

## **RESOLUTION AGREEMENT**

### **Niagara Falls City School District Case No. 02-13-1169**

In order to resolve Case No. 02-13-1169, the Niagara Falls City School District (the District) 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, and its implementing regulation at 28 C.F.R. Part 35.

#### **Action Item 1: Notice of Nondiscrimination**

By October 31, 2018, the District will revise its existing notice of nondiscrimination to ensure that the notice, wherever published, states that the District does not discriminate on the basis of disability (and may include other bases)<sup>1</sup> in admission or access to, or treatment or employment in, its programs and activities, as applicable. Additionally, the notice will state that inquiries concerning the application of regulations prohibiting discrimination on the basis of disability (and may include other bases) may be referred to the Section 504 coordinator(s) (or a coordinator(s) designated for all of the regulations OCR enforces), or to OCR. The notification will include the name, office address, telephone number, and electronic mail (email) address of the coordinator(s). The District will ensure that this notice of nondiscrimination is included in each, as applicable, announcement, bulletin, catalog, or application form which the District makes available to students, parents, employees, applicants for employment or enrollment, unions, and professional organizations holding collective bargaining or professional agreements with the District.

#### **Reporting Requirements:**

- a) By September 1, 2018, the District will provide a copy of its proposed revised notice of nondiscrimination to OCR for review and approval.
- b) By October 31, 2018, or within thirty (30) days of OCR's approval of the revised notice of nondiscrimination, whichever is later, the District will provide documentation to OCR demonstrating that the approved notice has been published consistent with the Action Item above; such as a copy of revised materials and publications containing the notice of nondiscrimination, and/or a link to the on-line version of the materials and publications. Inserts may be used pending reprinting of the materials and publications.

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<sup>1</sup> In addition to Section 504, the regulations implementing Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975, contain similar requirements for recipients to notify beneficiaries and others of its obligations under the respective regulation that it does not discriminate on the basis of race, color, national origin, sex and age. (See 34 C.F.R. §§ 100.6(d), 106.9, and 110.25, respectively.)

## **Action Item 2: Grievance Procedures**

By October 31, 2018, the District will adopt and publish grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging all forms of discrimination (including harassment) on the basis of disability (and may include other bases). If not already included, the procedures will be revised to include the following provisions at a minimum:

- Notice that the procedures apply to complaints alleging all forms of discrimination (including harassment) on the basis of disability (and may include other bases), by employees, students, or third parties;
- An explanation as to how to file a complaint pursuant to the procedures;
- the name, title, office address, electronic mail address, and telephone number of the individual(s) with whom to file a complaint;
- definitions and examples of what types of actions may constitute discrimination (including harassment);
- designated and reasonably prompt timeframes for major stages of the grievance process;
- notice that, pending the outcome of an investigation, the District will take steps to avoid further harassment as necessary, including taking interim steps before the final outcome of the investigation;
- notice of the right of the parties to provide witnesses and other evidence;
- a statement that the parties will be notified of the outcome;
- an assurance that the District will take steps to prevent the recurrence of discrimination and harassment, and to correct its discriminatory effects if appropriate;
- examples of the range of possible disciplinary sanctions and the types of remedies available;
- a statement that the District prohibits retaliation against any individual who files a complaint or participates in a complaint investigation;
- notice of the opportunity of both parties to appeal the findings, if the procedures allow appeals; and
- an assurance that any appeal will be conducted in an impartial manner by an impartial decision maker.

### **Reporting Requirements:**

- a) By September 1, 2018, the District will provide a copy of its proposed revised grievance procedures to OCR for review and approval.
- b) By October 31, 2018, or within thirty (30) days of OCR's approval of the revised grievance procedures, whichever is later, the District will provide documentation to OCR demonstrating that it adopted the approved procedures and updated its printed and on-line publications to include the revised procedures (inserts may be used pending reprinting of publications).
- c) By June 30, 2019, the District will submit documentation to OCR of the District's responses to all complaints and oral reports of discrimination (including harassment)

on the basis of disability made during school year 2018-2019, pursuant to the District's revised grievance procedures. The documentation will include, at a minimum: (a) a copy of each complaint or a description of each orally reported alleged incident(s) of disability discrimination; (b) the names of the students involved, or unique identifiers for the students involved; (c) the date(s) of receipt of the written complaint or oral report; (d) information about the individual(s) who received and processed the complaint or oral report; (e) the status of the investigation of the complaint or oral report; (f) the outcome of all completed investigations, and any disciplinary sanctions imposed or remedial measures taken; and (g) the date(s) the District provided notice of the outcome of the investigation to the complainant.

### **Action Item 3: Training**

Within 60 days of adopting the revised grievance procedures, the District will provide training to all District staff directly involved in processing, investigating and/or resolving complaints or other reports of disability discrimination/harassment. The training will review the District's revised policies and procedures for investigating discrimination/harassment complaints; and, include instruction on how to conduct and document discrimination/harassment investigations in an adequate, reliable and impartial manner, including the appropriate legal standards to apply in such investigations.

**Reporting Requirement:** Within 90 days of adopting the revised grievance procedures, the District will provide documentation to OCR demonstrating that training was provided consistent with Action Item 4 above, including: (a) the name(s) and credentials 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; (d) a description of the content, scope, and duration of the training provided; and, (e) copies of any training materials disseminated.

The District understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the District understands that during the monitoring of this Agreement, if necessary, OCR may visit the District, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the District has fulfilled the terms of this Agreement. Upon the District's satisfaction of the commitments made under this Agreement, OCR will close this case.

The District 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 will give the District 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 District's representative below.

Date: \_\_08/06/2018\_\_\_\_\_

Signed: \_\_\_\_\_/S/\_\_\_\_\_  
Superintendent  
Niagara Falls City School District