

RESOLUTION AGREEMENT

Lackawanna City School District Case No. 02-16-1124

In order to resolve Case No. 02-16-1124, Lackawanna City School District (the District) assures the U.S. Department of Education, New York 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 (ADA), 42 U.S.C. § 12131 et seq., and its implementing regulation at 28 C.F.R. Part 35.

Action Item 1:

By July 15, 2016, the District will complete a supplemental investigation of the complainant's Dignity for All Students Act (DASA) complaint, filed with the District on June 2, 2015, and ensure that the investigation complies with regulations implementing Section 504. The investigation of the complainant's complaint will involve, at a minimum, the following: providing the complainant an opportunity to provide to the District information in support of his complaint; conducting a detailed review of all information provided by the complainant to the District; providing the complainant with an opportunity to identify any relevant witnesses; interviewing or re-interviewing staff at Martin Road Elementary School (the School) and other witnesses to the alleged conduct, as appropriate; and, making a determination of whether the evidence presented, together with such additional information and witnesses as may be identified or presented, supports by a preponderance of the evidence a finding that discrimination or harassment occurred. The outcome of the investigation will be communicated to the complainant in writing.

Reporting Requirements:

By July 15, 2016, the District will submit to OCR for review and approval a report documenting the investigation outlined in Action Item 1, including who was interviewed; what information witnesses provided; the outcome of the investigation; any corrective actions deemed necessary; and, a timeline for implementation of the corrective actions, if necessary. The District will also provide to OCR a copy of all documentation obtained during the course of the investigation, and documentation demonstrating that written notice of the outcome was provided to the complainant.

Action Item 2:

By August 15, 2016, for any staff found to have engaged in discrimination or harassment, the District will determine whether disciplinary action is appropriate, and will take any necessary disciplinary action by September 30, 2016.

Reporting Requirements:

By October 15, 2016, the District will provide documentation to OCR explaining whether any staff member's actions warrant disciplinary action, and why; the action(s) to be taken; and the individuals involved in making the determination. If disciplinary action will be taken, then by October 31, 2016, the District will provide documentation to OCR demonstrating implementation of the action(s).

Action Item 3:

If the District's investigation substantiates the complainant's allegation that the Student was subjected to discrimination or harassment on the basis of his disability, then by August 31, 2016, the District will convene a Committee on Special Education (CSE) meeting for the Student (including the complainant and his wife) to determine whether the District should provide any remedial and/or compensatory services to the Student to remedy any harm to the Student as a result of the discrimination or harassment. If the CSE determines that remedial and/or compensatory services are necessary, the CSE will develop a plan for providing those services, with a completion date for providing the services not to extend beyond September 30, 2016.

Reporting Requirements:

- a) By September 15, 2016, the District will provide to OCR a summary of the meeting held in connection with Action Item 3 above, including a description of any action taken or to be taken, with timelines; the plan for providing any remedial and/or compensatory services to the Student, if determined necessary; and, documentation demonstrating that the District provided notice of and invited the complainant and/or his wife to the meeting. OCR will review the documentation submitted to ensure that the District met the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.33, 104.34, 104.35, and 104.36, in making these determinations.
- b) By September 30, 2016, the District will provide documentation to OCR demonstrating that the District has provided to the Student any remedial and/or compensatory services deemed necessary. The documentation will include the dates, times, and locations that services were provided, and the name(s) of the service provider(s).

Action Item 4

The District will provide training to all School administrators and staff regarding their obligations pursuant to Section 504 with respect to responding to complaints of disability discrimination and harassment, including but not limited to the obligation to notify complainants in writing of any investigatory determinations. In the event that the investigation described above in Action Item 1 substantiates that discrimination or harassment occurred, the training will also present steps that can be taken to prevent discrimination, harassment and retaliation in the future.

Reporting Requirement: By September 30, 2016, the District will submit to OCR documentation demonstrating that it has provided training in accordance with Action Item 4, above; including the name and credentials of the trainer, the date(s) of the training, a summary of the materials covered, a copy of any training materials distributed, and proof of attendance by relevant School staff.

The District understands that OCR will not close the monitoring of this agreement until OCR determines that the District has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504, at 34 C.F.R. § 104.4, and the ADA, at § 28 C.F.R. 35.130, which were at issue in this case. The District 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 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 and is in compliance with the regulations implementing Section 504, at 34 C.F.R. §§ 104.4, and the ADA, at 28 C.F.R. § 35.130, which were at issue in 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 proceeding to enforce this agreement, OCR shall give the District written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

July 26, 2016

Date

/s/

Anna Spadone
Superintendent
Lackawanna City School District