

**Resolution Agreement
Albany State University
OCR Complaint #04-15-2072**

The U.S. Department of Education (Department), Office for Civil Rights (OCR) and Albany State University (University) enter into this agreement to resolve the allegations in the above-referenced complaint. The University assures OCR that it will take the following actions to comply with the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance; and Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities.

Pursuant to Section 303(b) of OCR's Case Processing Manual, to resolve the issues of this investigation, the University agrees to implement the following corrective actions.

A. Notice of Non-Discrimination

- a. Revision: The University will revise its notice of non-discrimination (notice) so that it designates the individual(s) (by name or title, and contact information) responsible for the University's compliance with the laws that prohibit discrimination on the bases of race, color, national origin, disability status, and age.
- b. Reporting Requirement(s):
 - i. Within 60 calendar days of the date this agreement is signed, the University will submit to OCR for its review and approval, the revised notice.
 - ii. Within 60 calendar days of OCR's approval of the revised notice, the University will adopt and implement the revised notice by:
 1. providing all faculty, staff, and students with written communication regarding the notice with information on how to obtain a copy of the notice. The University will make this communication through the University's website and electronic mail messages to faculty, staff, and students.
 2. providing training on the revised notice to personnel designated by the notice as responsible for the University's compliance with the laws that prohibit discrimination on the bases of race, color, national origin, age, and disability status.
 - iii. Starting in the 2018-2019 academic year, the University will initiate annual publication of the revised notice in its employee and student handbooks.
 - iv. Within 30 calendar days after the implementation of the revised notice, the University will provide OCR with documentation that it has:

1. adopted and implemented the revised notice. The documentation will include copies of the written communication issued to faculty, staff, and students regarding the notice, a description of how the notices were distributed, and a link to the University's webpage where the notice is located; and
 2. provided training to personnel designated by the notice as responsible for the University's compliance with the laws that prohibit discrimination on the bases of race, color, national origin, age, and disability status. The documentation will include the name, title, and qualifications of the trainer(s); all training materials; dated sign-in sheet(s) of training session(s) with clearly printed name(s) and title(s) of participants, participants' signatures; and a description of each participant's responsibility regarding the University's compliance with the laws that prohibit discrimination on the bases of race, color, national origin, age, and disability status. (If training occurs electronically, then documentation from electronic sources corresponding to the aforementioned requirements will be accepted.)
- v. Within 30 calendar days of the first day of the 2018-2019 academic year, the University will provide OCR with copies of the University's employee and student handbooks evidencing that the University initiated annual publication of the revised notice in its employee and student handbooks.

B. Disability Discrimination Grievance Procedures

- a. Revision: The University will revise its disability discrimination grievance procedures (grievance procedure) as follows:
 - i. The grievance procedure explicitly states that:
 1. it applies to complaints (i) filed by employees; (ii) filed on behalf of students, (iii) alleging disability-based harassment, and/or (iv) regarding conduct carried out by employees, other students, and third parties; and
 2. the University will conduct an adequate, reliable, and impartial investigation of a complaint filed pursuant to the grievance procedure.
 - ii. It either omits the discretion to limit whether an investigation will follow the filing of a complaint or specifies the criteria to be used to make a determination of whether to open an investigation.
 - iii. It contains a provision to withhold a copy of the complaint from the accused when the University declines to pursue an investigation.
 - iv. It includes a privacy-related provision explaining the circumstances under which it will limit the information shared about the complaint with the accused.

