

RESOLUTION AGREEMENT

Metropolitan College of New York OCR Case No. 02-15-2384

In order to resolve Case Number 02-15-2384, the Metropolitan College of New York (the College) assures the U.S. Department of Education, New York 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:

By May 31, 2016, the College will revise its grievance procedures to incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging discrimination or harassment on the basis of disability (and may include other bases) filed by students, employees, and third parties. The procedures should be easily located, widely distributed, and include, at a minimum, the provisions listed below (if not already included):

- A statement that the procedures apply to complaints alleging discrimination or harassment carried out by employees, students and third parties;
- an explanation of how to file a complaint pursuant to the procedures;
- the name, title, office address, and telephone number of the individual(s) with whom to file a complaint;
- a recommendation that College staff who observe acts of harassment intervene to address the harassment and promptly report the incident;
- the various steps the College will take to conduct an adequate, reliable, and impartial investigation of all complaints, including the interim preventative steps the College will take to ensure the safety of the complainant and the larger school community during the investigation;
- an opportunity for the parties to identify witnesses and provide or identify evidence;
- designated and reasonably prompt timeframes for the major stages of the grievance process;
- a requirement that an investigatory report be filed at the conclusion of the investigation;
- an assurance that the College will inform the parties of their rights and have an opportunity to discuss available resources;

- an assurance that the College will offer counseling and academic support services, as necessary and appropriate, to any person found to be subjected to harassment, and where appropriate, counseling to the person(s) who committed the harassment;
- written notice to the parties of the outcome;
- notice of the opportunity for the parties to appeal the findings (if an appeal is allowed);
- an assurance that any appeal will be conducted in an impartial manner by an impartial decision-maker;
- a range of potential remedies and sanctions;
- the action steps the College will take to prevent recurrence of harassment and to correct its discriminatory effects, if appropriate; and
- a statement that retaliation against any individual who files an informal or formal complaint or participates in a complaint investigation is prohibited, and is subject to disciplinary or other action.

Reporting Requirements:

- a. By March 31, 2016, the College will provide to OCR a draft of the revised grievance procedures developed consistent with Action Item 1 for OCR's review and approval.
- b. Within fifteen (15) days of the College's receipt of OCR's approval of the grievance procedures, the College will provide documentation to OCR to substantiate that it has formally adopted the OCR-approved procedures; updated its printed publications and on-line publications with the newly adopted procedures (inserts may be used pending reprinting of these publications); and electronically disseminated the newly adopted grievance procedures to students and employees. This documentation will include at a minimum (i) printouts or a link to all on-line publications containing the newly adopted grievance procedures; (ii) evidence of the electronic dissemination of the grievance procedures to students and employees; and (iii) if not yet finalized, copies of inserts for printed publications.
- c. By September 1, 2016, the College will provide to OCR copies of the printed versions of all publications disseminated to students and employees containing the newly adopted grievance procedures.
- d. By June 30, 2016, and 2017, the College will provide a report to OCR regarding any oral and/or written complaints of disability discrimination or harassment made during academic years 2015-2016 and 2016-2017, respectively. The report to OCR will include, at a minimum (a) a copy of the complaint or a description of any orally reported alleged incident(s) of disability discrimination or harassment; (b) the date(s) of receipt of the written complaint or oral report; (c) a description of the College's findings and response

to the incident(s); and (d) the date(s) that the College provided notice of the outcome of its investigation in writing to the parties.

Action Item 2:

By February 15, 2016, the College will designate a person(s) to coordinate its efforts to comply with Section 504; and will revise all relevant policies, procedures and publications to include the name and/or title, office address, telephone number and electronic mail (email) address of the person so designated. In addition, the College will ensure that the contact information for each such individual is consistent and complete in all materials. The notification should indicate that the designated employee(s) is responsible for coordination of compliance with all aspects of Section 504.

Reporting Requirement: By February 29, 2016, the College will advise OCR of the name, title, office address, telephone number and email address of the person(s) designated by the College to coordinate its efforts to comply with Section 504. In addition, the College will provide documentation to OCR demonstrating that it has revised all relevant policies, procedures and publications to include the name and/or title, office address, telephone number and email address of the person so designated; e.g., copies of the printed versions of all publications disseminated to students and employees containing the required notification, or printouts or a link to all on-line publications containing the required notification. Inserts may be used pending reprinting of these publications.

