

## **VOLUNTARY RESOLUTION AGREEMENT**

### **State University of New York at Stony Brook Case No. 02-23-2035**

To resolve Case No. 02-23-2035, State University of New York at Stony Brook (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, as amended, 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104 (Section 504) and Title II, 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35 (Title II).

The regulation implementing Section 504, at 34 C.F.R. § 104.23, categorizes facilities constructed or altered by, on behalf of, or for the use of a recipient after June 3, 1977, as “new construction.” Under the regulation implementing the ADA, at 34 C.F.R. § 35.151, construction or alterations commenced after January 26, 1992, is considered “new construction.” The University’s (1) Southold Hall elevator and doors to and at the elevator (collectively, the Southold elevator facilities), constructed in 2007, and automatic door openers for its common room, laundry room, and main exterior entrance (collectively, the Southold automatic door openers), installed in 2022; (2) Atlantic Hall automatic door openers for its second set of interior doors at the main entrance and first floor (including doors to two classrooms, a conference room, a student lounge, and gender neutral bathroom) (collectively, the Atlantic automatic door openers and first floor facilities), altered/installed in 2019 and 2022; and (3) Student Center automatic door openers for its designated accessible interior and exterior entrance doors and two bathroom doors on the main level (collectively, the Student Center automatic door openers), installed in or around 2022/2023, which were at issue in this case, are considered “new construction” under Section 504 and Title II.

The regulation implementing Section 504 requires that new construction be readily accessible to and usable by individuals with disabilities. The regulation implementing Title II contains a similar requirement at 34 C.F.R. § 35.151. The regulation implementing Section 504, at 34 C.F.R. § 104.23, requires that all buildings constructed or alterations to existing facilities made after January 18, 1991, must be in compliance with UFAS, or it must be clearly evident that equivalent access is provided to meet the requirements of Section 504, such as through compliance with AADAG. Pursuant to the regulation implementing Title II, at 28 C.F.R. § 35.151, new construction or alteration of existing facilities commenced after January 26, 1992, must be in conformance with UFAS, ADAAG, or equivalent standards. Beginning March 15, 2012, all new construction or alterations of existing facilities must conform to the Department of Justice’s 2010 Americans with Disabilities Act Standards for Accessible Design (2010 ADA Standards), 28 C.F.R. Part 36, Appendix A. The Southold elevator facilities were installed in 2007, and therefore, must comply with UFAS, ADAAG, or equivalent standards. The Southold, Atlantic, and Student Center automatic door openers, and Atlantic first floor facilities were installed in 2019 and 2022/2023, and therefore, must comply with the 2010 ADA Standards.

New and altered facilities (or the identified new or altered part) modified or installed to comply with this Agreement will be readily accessible to and usable by individuals with disabilities pursuant to the 2010 ADA Standards.

### **Action Item 1**

By June 1, 2023, the University will ensure that the Southold, Atlantic, and Student Center automatic door openers and Atlantic doors comply with the requirements of the 2010 ADA Standards, §§ 404.3 – Automatic and Power-Assisted Doors and Gates and 404.2.9 Door and Gate Opening Force.

#### **Reporting Requirement:**

By June 15, 2023, the University will provide documentation to OCR (e.g., copies of paid invoices, photographs--including, if requested by OCR, photographs indicating measurements, videos indicating operation, etc.) confirming that the aforementioned doors and automatic door openers comply with the 2010 ADA Standards. OCR will then schedule an on-site visit to inspect the doors and automatic door openers.

### **Action Item 2**

By August 1, 2025, if the Southold elevator facilities do not already comply with the requisite requirements of UFAS or ADAAG, the University will ensure that the elevator facilities comply with the requirements of the 2010 ADA Standards, §§ 407.4 – Elevator Car Requirements; 404.2.7 Door and Gate Hardware; and 404.2.9 Door and Gate Opening Force.

#### **Reporting Requirements:**

1. By July 15, 2023, the University will provide: (a) documentation to OCR (e.g., copies of paid invoices, permit(s) from appropriate administrative authority evidencing compliant fire door, photographs--including, if requested by OCR, photographs indicating measurements, videos, etc.) confirming that the Southold elevator facilities comply with the requisite requirements of UFAS or ADAAG; or (b) a report detailing the modifications necessary to ensure that the Southold elevator facilities meet the 2010 ADA Standards consistent with Action Item 2 above (the Initial Report) for OCR's review and approval. The Initial Report will include timeframes for the completion of any alterations, renovations, or new construction as well as an interim plan, including the service contemplated in Action Item 3, for ensuring access to each program or activity operated in Southold Hall pending completion of the modifications.
2. By August 1, 2025, upon completion of all renovations, the University will submit documentation to OCR (e.g., copies of paid invoices, photographs--including, if requested by OCR, photographs indicating measurements, videos, etc.) demonstrating the completion of the modifications or alterations identified in the Initial Report. OCR will then schedule an on-site visit to inspect the Southold elevator facilities.

### **Action Item 3**

By May 1, 2023, and each semester thereafter until the resolution of Action Item 2, the University shall offer in writing, at no additional cost, weekly laundry services (weekly laundry services) to the student (the Student) XXXX XXXXXX XXXXX, as well as any other student the University identifies who may not be able to access laundry facilities at the University's Southampton campus due to disability. In providing such laundry services, the University will exercise precautions to protect the identity, privacy, and laundry items of any student who receives such services.

#### **Reporting Requirements:**

1. By May 1, 2023, and the first day of each semester thereafter until the resolution of Action Item 2 or the end of academic year 2024-2025 (including the summer 2025 semester), whichever occurs sooner, the University will make written offer(s) of weekly laundry services to all students who cannot access laundry facilities at the University's Southampton campus due to disability.
2. Within five (5) business days of receiving any request for weekly laundry services, the University shall arrange for such services and provide the student with written confirmation of same.
3. Within fifteen (15) days of any student, including the Student, electing to receive or deny weekly laundry services for academic year 2022-2023, the University will provide to OCR the student's written response, or if the response was verbally made, the student's name, date of the response, and name(s) and title(s) of University staff the student notified.
4. By the fifteenth (15) day of each semester beginning with the summer 2023 semester, until the resolution of Action Item 2 or the end of academic year 2024- (including the summer 2025 semester), whichever occurs sooner, the University will provide to OCR a log of all instances in which it offered and provided weekly laundry services pursuant to Action Item 3. In lieu of providing a log, the University may submit documentation evidencing the offering and provision of laundry services consistent with Action Item 3 (e.g., copies of correspondence with students evidencing all written offers regarding laundry services, invoices evidencing all occurrences when laundry services were provided, etc.).

### **Action Item 4**

Within 45 days of the resolution of Action Item 2, the University will provide training to any University staff in its Student Accessibility Support Center responsible for the Southampton campus who are involved in evaluating requests for, and making decisions about, approved housing accommodations. The University's training will cover the University's obligations to consider requests for housing accommodations based on a student's individual needs, including laundry services available at the University's Southampton campus. The training may be provided by University personnel, so long as the staff member(s) are properly qualified to provide such training.