- v. It designates an alternate reviewer (by title and contact information) when the individual currently designated as the reviewer is also the accused.
- vi. It designates a different individual (by title and contact information) other than the initial complaint reviewer to review requests for reconsideration.
- vii. It designates reasonably prompt timeframes for a complainant to file a request for reconsideration and the University to respond to such a request.
- viii. It includes an assurance that the University will take steps to prevent recurrence of any disability-based discrimination or harassment (such as prohibiting retaliation against the complainant) and remedy the discriminatory effects on the complainant and others, if appropriate.

b. Reporting Requirement(s):

- i. Within 60 calendar days of the date this agreement is signed, the University will submit to OCR for its review and approval, the revised grievance procedure.
- ii. Within 60 calendar days of OCR's approval of the revised grievance procedure, the University will adopt and implement the revised grievance procedure by:
 - 1. providing all faculty, staff, and students with written notice regarding the procedure together with information on how to obtain a copy of it. The University will make this notification through the University's website and electronic mail messages to faculty, staff, and students.
 - 2. providing training on the revised grievance procedure to personnel responsible for processing disability discrimination complaints.
- iii. Starting in the 2018-2019 academic year, the University will initiate annual publication of the revised grievance procedure in its employee and student handbooks.
- iv. Within 30 calendar days after the implementation of the revised grievance procedure, the University will provide OCR with documentation that it has:
 - 1. adopted and implemented the revised grievance procedure. The documentation will include copies of the written notices issued to faculty, staff, and students regarding the grievance procedure, a description of how the notices were distributed, and a link to the University's webpage where the grievance procedure is located; and
 - 2. trained the individuals responsible for processing disability discrimination complaints on the revised grievance procedure. The documentation will include a description of the name, title, and

qualifications of the trainer(s); copies of all training materials to include evidence each participant was specifically informed about the differences between the former procedure and the revised procedure; dated sign-in sheet(s) of training session(s) with clearly printed names and titles of participants, participants' signatures; and a description of each participant's role in processing disability discrimination complaints. (If training occurs electronically, then documentation from electronic sources corresponding to the aforementioned requirements will be accepted.)

- v. Within 30 calendar days of the first day of the 2018-2019 academic year, the University will provide OCR with copies of the University's employee and student handbooks evidencing that the University initiated annual publication of the revised grievance procedure in its employee and student handbooks.

C. Disability –Related Reasonable Accommodations Procedures

- a. Revision: The University will revise its procedures for requesting disability-related reasonable accommodations and associated forms (accommodations procedure) as follows:
 - i. It omits any statement restricting the provision of disability-related reasonable accommodations to courses that count towards a student's certification, diploma, or degree and replaces this omission with a statement that reasonable accommodations will be granted for all the University's academic and non-academic programs and activities, including, but not limited to courses that do not count towards a student's certification, diploma, or degree; and regardless of whether a course is conducted online or meets in a face-to-face setting.
 - ii. It indicates that students seeking accommodations may utilize email to deliver their course schedules to Disability Services and accommodations letters to their professors.
 - iii. It indicates that professors receiving accommodations letters must utilize email to confirm to Disability Services that they have received students' accommodations letters.
 - iv. It omits any statement requiring that a student's verification documentation (submitted in support of an accommodations request) includes the student's treatment.
 - v. It replaces the statement that RCLD will make accommodations determinations when a student's verification documentation is unclear or relates to a learning disability with a statement affirming that the University is responsible for making accommodations determinations but may consult with RCLD if a student's verification documentation is unclear or relates to a learning disability.

- vi. It explicitly describes the process of determining appropriate accommodations as both an (1) individualized assessment, and (2) interactive process between the University and the student. (The University will create and utilize an electronic form that solicits from the student a description (in his or her own words) of what accommodation(s) s/he is seeking, what the student's functional limitations are in an academic setting, and what previous strategies the student may have employed to mitigate these limitations.)
- vii. Rather than presenting the accommodations procedure in different documents with different titles, the University will use one document with one title to clearly identify its accommodations procedure. This document will identify any forms associated with the procedure by name and location. All statements on such forms will be consistent with the statements in the procedure and will not require any step that is different from or an addition to any step described in the accommodations procedure document.
- viii. The University will make the accommodations procedure and all associated forms (1) easily accessible on the University's website and (2) appear under search queries that include the terms "disability," and "disabilities."

b. Reporting Requirement(s):

