

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND PRINCETON UNIVERSITY UNDER THE AMERICANS WITH DISABILITIES ACT

BACKGROUND

1. The parties to this Agreement (“Agreement”) are the United States of America (“United States”) and Princeton University (“University”).
2. This Agreement arises out of a compliance review that the U.S. Department of Justice initiated in May 2014 following the allegations set forth in the complaint in *W.P. v. Princeton University, et al.*, Case No. 3:14-cv-01893 (D. N.J., filed Mar. 26, 2014). The United States is not a party in that litigation, and this Agreement is not intended to suggest, and should not be construed to suggest, that the United States concurs with any of the allegations, claims, or defenses asserted by the parties in *W.P. v. Princeton University, et al.* In the course of its compliance review, the United States reviewed, among other things, the University’s policies and practices relating to students with mental health disabilities, including its policies and practices related to requests for reasonable accommodations,¹ withdrawals, and leaves of absences.
3. The Department of Justice is responsible for administering and enforcing Title III of the ADA of 1990, as amended (“ADA”), 42 U.S.C. §§ 12181-12189, and the regulation implementing Title III, 28 C.F.R. Part 36.²
4. The University is a coeducational university located in Princeton, New Jersey, and is a private entity within the meaning of 42 U.S.C. § 12181(6). Because it is a place of education, the University is a place of public accommodation within the meaning of 28 C.F.R. § 36.104. Because the University owns, leases (or leases to), or operates a place of public accommodation and its operations affect commerce, it is a public accommodation within the meaning of 42 U.S.C. § 12181(7). *See also* 28 C.F.R. § 36.104.
5. The parties agree that it is in their best interests, and the United States believes that it is in the public interest, to enter into this Agreement. The University maintains that it has been and is in compliance with Title III of the ADA, its implementing regulations, and all other laws and regulations, and nothing in this Agreement should be construed as an admission to the contrary.

GENERAL TITLE III OBLIGATIONS AND ACTIONS TO BE TAKEN BY THE UNIVERSITY

6. Under Title III of the ADA, no public accommodation may deny any person on the basis of disability the full and equal enjoyment of the public accommodation's goods, services, facilities, privileges, advantages, or accommodations. 42 U.S.C. § 12182, 28 C.F.R. Part 36.³
7. Under Title III of the ADA, no public accommodation may discriminate against an individual on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation. 42 U.S.C. § 12182(a); 28 C.F.R. § 36.301(a).
8. Under Title III of the ADA, a public accommodation must make reasonable modifications to policies, practices and procedures when such modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless making such modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations. 42 U.S.C. § 12182(b)(2)(A); 28 C.F.R. § 36.302(a).
9. Under Title III of the ADA, a public accommodation shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered. 42 U.S.C. § 12182(b)(2)(A)(i); 28 C.F.R. § 36.301(a). A public accommodation may impose legitimate safety requirements that are necessary for safe operation; such safety requirements must be based on actual risk and not on mere speculation, stereotypes, or generalizations about individuals with disabilities. 28 C.F.R. § 36.301(b).
10. The University maintains and regularly revises its policies and procedures on discrimination and harassment, including discrimination on the basis of disability. Within thirty (30) calendar days of the effective date of this Agreement, the University shall further revise its Disability and Accessibility Policy located

at <https://inclusive.princeton.edu/policies/disability/summary> to explicitly state:

- a. the University provides students with reasonable accommodations in a timely manner when such accommodations are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless providing the accommodation would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations;
- b. students with disabilities may request: academic accommodations; housing and dining accommodations; modifications to University policies, rules, and regulations; environmental adjustments such as the removal of architectural, communication, or transportation barriers; and auxiliary aids and services;
- c. where students should submit each type of accommodation request; and
- d. the University conducts an individualized assessment of each student to determine whether and what accommodations can be made to allow students with disabilities to participate in the goods, services, facilities, privileges, advantages, and accommodations at the University, and to continue to participate in and benefit from the University's goods, services, facilities, privileges, advantages, or accommodations while receiving treatment for health conditions.

