

**RESOLUTION AGREEMENT**  
**Onondaga-Cortland-Madison Board of Cooperative Educational Services**  
**OCR Case No. 02-15-1141**

In order to resolve Case No. 02-15-1141, the Onondaga-Cortland-Madison Board of Cooperative Educational Services (BOCES) assures the U.S. Department of Education, New York Office for Civil Rights (OCR) that it will take the following actions 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; 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; and Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. Section 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100.

**Action Item 1:**

By September 30, 2015, the BOCES will offer the complainant, in writing, the alternative options (at the complainant's choice) of retaking, at no charge, her Clinical Rotation in Long-Term Care course (the Course) and all other courses which the complainant took concurrently with the Course during the fall 2014 semester (if applicable); or receiving a tuition refund for the Course. The BOCES will offer the complainant the opportunity to retake the course(s) in either the spring 2016 or fall 2016 semesters. The BOCES will allow at least thirty (30) calendar days for the complainant to respond.

**Reporting Requirements:**

- (a) By September 30, 2015, the BOCES will provide documentation to OCR demonstrating that it made the offer to the complainant consistent with Action Item 1. The documentation will include some indication that the complainant has received the offer, such as delivery confirmation if sent by mail.
- (b) By November 10, 2015, the BOCES will provide to OCR a copy of the complainant's response to the offer made consistent with Action Item 1.
- (c) If the complainant elects to retake the course(s), the BOCES will provide to OCR a copy of the complainant's class schedule indicating that the complainant has reenrolled in the course(s) within 30 days of the complainant enrolling in the course(s).
- (d) If the complainant elects to receive a tuition refund for the Course, by December 31, 2015, the BOCES will provide documentation to OCR demonstrating that it has refunded the complainant's tuition for the Course.

**Action Item 2:**

By November 30, 2015, the BOCES will, to extent not already provided for therein, revise its existing “Discrimination/Harassment Complaint Procedure” (the procedure) to ensure that it adequately addresses and provides for the prompt and equitable resolution of complaints alleging all forms of discrimination on the basis of disability (and may include other bases). The procedure will include, at a minimum, the following:

- Notice that the procedure applies to complaints by students alleging discrimination on the basis of disability (including disability harassment, and may include other bases) by employees, other students, or third parties;
- An explanation as to how to file a complaint pursuant to the procedure;
- The name/title, office address, telephone number and email address of the individual(s) with whom to file a complaint;
- Definitions and examples of what types of actions may constitute disability discrimination (including disability harassment, and may include other bases);
- Steps the BOCES will take to conduct an appropriate and impartial investigation of complaints and interim measures the BOCES may take during the investigation;
- An assurance that the BOCES will offer counseling and academic support services to a person found to have been subjected to harassment; and, where appropriate, to person(s) who committed the harassment.
- Designated and reasonably prompt timeframes for major stages of the complaint receipt, review, investigation and resolution process, including the appeal process;
- An opportunity for the parties to provide witnesses and other evidence;
- Written notice to the parties of the outcome to the extent permitted by law;
- Notice of the opportunity for parties to appeal the findings; and, an assurance that the appeal will be conducted in an impartial manner by an impartial decision-maker, who may be an employee or other designee of the BOCES.
- Examples of the range of possible disciplinary sanctions and the types of remedies available to address the effects on victims and others;
- An assurance that the BOCES will take steps aimed at preventing the recurrence of discrimination and harassment, and correcting its discriminatory effects, if appropriate; and,

- A statement that Section 504 and the ADA prohibit retaliation against any individual who files a complaint under Section 504 or the ADA or participates in a complaint investigation (and may include other bases).

