academic year 2018-2019, pursuant to the Institute's revised grievance procedures. The documentation will include, at a minimum: (a) a copy of each complaint (or a description of each oral complaint) of an alleged incident(s) of disability discrimination; (b) the names of the individuals involved, or unique identifiers for any students involved; (c) the date(s) of

receipt of the complaint or report (oral or written); (d) information about the individual(s) who received and processed the complaint or report (oral or written); (e) the status of the investigation of the complaint or report (oral or written) ; (f) the outcome of all completed investigations, and any disciplinary sanctions imposed or remedial measures taken; and (g) the date(s) the Institute provided notice of the outcome of the investigation to the complainant.

**Action Item 4: Training**

Within sixty (60) days of adopting the revised grievance procedures, the Institute will provide training to all Institute staff directly involved in processing, investigating and/or resolving complaints or other reports of disability discrimination/harassment. The training will review the Institute’s revised policies and procedures for investigating discrimination/harassment complaints; and, include instruction on how to conduct and document discrimination/harassment investigations in an adequate, reliable and impartial manner, including the appropriate legal standards to apply in such investigations.

**Reporting Requirement:** Within ninety (90) days of adopting the revised grievance procedures, the Institute will provide documentation to OCR demonstrating that training was provided consistent with Action Item 4 above, including: (a) the name(s) and credentials of the individual(s) who conducted the training; (b) a list of the individuals who attended the training and their positions; (c) the date(s) the training was conducted; (d) a description of the content, scope, and duration of the training provided; and, (e) copies of any training materials disseminated.

The Institute 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, the Institute understands that during the monitoring of this Agreement, if necessary, OCR may visit the Institute, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the Institute has fulfilled the terms of this Agreement. Upon the Institute’s satisfaction of the commitments made under this Agreement, OCR will close this case.

The Institute 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 will give the Institute written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon the signature of the Institute’s representative below.

Date: \_\_\_\_ October 10, 2018 \_\_\_\_\_

By: \_\_\_\_\_/s/\_\_\_\_\_  
Henry C. Foley, Ph.D.  
President  
New York Institute of Technology

**APPENDIX A**

<b>Building Component</b>	<b>Student Parking Lot (a/k/a Brookville Parking Lots)</b>
<b>Accessibility Issues</b>	<ul style="list-style-type: none"> <li>• 4 accessible spaces out of 706 total spaces [2010 ADA Standards Section 208.2 requires a minimum of 2% of total, or 14, accessible spaces]<sup>3</sup></li> <li>• Appropriate accessible signage [2010 ADA Standards Section 502.6 requires accessible parking spaces to have sign with international symbol of accessibility with bottom of sign minimum 60” above ground; van parking spaces shall contain the designation “van accessible”]</li> <li>• Parking spaces that serve a particular building or facility shall be located on the shortest accessible route from parking to an accessible entrance [2010 ADA Standards Section 208.3.1]</li> </ul>

**APPENDIX B**

<b>Building Component</b>	<b>Route from Student Parking Lot (a/k/a Brookville Parking Lots) to Academic Quad (including Salten Hall)</b>
<b>Accessibility Issues</b>	<ul style="list-style-type: none"> <li>• Slope of ramp ranged between 10.6% and 11.7% [2010 ADA Standards Section 405.2 requires that ramp runs have a running slope not steeper than 1:12]</li> <li>• No handrails on ramp [2010 ADA Standards Section 405.8 requires that ramp runs with a rise greater than 6 inches shall have handrails complying with Section 505]</li> </ul>

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<sup>3</sup> Pursuant to Section 208.2 of the 2010 ADA Standards, where more than one parking lot is provided at a site, the number of accessible spaces is to be calculated according to the number of spaces required for each parking lot; however, pursuant to Exception 2 of Section 208.3.1, parking spaces may be located in different parking lots if substantially equivalent or greater accessibility is provided in terms of distance from an accessible entrance.