

## **VOLUNTARY RESOLUTION AGREEMENT**

### **D'Youville College OCR Case No. 02-19-2190**

In order to resolve Case No. 02-19-2190, D'Youville College (the College) 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.

This resolution agreement has been entered into voluntarily and does not constitute an admission of wrongdoing by the College.

#### **Action Item 1: Investigation of Complainant's Report of Discrimination**

By March 31, 2020, the College will complete an investigation into the events and circumstances related to the complainant's complaint, allegedly filed on May 2, 2019, that the College failed to provide a notetaker to her from January 25, 2019, to April 25, 2019, in her XXXXXXXX XXXXXXXX XXXXXXXXXXXX course. The College will ensure that the investigation involves a detailed review by the College staff of all evidence available to College staff; interviewing witnesses, as appropriate; an opportunity for the complainant to provide any information or witnesses to the College relevant to the complaint; an opportunity for College administrators and faculty and/or staff to provide any information or witnesses; a review of such information, and/or as appropriate, interviews of such witnesses; and, a determination of whether the evidence presented, together with such information and witnesses as may be identified or presented, supports a finding that the College denied the complainant a notetaker as an academic adjustment and/or auxiliary aid/service. If the College concludes that the complainant was denied a notetaker, the report will include a description of the action the College intends to take to address the issue with the College faculty and/or staff found responsible. Following this investigation, the College will develop a plan for addressing any issues and effects on the complainant related to any failure to provide a notetaker to the complainant; and, take such actions as may be appropriate and warranted to address those issues and the effects on the complainant in accordance with that plan. The outcome of the investigation will be communicated to the complainant and any College faculty and/or staff found responsible in accordance with the College's procedures for investigating disability discrimination complaints under Section 504.

#### **Reporting Requirements:**

- a) By April 15, 2020, the College will submit to OCR a report documenting the procedures used to conduct its investigation, as well as the outcome of the investigation; proof that notice of the outcome was provided to the complainant and any faculty and/or staff found responsible; any interim measures, and/or corrective actions deemed necessary; a copy of the plan for addressing any issues and/or effects on the complainant related to any failure to provide a notetaker to the complainant; and, a timeline for implementation of the corrective actions and the plan, if necessary. The College also will provide all documentation obtained relevant to the investigation.

- b) By April 30, 2020, the College will provide documentation to OCR demonstrating that it took actions deemed appropriate and warranted as a result of the review conducted in accordance with Action Item 1 above.
- c) By December 31, 2020, the College will provide documentation to OCR demonstrating that it provided to the complainant all required academic adjustments and auxiliary aids/services, including notetaking services, for any College courses in which she enrolls, for the spring, summer, and fall 2020 semesters. The documentation will include, at a minimum: (i) the date(s) that the complainant made the requests for academic adjustments and auxiliary aids/services; (ii) the date(s) that the College provided academic adjustments and auxiliary aids/services to the complainant; and, (iii) logs or other information demonstrating that the complainant received all of the academic adjustments and auxiliary aids/services that the College approved her to receive.

**Action Item 2: Training on the Provision of Academic Adjustments and Auxiliary Aids/Services**

By April 30, 2020, the College will provide training to the College’s Accessibility Resources Office (ARO) Coordinator; ARO staff; and, other faculty and/or administrators of the College’s Masters in Science in XXXXXXXXXXXX XXXXXX XXXXXX XXXXX XXXXXXXXXXXXXXX program (the program) responsible for providing academic adjustments and/or auxiliary aids/services, including the XXXXXXXXXXX XXXXXX XXXXXXXXXXXXXXX course professor(s). The training will include a discussion of the College’s obligation to provide qualified individuals with disabilities with academic adjustments and/or auxiliary aids/services, in accordance with the regulation implementing Section 504; the College’s process for reviewing and responding to requests for academic adjustments and/or auxiliary aids/services; and, the College’s process for ensuring that academic adjustments and/or auxiliary aids/services are provided in a timely manner, and that logs and files regarding the provision of academic adjustments and/or auxiliary aids/services are appropriately maintained.

**Reporting Requirements:**

- a) By April 30, 2020, the College will provide documentation to OCR demonstrating that training was provided in accordance with Action Item 2 above; including the name(s) and credentials of the trainer(s); the date(s) and time(s) of the training; the names and positions/titles of staff in attendance; confirmation of whether all relevant employees have been trained (and if not, how many remain); and, copies of all training materials distributed.
- b) By December 31, 2020, the College will provide documentation to OCR demonstrating that notetaking as an academic adjustment and/or auxiliary aid/service was provided in a timely and appropriate manner to students during the spring, summer, and fall 2020 semesters; including, for each student, (i) the names or identifiers of students who requested notetaking services; (ii) the date(s) that the requests were made; (iii) the date(s) that the College first provided notetaking services for each student; and, (iv)

logs or other information demonstrating that each student received all of the notetaking services that they were approved to receive.

### **Action Item 3: Training on Responding to Complaints of Discrimination**

By April 30, 2020, the College will provide training to the ARO Coordinator; ARO staff; and, other program faculty and/or administrators who are responsible for receiving and investigating complaints of discrimination on the basis of disability. The training will include (a) the College's grievance procedures for complaints of disability-based discrimination; (b) the types of conduct that might constitute discrimination on the basis of disability; (c) the College's responsibilities under Section 504 to address allegations of disability discrimination; and, (d) how to conduct and document adequate, reliable, and impartial investigations of disability-based discrimination complaints.

#### **Reporting Requirements:**

- a) By April 30, 2020, the College will provide documentation to OCR demonstrating that training was provided in accordance with Action Item 3 above; including the name(s) and credentials of the trainer(s); the date(s) and time(s) of the training; the names and positions/titles of staff in attendance; confirmation of whether all relevant employees have been trained (and if not, how many remain); and, copies of all training materials distributed.
- b) By June 30, 2020, the College will provide documentation to OCR (such as a de-identified tracking report, using unique identifiers in place of student names and/or other personal identifiers) of the College's responses to student complaints of discrimination on the basis of disability made to any College staff during academic year 2019-2020. The documentation will include, at a minimum: the date the complaint was filed; unique identifiers instead of the names of complainants and respondents (i.e., "Student 1, "professor 1", etc.); the conduct alleged; information about the individual(s) who received and processed the complaints; interim measures provided, if any; the status of the complaint at the time of submission to OCR (e.g., the investigation is ongoing, the investigation is suspended due to a request from law enforcement, or the College is assessing the discipline to be imposed); the outcome of all completed investigations, and the date that the parties were notified of the outcome; and, the outcome of any disciplinary matters related to the investigations or other remedial measures taken.

The College understands that by signing this resolution agreement (the Agreement), it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the 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 and obligations of this Agreement. Upon the College's satisfaction of the commitments made under this Agreement, OCR will close this case.

The College understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give the College 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 College's representative below.

2/27/20  
Date

/s/  
Authorized Representative  
D'Youville College