

RESOLUTION AGREEMENT

Binghamton University OCR Case No. 02-16-2193

In order to resolve Case No. 02-16-2193, Binghamton 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.

ACTION ITEM 1:

By December 1, 2016, the University will conduct an investigation into the complainant's allegations of disability discrimination and/or retaliation, including oral complaints and as outlined in her appeals to the University on or about XXXX XXXX XXXX, and ensure that the investigation complies with the regulations implementing Section 504 and the ADA. As part of the investigation, the University will review all information previously provided by the complainant; interview and/or re-interview witnesses, including the complainant, as appropriate; review additional information, as appropriate; prepare a report outlining the steps taken in the investigation, summarizing the interviews completed, and concluding whether or not the complainant was terminated from her field placements at XXXX XXXX XXXX XXXX and XXXX XXXX XXXX XXXX XXXX and, subsequently, terminated from the Master in Social Work program (the Program), on the basis of her disability or due to her disability-related advocacy.

If the University finds that disability discrimination and/or retaliation occurred, by no later than summer 2017, the University will offer the complainant reinstatement to the Program, and take any additional corrective actions, including disciplinary action, deemed necessary. The outcome of the investigation will be communicated to the complainant.

REPORTING REQUIREMENT:

- a) By December 1, 2016, the University will provide to OCR for review, a copy of its report documenting all actions taken with respect to its investigation of the complainant's allegations of disability discrimination and retaliation, the University's findings; all corrective actions deemed necessary; and a timeline for implementation of the corrective actions, if necessary; and the name(s) and title(s) of the individuals involved in the investigation and the University's determination. If the University determines that no action is necessary, the University will include the factors it relied upon for its determination. The University will also provide supporting documentation relating to its investigation.

- b) Within 15 calendar days of written notification from OCR of its approval of the University's investigation and findings, the University will issue a letter to the complainant informing her of the determination.
- c) Should the University find that discrimination and/or retaliation occurred, within 15 days of issuing the letter to the complainant notifying her of the University's determination, the University will provide OCR with documentation showing that the complainant has been offered reinstatement to the University (the University will provide the complainant with at least 30 days to respond to the offer), and the complainant's response to the offer, if available; and any corrective actions taken by the University to address the discriminatory conduct.

ACTION ITEM 2:

By December 1, 2016, the University will provide training to all faculty and staff. Specifically, the training will include instruction regarding (a) the University's grievance procedures; (b) disabilities covered by Section 504 and the ADA, including XXXX; (c) the requirements of Section 504, and the ADA, including that discrimination/harassment and/or retaliation based on disability is prohibited and will not be tolerated; (d) recognizing and appropriately addressing allegations and complaints of discrimination/harassment and/or retaliation on the basis of disability; (e) the range of behaviors that constitute discrimination/harassment and/or retaliation based on disability; (f) the disciplinary sanctions applicable to anyone who engages in discrimination/harassment and/or retaliation based on disability; (g) where, how and to whom instances of discrimination/harassment and/or retaliation are to be reported; and (h) specifically with regard to retaliation, what constitutes a protected activity; the prohibition against materially adverse actions in response to those protected activities; recognizing acts of retaliation and intimidation and their effects on individuals who engaged in protected activities; and that effective action, including disciplinary action where appropriate, will be taken against individuals found to have engaged in retaliatory conduct.

REPORTING REQUIREMENTS: By December 15, 2016, the University will provide documentation to OCR demonstrating that training was provided consistent with Action Item 2 above, including (a) the name(s) of the individual(s) who conducted the training; (b) a list of the individuals who attended the training and their positions; (c) the date(s) the training was conducted; and, (d) copies of any training materials disseminated.

The University understands that OCR will not close the monitoring of this agreement until OCR determines that the University has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§104.4(a), 104.4(b)(1)(i) and (vii), and 104.61; and the ADA, at 28 C.F.R. §§ 35.130 and 35.134, which were at issue in this case. The University also understands that by signing this agreement, it agrees to provide data and other information in a timely manner. Further, the University understands that during the monitoring of this agreement, 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 regulations implementing Section 504, at 34 C.F.R. §§ 104.4(a), 104.4(b)(1)(i) and (vii), and 104.61; and the ADA, at 28

C.F.R. §§ 13.130 and 35.134, which were at issue in this case. The University understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including 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, including to enforce this Agreement, OCR shall give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

October 6, 2016

Date

/s/

Michael F. McGoff
Senior Vice Provost
Binghamton University