11. Within thirty (30) calendar days of the effective date of this Agreement, the University shall revise the Office of Disability Services's (ODS) Student Services Process located at https://www.princeton.edu/ods/student_services_process/accommodations/ to include a section with the specific heading "Requesting Modifications to University Policies, Practices, or Procedures."⁴ This section shall provide students with instruction on how to make such a request. The University shall also revise the Office of Disability Services' Student Process to direct students to additional policies and procedures located at <https://inclusive.princeton.edu/policies/disability/summary>.

12. Within thirty (30) calendar days of the effective date of this Agreement, the University shall revise the Office of the Dean of Undergraduate Students' website so that each webpage related to disability services

specifically directs students to additional policies and procedures located at <https://inclusive.princeton.edu/policies/disability/summary>.

13. In addition to the Disability and Accessibility Policy discussed in para. 10, above, the University maintains and regularly revises its reasonable accommodation policy set forth in its Undergraduate Announcement and Rights, Rules, Responsibilities. Within thirty (30) calendar days of the effective date of this Agreement, the University shall further revise this policy to: (a) explicitly state that students with disabilities may request: academic accommodations; housing and dining accommodations; modifications to University policies, rules, and regulations; environmental adjustments such as the removal of architectural, communication, or transportation barriers; and auxiliary aids and services; and (b) direct students to additional policies and procedures <https://inclusive.princeton.edu/policies/disability/summary> and https://www.princeton.edu/ods/student_services_process/accommodations/. The University shall promptly post the revised policy in the online version of the 2016-17 Undergraduate Announcement and the online 2016 edition of Rights, Rules, Responsibilities.
14. Consistent with the University's discussions with the United States throughout the course of its compliance review, the University has revised its policy relating to undergraduate student leaves of absence and reinstatement ("Leave Policy"). Within thirty (30) calendar days of the effective date of this Agreement, the University will further revise this policy, consistent with 28 C.F.R. § 36.301. The University shall promptly post the revised policy in the online version of the 2016-17 Undergraduate Announcement.
15. When a University undergraduate student takes a leave of absence, the Office of the Dean of the College sends the student a letter confirming the student's leave of absence. Within thirty (30) calendar days of the effective date of this Agreement, the University will revise this letter to reflect the revised Leave Policy and, for eligible students, to state that such students have the right to petition for a one-semester leave, pursuant to the University's "One-Term Leave of Absence" policy. If a letter contains information about the impact of three leaves of absence, the letter shall also state that students with disabilities have the right to request a reasonable modification to the rules and regulations governing leaves. This revised letter shall be used consistently for the term of this Agreement.

16. In some circumstances, the University provides undergraduate students who take a leave of absence with treatment recommendations. The University's Counseling and Psychological Services ("CPS") makes its treatment recommendations based on an individualized assessment of each student, including consideration of current medical knowledge and/or the best available objective evidence. CPS gives careful consideration to the opinions and recommendations of the student's treating physician or mental health professional, if available. CPS will continue to make its treatment recommendations in this manner for the term of this Agreement.
17. The University requests that undergraduate students who take a leave of absence and who receive CPS treatment recommendations submit certain information to the University prior to the students' reinstatement consultation. In July 2014, the University modified the form ("Treatment Provider Form") it requests these students to submit prior to their return to the University. Within thirty (30) calendar days of the effective date of this Agreement, the University will further revise this form, consistent with 28 C.F.R. § 36.301. The University shall promptly provide the United States with a copy of the revised form.
18. Nothing in this Agreement shall be construed to prevent the University from requiring students at all times to meet the University's essential eligibility requirements with or without reasonable accommodations. Nothing in this Agreement shall be construed to be inconsistent with 28 C.F.R. § 36.301(b), which states: "A public accommodation may impose legitimate safety requirements that are necessary for safe operation. Safety requirements must be based on actual risks and not on mere speculation, stereotypes, or generalizations about individuals with disabilities." In addition, nothing in this Agreement shall be construed to require the University to permit an individual to participate in or benefit from its goods, services, facilities, privileges, advantages, or accommodations when that individual poses a direct threat to the health or safety of others. 28 C.F.R. § 36.208(a). However, in determining whether an individual poses a direct threat to the health or safety of others, the University must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk. 28 C.F.R. § 36.208(b).

