

## **VOLUNTARY RESOLUTION AGREEMENT**

### **Rutgers University Case No. 02-18-2006**

In order to resolve Case No. 02-18-2006, Rutgers University (the University) 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, and Title II of the Americans with Disabilities Act of 1990 (the ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35.

This resolution agreement has been entered into voluntarily and does not constitute an admission by the University that it committed any wrongdoing, including, but not limited to, a violation of Section 504, the ADA and/or their respective implementing regulations.

#### **Action Item 1: Individualized Assessment of the Ability to Return to the University**

By XXXXXXXXX, the University will conduct an individualized assessment to determine whether the complainant should be permitted to return or be readmitted to the University in accordance with University's policies and procedures, including University Policy 10.2.12, Safety Intervention Policy. This individualized assessment will consider the nature, duration, severity, and probability that any risk will recur. In making the individualized assessment, the University may request relevant medical information from the complainant to ascertain fitness and/or require the student to undergo an evaluation, including a medical or psychological evaluation, by an independent and objective health professional designated by the University, which may include the University's Counseling, ADAP & Psychiatric Services ("CAPS"). However, if the complainant declines to provide such information or participate in such evaluation within the time frame required by the University, the University may proceed with its individualized assessment based on the information currently in its possession. The University will also determine whether reasonable modifications of the University's policies, practices, or procedures or any reasonable accommodations could sufficiently mitigate any risk posed by the complainant. If the University concludes that the complainant no longer poses a risk, or that any risk can be mitigated by the provision of reasonable accommodations, the University will allow the complainant to re-enroll. In making this individualized assessment, the University will ensure that the complainant is treated similarly to other similarly situated students with or without disabilities. If the University determines that the complainant should not be permitted to return to the University, the University will provide the complainant with an opportunity to appeal this decision, in accordance with the appeals process set forth in University Policy 10.2.12. If the decision not to permit the complainant to return to the University is sustained on appeal, the University will be under no obligation to re-enroll the complainant in the University unless and until the University determines to do so pursuant to Section VII, "Return to Campus or Readmission," of Policy 10.2.12.

**Reporting Requirement:** By XXXXXXXXX, the University will provide documentation to OCR demonstrating that the University conducted the individualized assessment as

described in Action Item 1. This documentation should include, but is not limited to, the name(s) and title(s) of the individual(s) conducting the review; and, a detailed explanation of the outcome of the assessment. Following the receipt of this information, OCR will notify the University regarding whether the assessment is compliant with Section 504 and the ADA. If the University determines that the complainant no longer poses a risk, or that any risk can be mitigated by the provision of reasonable accommodations, the University will provide documentation to OCR demonstrating that it offered the complainant an opportunity to re-enroll in the University. If the University determines that the complainant should not be permitted to return to the University, the University will provide documentation to OCR demonstrating that it provided the complainant with an opportunity to appeal this decision, in accordance with the appeals process set forth in University Policy 10.2.12.

**Action Item 2: Offer to Make-Up Coursework or Have Failing Grades Converted to “W”**

By XXXXXXXX, or within thirty days of the outcome of any appeal conducted pursuant to Action Item 1, above, whichever is later, the University will offer the complainant, in writing, one of the following options:

- a) If the University permits the complainant to reenroll in the University pursuant to Action Item 1, above, the University will offer the complainant, in writing, the option to make up missed coursework in the following courses in which she was enrolled during the XXXX semester: XXXX (the Course) and XXXX (the XXXXXX), consisting of: xxxxxx in the Course, and xxxxxxxxxxxx for the XXXXXX. The University will provide a minimum of 30 days for the complainant to respond to the offer. If the complainant accepts this offer, the University will offer the complainant a minimum of two semesters in which to make up the work. The complainant will be responsible for coordinating with the Office of Disability Services and the Course and XXXXXXXX instructor prior to the start of the XXXXXXXX semester to schedule time to complete the specified outstanding coursework that must be performed on campus (i.e., exams and XXXXXXXX work), by the end of the XXXXXXXX semester. In the event that the complainant requests an adjustment of the timeframes set forth in this paragraph, the University may request that the complainant submit appropriate documentation substantiating the need for such adjustment and assess whether the request is reasonable under the circumstances before determining whether to grant any such request as a reasonable accommodation. In the event that the complainant completes any of the outstanding coursework for the Course or the XXXXXXXX pursuant to this paragraph, the University will provide the complainant with a grade for the Course and/or XXXXXXXX, as applicable, based upon the work the complainant completes by the end of the XXXXXXXX semester. The University is under no obligation to extend this offer with respect to any course in which the complainant either enrolled in the past or may enroll in the future other than the Course and XXXXXXXX referenced above.
- b) If the University determines, pursuant to Action Item 1, that the complainant should not be permitted to return to the University at this time, the University will offer the complainant, in writing, the option to have the failing grades (“F”) she received in the Course and the XXXXXXXX referenced in subsection (a), above, converted to “W”

grades, indicating a withdrawal from the Course and the XXXXXXXX. The University will provide a minimum of 30 days for the complainant to respond to the offer. If the complainant chooses to accept this option, the University will convert the grades for the Course and the XXXXXXXX to “W” grades within thirty (30) days of the complainant’s acceptance of the offer. If the complainant rejects this offer, the University will be under no obligation to extend this offer again in the future. The University is under no obligation to extend this offer with respect to any course in which the complainant either enrolled in the past or may enroll in the future other than the Course and XXXXXXXX referenced above.

**Reporting Requirements:**

- (a) By XXXXXXXX, or within sixty days of the outcome of any appeal conducted pursuant to Action Item 1, above, whichever is later, the University will provide documentation to OCR demonstrating that it has offered the complainant the applicable option consistent with Action Item 2; and, a copy of the complainant’s response, if any. If the complainant rejects or does not respond within thirty days to the University’s offer pursuant to Action Item 2(a) or 2(b), respectively, reporting requirements (b) and (c), below, will not apply.
- (b) If the University extends the complainant the offer pursuant to Action Item 2(a), above, the University will provide documentation to OCR by XXXXXXXX (i) regarding what, if any, coursework the complainant completed by the end of the XXXXXXXX semester, and (ii) demonstrating that, if applicable, the complainant’s grades for the Course and/or XXXXXXXX were revised appropriately. If the University adjusts the timeframes above upon a documented reasonable request made/legitimate need shown by the complainant, the University will provide documentation to OCR within thirty days following the expiration of the new timeframe for completion of the coursework.
- (c) If the University extends the complainant the offer pursuant to Action Item 2(b), above, and the complainant accepts such offer, within 30 days of the complainant’s acceptance of the University’s offer, the University will provide documentation to OCR demonstrating that the complainant’s grades for the Course and/or XXXXXXXX were revised, appropriately.

The University understands that by signing this Agreement, it agrees to provide the foregoing information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the University understands that during the monitoring of this 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 this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. §104.4, and the ADA and its implementing regulation at 28 C.F.R. §35.130. Upon completion of the obligations under this Agreement, OCR will close this case. The University 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 University 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 University's representative below.

April 24, 2018 \_\_\_\_\_  
Date

/s/ \_\_\_\_\_  
Authorized Representative  
Rutgers University