- i. Within 60 calendar days of the date this agreement is signed, the University will submit to OCR for its review and approval, the revised accommodations procedure and all forms associated with the procedure.
- ii. Within 60 calendar days of OCR's approval of the revised accommodations procedure and associated forms, the University will adopt and implement the revised accommodations procedure by:
 - 1. providing all faculty, staff, and students with written notice regarding the accommodations procedure and forms together with information on how to obtain a copy of the accommodations procedure and forms. The University will make this notification through the University's website and electronic mail messages to faculty, staff, and students.
 - 2. providing training on the revised accommodations procedure to personnel responsible for making accommodations decisions on behalf of the University. The training should include information clearly explaining that:
 - a. the University, and not RCLD, is responsible for making accommodations decisions for the University's students.
 - b. the University must conduct an individualized assessment of each student with a disability who uses the University's accommodations procedure to request accommodations. For example, among other things, an individualized assessment of a student requesting additional time on graded work, should include consideration of:
 - i. what accommodations the student is seeking.
 - ii. what the student's functional limitations are in an academic setting.

- iii. what previous strategies the student may have employed to mitigate these limitations.
 - iv. the format of the graded work. (Some examples include in-class assignments, homework assignments, quizzes, lab experiments and reports, research papers, and exams.)
 - v. the format of the class. (Some examples include on-line and face to face.)
 - vi. the amount of time non-disabled students are given to complete the same graded work.
 - c. A blanket practice of granting 30 additional minutes to all students with disabilities seeking extended time to complete graded work, is not consistent with conducting an individualized assessment.
- iii. Starting in the 2018-2019 academic year, the University will initiate annual publication of the revised accommodations procedure in its student handbook.
- iv. Within 30 calendar days after the implementation of the revised accommodations procedure, the University will provide OCR with documentation that it has:
 1. adopted and implemented the revised accommodations procedure and forms. The documentation will include copies of the written notices issued to faculty, staff, and students regarding the accommodations procedure and forms, a description of how the notices were distributed, and a link to its webpage where the accommodations procedure and forms are located; and
 2. trained personnel responsible for making accommodations decisions on behalf of the University. The documentation will include a description of the name, title, and qualifications of the trainer(s), copies of all training materials to include evidence that each participant was specifically informed about the differences between the former procedure and the revised procedure as well as the information in C b ii 2 a-c, above; dated sign-in sheet(s) of training session(s) with clearly printed names and titles of participants, participants' signatures; and a description of each participant's role in making accommodations decisions. (If training occurs electronically, then documentation from electronic sources corresponding to the aforementioned requirements will be accepted.)
- v. Within 30 calendar days of the first day of the 2018-2019 academic year, the University will provide OCR with copies of the University's employee and student handbooks evidencing that the University initiated annual publication of the revised accommodations procedure in its student handbook.

D. Complainant-Focused Remedies:

a. Action Items

- i. The University will extend an offer to the Complainant to participate in an interactive process to determine appropriate accommodations for any future classes the Complainant may elect to take at the University.
- ii. The University will refund the Complainant the cost of tuition paid for the class she withdrew from in the fall semester of 2014.

b. Reporting Requirement(s):

- i. Within 60 calendar days after the signing of this Agreement, the University will provide OCR with documentation that it has completed the Action Items identified in D a i and ii, above.

The University understands that by signing this Agreement, it agrees to provide data and other information in a timely manner to accord 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 the Section 504 implementing regulation at 34 C.F.R. § 104.44, and the Title II implementing regulation, at 28 C.F.R. § 35.130, as well as other sections of Section 504 and Title II and other laws enforced by OCR, which were implicated by the University's in/action(s) during the complaint investigation. The other relevant sections include the Section 504 implementing regulation at 34 C.F.R. §§104.7, 104.8, and 104.47 and the Title II implementing regulation at 28 C.F.R. §35.106. Upon completion of the obligations under this Agreement, OCR shall close and dismiss 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 shall give the University written notice of the alleged breach and a minimum of sixty (60) calendar days to cure the alleged breach.

This Agreement will become effective immediately upon signature of the President or Designee below.

President or Designee

Date