Action Item 3:

By February 29, 2016, the College will revise its notice of non-discrimination to clearly state that the College does not discriminate on the basis of disability (and may include other bases such as race, color, national origin, sex and age) in admission or access to, or treatment or employment in, its programs and activities. The revised notice will also include identification of the College's 504 Coordinator(s) and a statement that inquiries concerning the application of Section 504 and its implementing regulation may be referred to the designated Section 504 Coordinator(s) or to OCR. The College will broadly publish its revised notice of non-discrimination, including on the College's website and in any recruitment materials or publications containing general information (either in printed form or electronically) that it makes available to students, applicants, employees, or other relevant third parties.

Reporting Requirement: By February 29, 2016, the College will provide to OCR a copy of its amended notice of non-discrimination and a list of the titles of the publications in which its notice of non-discrimination appears (e.g. catalogs, website, student handbook) and a copy of at least one publication disseminated to the campus community, or printouts or a link to an on-line publication containing the notice. Inserts may be used pending reprinting of publications.

Action Item 4:

By June 30, 2016, the College will provide training to Section 504 Coordinator(s), any other coordinators, and any College officials and administrators who will be directly involved in processing, investigating, and/or resolving complaints of disability discrimination or harassment, or who will otherwise coordinate the College's compliance with Section 504. The College's training will cover the College's newly revised grievance procedures and will provide attendees with instruction on recognizing and appropriately addressing allegations and complaints pursuant to Section 504. The training will include information concerning what constitutes disability discrimination or harassment, and the College's responsibilities under Section 504 to address allegations of discrimination and harassment under Section 504. Additionally, the training will include instruction on how to conduct and document adequate, reliable, and impartial Section 504 investigations. The College will distribute copies of its revised grievance procedures to all attendees.

Reporting Requirement: By July 15, 2016, the College will submit to OCR documentation demonstrating that the training referenced in Action Item 4 was provided. The report will identify the person(s) who provided the training and include a description of the person's qualifications; indicate the date(s) of the training(s); include a copy of any training materials used or disseminated during the training; and the names of staff in attendance.

Action Item 5:

By March 15, 2016 the College will complete an investigation of the complainant's report of disability discrimination made on XXX 2015, and ensure that the investigation complies with the regulation implementing Section 504. The investigation of the complainant's report of disability discrimination will involve, at a minimum, the following: providing the complainant and/or her representative with an opportunity to provide additional information or identify any other witnesses relevant to her report; conducting a detailed review of all information previously provided by the complainant to the College; interviewing all witnesses, as appropriate; and, making a determination of whether the evidence presented, together with such additional information and witnesses as may be identified or presented, supports by a preponderance of the evidence a finding that disability discrimination occurred. The outcome of the investigation will be communicated to the complainant and any accused parties in writing.

Reporting Requirement: By March 15, 2016, the College will submit to OCR, for review and approval, a report documenting the procedures used to conduct its investigation, as well as the outcome of the investigation; proof that written notice of the outcome was provided to the complainant and any other relevant parties; any corrective actions deemed necessary; and, a timeline for implementation of the corrective actions, if necessary. The College will also provide all documentation obtained relevant to the investigation.

The College understands that OCR will not close the monitoring of this agreement until OCR determines that the recipient has fulfilled the terms of this agreement and is in compliance with the regulation implementing Section 504, at 34 C.F.R. §§ 104.7, 104.8 which was at issue in this case. The College also

understands that by signing this agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirement of this agreement. Further, the College understands that during the monitoring of this agreement, if necessary, OCR may visit the College, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms of this agreement and is in compliance with the regulation implementing Section 504, at 34 C.F.R. §§ 104.7, 104.8 which was at issue in this case. The College understands and acknowledges that OCR may initiate administrative enforcement of 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 the College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

Date

_____/s/_____
Vinton Thompson
President
Metropolitan College of New York