

## **RESOLUTION AGREEMENT**

### **Niagara County Community College OCR Case No. 02-16-2015**

In order to resolve Case No. 02-16-2015, the Niagara County Community College (the College) 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, 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 May 1, 2016, the College will notify OCR whether it will develop an alternative plan to address the compliance issues noted in Appendix A, or make structural changes to address the compliance issues. Any structural changes must conform to the 2010 ADA Standards for Accessible Design, with a completion date for all structural changes not to exceed August 31, 2017. If the College chooses to make structural changes to address the compliance issues, the College will develop an alternate plan to ensure that each program and activity conducted in the Lewis Library, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities until the structural changes are completed.

#### **Reporting Requirements:**

- a) By May 1, 2016, the College will notify OCR whether it will develop an alternate plan to ensure that each program and activity conducted in the Lewis Library, when viewed in its entirety, is readily accessible to individuals with disabilities; or, whether it will make structural changes to achieve accessibility.
- b) If the College chooses to develop an alternate plan to achieve accessibility, then by May 1, 2016, the College will provide a copy of that plan to OCR. OCR will review the documentation submitted to ensure that the College's plan complies with applicable accessibility standards.
- c) If the College chooses to make structural changes to achieve accessibility, then by June 1, 2016, the College will provide to OCR a plan for the completion of the structural changes and the plan for ensuring that each program and activity conducted in the Lewis Library, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities until the structural changes are completed; and, by August 31, 2017, the College will provide documentation to OCR (e.g., photographs, measurements, summaries, etc.) demonstrating that structural changes have been made that comply with applicable accessibility standards, in accordance with Appendix A. OCR may conduct an on-site visit to confirm that any alterations were completed consistent with applicable accessibility standards.

**Action Item 2:**

By May 1, 2016, the College will make changes to address the compliance issues noted in Appendix B. Any changes must conform to the 2010 ADA Standards for Accessible Design.

**Reporting Requirement:** By June 1, 2016, the College will provide documentation to OCR (e.g., photographs, measurements, summaries, etc.) demonstrating that structural changes have been made that comply with applicable accessibility standards, in accordance with Appendix B. OCR may conduct an on-site visit to confirm that any alterations were completed consistent with applicable accessibility standards.

The College understands that OCR will not close the monitoring of this agreement until OCR determines that the College has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.21, 104.22 and 104.23, and the ADA, at 28 C.F.R. §§ 35.150 and 35.151, which were at issue in this case. The College 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 College understands that during the monitoring of this agreement, if necessary, OCR may visit the College, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the College has fulfilled the terms of this agreement and is in compliance with the regulations implementing Section 504 at 34 C.F.R. §§ 104.21, 104.22 and 104.23, and the ADA, at 28 C.F.R. §§ 35.150 and 35.151, which were at issue in this case. The College 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 College written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

April 7, 2016

/s/

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Date

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President  
Niagara County Community College

**Appendix A  
Existing Facilities**

The College must submit an alternate plan for ensuring that each program and activity conducted in the Lewis Library, when viewed in its entirety, is readily accessible to the disabled; or make the structural changes outlined below:

<b>Building/Facility</b>	<b>Lewis Library - Elevator</b>
<b>Date of Construction</b>	1968-1972
<b>Alteration</b>	N/A
<b>Programs and Activities</b>	Elevator
<b>Accessibility Issues:</b>	<ul style="list-style-type: none"> <li>• A key must be inserted and turned in order to call or send the elevator to the first floor. [2010 ADA Standards Section 309.4 – Operable parts shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist.]</li> <li>• The push buttons for floors three and four are approximately 57” and 60” from the floor of the elevator respectively. [2010 ADA Standards Section 407.4.6.1, Exception 2 – In existing elevators, car control buttons with floor designations shall be permitted to be located 54 inches (1370 mm) maximum above the finish floor where a parallel approach is provided.]</li> <li>• The elevator contains two emergency buttons, which are located on the top of the control panel approximately 66” from the elevator floor. [2010 ADA Standards Section 407.4.6.4.2 – Emergency control buttons shall be grouped at the bottom of the panel.]</li> </ul>

If the College chooses to use Building E and/or G as a temporary library while structural changes are made to the Lewis Library, the College must submit an alternate plan for ensuring that each program and activity conducted in Buildings E and/or G, when viewed in its entirety, is readily accessible to the disabled; or make the structural changes outlined below:

<b>Building/Facility</b>	<b>E Building - Elevator</b>
<b>Date of Construction</b>	1970
<b>Alteration</b>	In 1993, the building’s ceilings, roof, and mechanical rooms were altered.
<b>Programs and Activities</b>	Elevator
<b>Accessibility Issues:</b>	<ul style="list-style-type: none"> <li>• The push button for floor two is approximately 58” from the floor of the elevator. [2010 Standards Section 407.4.6.1,</li> </ul>

<b>Building/Facility</b>	<b>E Building - Elevator</b>
	<p>Exception 2 – In existing elevators, car control buttons with floor designations shall be permitted to be located 54 inches (1370 mm) maximum above the finish floor where a parallel approach is provided.]</p> <ul style="list-style-type: none"> <li>• The elevator contains two emergency buttons, which are located on the middle and top of the control panel approximately 56” and 59” from the elevator floor respectively. [2010 Standards Section 407.4.6.4.2 – Emergency control buttons shall be grouped at the bottom of the panel.]</li> </ul>

<b>Building/Facility</b>	<b>G Building - Elevator</b>
<b>Date of Construction</b>	1970
<b>Alteration</b>	In 1993, the building’s snack bar and bookstore were altered.
<b>Programs and Activities</b>	Elevator
<b>Accessibility Issues:</b>	<ul style="list-style-type: none"> <li>• The push button for floor two is approximately 58” from the floor of the elevator. [2010 Standards Section 407.4.6.1, Exception 2 – In existing elevators, car control buttons with floor designations shall be permitted to be located 54 inches (1370 mm) maximum above the finish floor where a parallel approach is provided.]</li> <li>• The elevator contains two emergency buttons, which are located on the middle and top of the control panel approximately 56” and 59” from the elevator floor. [2010 Standards Section 407.4.6.4.2 – Emergency control buttons shall be grouped at the bottom of the panel.]</li> </ul>

**Appendix B  
New Construction**

<b>Building/Facility</b>	<b>Notar Administration Building – Student Development Office Door</b>
<b>Date of Construction</b>	2001
<b>Alteration</b>	N/A
<b>Programs and Activities</b>	Student Development Office Door
<b>Accessibility Issues:</b>	<ul style="list-style-type: none"> <li>The entrance door to the Student Development Office requires approximately 11 pounds of force to open. [2010 Standards Section 404.2.9.1 – The force for pushing or pulling open a door or gate other than fire doors shall be as follows: (1) Interior hinged doors and gates: 5 pounds (22.2 N) maximum.]</li> </ul>