**Reporting Requirements:**

- (a) By November 30, 2015, the BOCES will provide to OCR a draft of its revised grievance procedures for OCR's review and approval. OCR will respond within thirty (30) calendar days.
- (b) Within sixty (60) days after the BOCES' receipt of OCR's approval of the revised procedure, the BOCES will provide documentation to OCR to substantiate that it has adopted the OCR-approved procedure and updated its printed publications and on-line publications with the revised procedure (inserts and/or stickers (hereinafter referred to as "inserts") may be used pending reprinting of these publications). This documentation will include, at a minimum, (i) printouts or a link to all on-line publications containing the revised grievance procedures; and, (ii) if not yet finalized, copies of inserts for printed publications. If inserts are used for any publications, then by March 31, 2016, the BOCES will confirm that printed versions of all publications that previously contained the prior version of the BOCES's Discrimination/Harassment Complaint Procedure disseminated to students and employees contain the revised procedure. Dissemination may occur by the methods usually employed by the BOCES for distributing the BOCES policies and procedures, including posting on the BOCES's website.

**Action Item 3:**

Within ninety (90) calendar days after BOCES' receipt of OCR's approval of the revised procedure the BOCES will provide training to all the BOCES Licensed Practical Nursing (LPN) Adult Education Program staff members regarding prohibitions against discrimination on the bases of disability and national origin. The training will include instruction regarding the following: (a) the requirements of Section 504, the ADA, and Title VI, including that discrimination and/or harassment based on disability or national origin is prohibited and will not be tolerated; (b) the range of behaviors that constitute discrimination and/or harassment based on disability or national origin; (c) the disciplinary sanctions applicable to anyone who engages in discrimination and/or harassment based on disability or national origin; (d) the responsibility of staff to report incidents of possible discrimination and/or harassment and the procedures for doing so; and (e) where, how and to whom instances of discrimination and/or harassment are to be reported.

**Reporting Requirement:** Within one hundred (100) calendar days after BOCES' receipt of OCR's approval of the revised procedure, the BOCES will provide documentation to OCR demonstrating that the training referenced in Action Item 3 was provided to all staff within the LPN Program. This documentation will include, but will not be limited to, the date(s) of the training; the name and credentials of the

trainer; copies of any training materials used, including any handouts, guides, or other materials; and proof of attendance by staff within the LPN Program.

**Action Item 4:**

Within ninety (90) calendar days after BOCES' receipt of OCR's approval of the revised procedure, the BOCES will provide training to all LPN Program staff who are directly involved in processing, investigating and/or resolving complaints or other reports of disability and/or national origin discrimination, including harassment complaints, and any counselors or other BOCES personnel who are likely to receive reports of such discrimination or harassment. The training will review the BOCES policies and procedures on disability and national origin discrimination, and include instruction on how to conduct and document discrimination and/or harassment investigations in an adequate, reliable and impartial manner; including the appropriate legal standards to apply in such investigations, as well as outline the appropriate disciplinary measures for violations of the anti-harassment policy.

**Reporting Requirement:** Within one hundred (100) calendar days after BOCES' receipt of OCR's approval of the revised procedure, the BOCES will provide documentation to OCR demonstrating that the training referenced in Action Item 4 was provided to all staff referred to in Action Item 4. This documentation will include, but will not be limited to, the date(s) of the training; the name and credentials of the trainer; copies of any training materials used, including any handouts, guides, or other materials; and proof of attendance by staff directly involved in the processing, investigating and resolving of disability discrimination complaints.

The BOCES understands that OCR will not close the monitoring of this agreement until OCR determines that BOCES has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R § 104.7(b); the ADA, at 28 C.F.R. § 35.107(b); and Title VI, at 34 C.F.R. 100.3, which were at issue in this case. The BOCES also 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 BOCES understands that during the monitoring of this agreement, if necessary, OCR may visit the BOCES, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the BOCES has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R § 104.7(b); the ADA, at 28 C.F.R. § 35.107(b); and Title VI, at 34 C.F.R. 100.3, which were at issue in this case. The BOCES 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 BOCES written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

\_\_\_\_ 9/17/2015 \_\_\_\_  
Date

\_\_\_\_\_/s/\_\_\_\_\_  
Authorized Representative  
Onondaga-Cortland-Madison  
Board of Cooperative Educational Services