19. Within one hundred twenty (120) days of the effective date of this Agreement, and annually thereafter, the University shall provide additional training, including references to updated policies, on Title III of the ADA, with a focus on mental health disability discrimination, to all faculty and staff responsible for receiving, evaluating, and/or deciding requests from students for reasonable accommodations.
20. The content of the additional training required in the immediately preceding paragraph, together with the text of all training manuals or written materials used in the training, shall be consistent with the provisions of this Agreement and submitted in advance to the United States.

OTHER PROVISIONS

21. In consideration for this Agreement, the United States agrees to close its compliance review (DJ#202-48-259) without further enforcement action, except as provided in the immediately following paragraph.
22. The United States may review the University's compliance with this Agreement at any time. If the United States believes that this Agreement or any portion of it has been violated, it will raise its concerns with the University and the parties will attempt to resolve the concerns in good faith. The United States will give the University thirty (30) days from the date it notifies the University of any alleged breach of this Agreement to cure the alleged breach before instituting an enforcement action. If the United States is unable to reach a satisfactory resolution of the issue or issues raised within thirty (30) days of the date it provides notice to the University, it may institute a civil action in the United States District Court for the District of New Jersey to enforce the terms of this Agreement and/or Title III of the ADA.
23. Failure by the United States to enforce this entire Agreement or any of its provisions shall not be construed as a waiver of its right to do so with regard to any provisions of this Agreement.
24. A signatory to this document in a representative capacity for the University represents that he or she is authorized to bind Princeton to this Agreement.
25. This Agreement constitutes the entire agreement between the United States and the University on the matters raised herein and no other

statement, promise or agreement, either written or oral, made by any party or agents of any party, that is not contained in this written agreement, including any attachments, shall be enforceable.

26. This Agreement is not intended to remedy any other potential violations of the ADA or any other law that is not specifically addressed in this Agreement. Nothing in this Agreement changes the University's obligation to otherwise comply with the requirements of the ADA.

EFFECTIVE DATE/TERMINATION DATE

27. The effective date of this Agreement is the date of the last signature below.

28. The duration of this Agreement will be three (3) years from the effective date.

29. Any time limits for performance imposed by this Agreement may be extended by the mutual written consent of the United States and the University.

AGREED AND CONSENTED TO:

FOR THE UNITED STATES OF AMERICA

PAUL J. FISHMAN
United States Attorney
District of New Jersey

/s/ Michael E. Campion
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Dated: December 19, 2016

FOR PRINCETON UNIVERSITY:

/s/ Ramona E. Romero

RAMONA E. ROMERO

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Dated: December 15, 2016

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Dated: December 19, 2016

1 For purposes of this Agreement, the term “reasonable accommodations” includes reasonable modifications of policies, practices, or procedures and the provision of appropriate auxiliary aids and services.

2 This Agreement only addresses the University’s obligations under Title III of the ADA; it does not address Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794.

3 Consistent with the Department of Justice’s recent regulatory changes contained in the Final Rule of the *Amendment of Americans with Disabilities Act Title II and Title III Regulations to Implement ADA Amendments Act of 2008*, the individualized assessment to determine coverage under the ADA will, in many instances, be “particularly simple and straightforward.” *See* 28 C.F.R. § 36.105(d)(2) (Predictable Assessments).

4 ODS’s Student Service Process currently includes sections entitled “Requesting Academic Accommodations” and “Housing and Dining Accommodations.”