

RESOLUTION AGREEMENT

Broadalbin-Perth Central School District Case No. 02-17-1031

In order to resolve Case No. 02-17-1031, the Broadalbin-Perth Central School District (District) assures the U.S. Department of Education, Office for Civil Rights (OCR), that it will take the actions detailed below pursuant to 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. The District has disputed OCR's findings with respect to the complaint underlying this Resolution Agreement, but it has determined that it is in its interest to amicably resolve and settle the disputed issues by entering into this Resolution Agreement. By entering into this Resolution Agreement, the District is not making an admission of any sort, including but not limited to any admission of wrongdoing, liability, or any violation of the requirements of Section 504, the ADA or their implementing regulations, by the District, its board members, administrators, or employees, and this Agreement shall not be used or construed in any way as an admission by the District in any way.

Action Item 1: Individual Remedies

The District has advised OCR that it will not be accepting applications for any non-resident students beginning with school year 2017-2018. Should that position change at any time through school year 2020-2021, when XXXXX XXXXXXXX (the "Student") is XXXXXXXX XX XXXXXXXX, then the District will offer XXXXXXXX XXXXXXXX (the "complainant"), in writing, the opportunity to submit an application and documentation in support of the Student's application for admission as a non-resident student to the District. The District will provide the complainant a minimum of twenty (20) calendar days to respond to the offer. Within twenty (20) calendar days of receipt of the Student's complete application, supporting documentation, and all other information required by the District to make an admission decision pursuant to its Non-resident Student Tuition Policy, the District will conduct an individual assessment of the Student's application for admission to the District as a non-resident student to ensure that the District's criteria for admission does not automatically preclude the Student's admission on the basis of his disability; and specifically, the District will exclude from consideration any disciplinary incidents previously determined to be for behavior that is a manifestation of the Student's disability.

In determining whether the Student meets the District's criteria for admission to the District as a non-resident student, the District may also determine whether the District is an appropriate placement for the Student. In doing so, the Superintendent of Schools, acting with such other personnel as the Superintendent deems appropriate with knowledge of the student, the meaning of evaluation data, and the placement options within the District, and drawing upon information from a variety of sources, shall conduct an individualized assessment of the Student. The District will ensure that all information obtained from all sources is documented and carefully considered; and, that the decision is documented. The District will notify the complainant of its determination in writing.

Reporting Requirements:

- (a) Should the District begin accepting applications for non-resident students for school year 2017-2018 through school year 2020-2021, then within 30 days of making that decision, the District will provide documentation to OCR demonstrating that it offered the complainant, in writing, an opportunity to submit an application and supporting documentation in support of the Student's application for admission as a non-resident student to the District, consistent with Action Item 1; and, the complainant's response to the offer, if any.
- (b) Within thirty (30) days of issuing its determination regarding the Student's application for admission as a non-resident student to the District, the District will provide documentation to OCR demonstrating that it evaluated the Student's application for admission as a non-resident student consistent with Action Item 1. Such documentation will include:
 - (i) A copy of the documentation submitted by the complainant to the District in support of the Student's application;
 - (ii) A statement as to whether the Student was admitted to the District; and,
 - (iii) If the Student was denied admission, a statement of the reason(s) for the denial, including any determination made by the group of knowledgeable persons, and any documentation supporting the determination.

Action Item 2: Revised Policy

By December 31, 2017, the District will revise its Non-Resident Student Tuition Policy in accordance with the amended policy attached to this Resolution Agreement as Exhibit "A" ("the Policy").

Reporting Requirements:

- (a) Within ninety (90) days of the adoption of the Policy, the District will provide documentation to OCR to demonstrate that it has formally adopted the Policy and updated its printed publications (inserts may be used pending reprinting of publications) and on-line publications with the newly adopted Policy. This documentation will include, at a minimum, (i) printouts or a link to all on-line publications containing the newly adopted Policy; and, (ii) copies of relevant pages, or if not yet finalized copies of inserts, for printed publications. If inserts were used for any publications, then by January 15, 2018, the District will provide to OCR copies of the relevant pages of printed versions of all publications containing the newly adopted Policy. Dissemination may occur by the methods usually employed by the District for distributing District policies and procedures, including posting on the District's website.

- (b) Should the District begin accepting applications for non-resident students for school year 2017-2018 through school year 2020-2021, then by August 31st before the beginning of the relevant school year, the District will provide documentation to OCR demonstrating that it implemented the revised Policy during its review of applications submitted by non-resident students who are seeking admission to the District. Such documentation will (i) include a list of applicants, by name or another unique identifier; (ii) state whether the District had knowledge that the applicant has a disability; (iii) state whether the applicant was classified as a student with a disability in another school district, or was suspected of having any disability; and, (iv) indicate whether the applicant was admitted as a non-resident student to the District.
- (c) In the event the District denies any applicant admission to the District as a non-resident student for school year 2017-2018 through school year 2020-2021, then for each applicant for admission during the school year in question, the District will provide the following documentation, at a minimum:
 - (i) A copy of the materials received by the District in connection with the application;
 - (ii) A statement as to whether the District had knowledge that the applicant has a disability, was classified as a student with a disability in another school district, or was suspected of having any disability;
 - (iii) A statement as to whether the District denied or granted admission to the applicant; and,
 - (iv) A statement of the reason(s) for the District's decision regarding the application for admission, and any documentation supporting the determination.

Action Item 3: Training

Within 30 days after adopting the Policy required by Action Item 2, the District will train relevant staff responsible for processing applications from non-resident students applying for admission to the District regarding (a) the revised Policy for admission of non-resident students it developed in accordance with Action Item 2; and, (b) the prohibitions against discrimination on the basis of disability contained within the regulations implementing Section 504 and the ADA.

Reporting Requirement: Within 30 days after conducting the training required by Action Item 3, the District will provide the following to OCR: (a) the name(s) of the individual(s) who conducted the training outlined in Action Item 3 above; (b) the date(s) the training was conducted; (c) the name(s) and title(s) of the District staff that attended the training; and (d) copies of any training materials disseminated.

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(b)(1)(i) and (vii) and (4)(i), and the ADA at 28 C.F.R §§ 35.130(b)(1)(i) and (vii), (7), and (8), 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(b)(1)(i) and (vii) and (4)(i), and the ADA, at 28 C.F.R §§ 35.130(b)(1)(i) and (vii), (7), and (8), which were at issue in this case. The District understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings, including 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, including 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.

8/18/17
Date

/s/
Superintendent Stephen Tomlinson
Broadalbin-Perth Central School District