

RESOLUTION AGREEMENT

New Hartford Central School District Case No. 02-22-1468

To resolve Case No. 02-22-1468, the New Hartford Central 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. Section 794, and its implementing regulation at 34 C.F.R. Part 104, and Title II of the Americans with Disabilities Act of 1990 (Title II), 42 U.S.C. § 12131 *et seq.*, and its implementing regulation at 28 C.F.R. Part 35.

Action Item 1: Individual Remedies for the Student

- A. By April 22, 2023, the District will convene a group of persons knowledgeable about the Student, such as the Section 504 committee or Committee on Special Education (CSE) (the group), to determine the Student's eligibility for special education and/or related aids and services. The District will invite the Complainant to attend this meeting and will otherwise adhere to the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36. The District will seek consent from the Complainant to conduct any evaluations necessary for the group of persons knowledgeable about the Student to determine the Student's eligibility for special education and related aids and services.
- B. If the group determines that the Student is eligible for special education and/or related aids and services in accordance with Action Item 1.A. above, by June 15, 2023, the group will determine whether the Student requires any remedial and/or compensatory services for the District's failure to evaluate the Student during school year 2021-2022 through the effective date of the placement the group determines is appropriate for the Student. If the group determines that the Student requires remedial and/or compensatory services, the group will develop a plan for providing such services with a completion date for providing the services not to extend beyond September 30, 2023. The District will invite the Complainant to attend this meeting and otherwise adhere to the procedural requirements of the regulation implementing Section 504, at 34 C.F.R. §§ 104.34, 104.35 and 104.36.

Reporting Requirements:

- (a) By June 30, 2023, the District will provide documentation to OCR demonstrating that it held a meeting to determine the Student's eligibility for special education and/or related aids and services, as described in Action Item 1.A. The documentation will include: (a) copies of any evaluation plans developed; (b) copies of any completed evaluations; (c) a copy of the meeting minutes or similar documentation from the meeting referenced in Action Item 1.A. above, including an explanation for decisions made; and (d) a copy of any Section 504 plan and/or Individualized Education Program (IEP) developed for the Student (if applicable); and (e) and documentation demonstrating that the District provided notice of and

invited the Complainant 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. §§ 104.34, 104.35 and 104.36, in making these determinations.

- (b) By June 30, 2023, the District will submit to OCR: (a) a copy of the meeting minutes or similar documentation from the meeting referenced in Action Item 1.B., above, including an explanation for decisions made; (b) the plan for providing any remedial and/or compensatory services to the Student; and (c) documentation demonstrating that the District provided notice of and invited the Complainant 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. §§ 104.34, 104.35 and 104.36, in making these determinations.
- (c) By October 1, 2023, if the District offers remedial and/or compensatory services to the Student, the District will provide documentation to OCR demonstrating that it has provided the Student with the remedial and/or compensatory services. The documentation will include the dates, times, and locations of the services provided, a description of the services provided, the name(s) of the service provider(s) and any additional supporting documentation such as service logs, and/or invoices.

Action Item 2: Training

By July 1, 2023, the District will provide training to all District administrators and staff members, including instructional staff, responsible for identifying, referring, evaluating, and making determinations regarding special education and/or related aids and services, including members of the School’s CSE and Section 504 Coordinators for students at XXX XXXXXXXX XXXXXXX XXXX XXXXXXX (the School). The training will include a review of the District’s policies and procedures resulting to the identification, referral, and evaluation of any student suspected of having a disability; the District’s obligation to provide a free appropriate public education to each qualified student with a disability and the procedural safeguards required by Section 504. The training will cover the District’s obligations to conduct a timely evaluation of any student, who, because of disability, needs or is believed to need special education and/or related aids and services. The training will inform staff that in interpreting evaluation data and in making placement decisions, the District shall, in accordance with the regulation implementing Section 504, at 34 C.F.R. § 104.35(c), draw upon information from a variety of sources; establish procedures to ensure that information obtained from all such sources is documented and carefully considered; ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options; and ensure that the placement decision is made in conformity with the regulation implementing Section 504, at 34 C.F.R. § 104.34.

Reporting Requirement:

By August 31, 2023, the District will provide documentation to OCR demonstrating that training was provided consistent with Action Item 2 above, including: (a) the name(s) 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; and (d) copies of any training materials disseminated.

OCR Monitoring

The District understands that by signing this resolution agreement (the 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 if necessary, during the monitoring of this Agreement, 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 and obligations of this Agreement.

The District understands that OCR will not close the monitoring of this resolution agreement until OCR determines that the District has demonstrated compliance with all the terms of this Agreement and is in compliance with Section 504 and its implementing regulation at 34 C.F.R. Part 104, and Title II and its implementing regulation at 28 C.F.R. Part 35, which were at issue in this case.

The District understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of this Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will provide 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.

3/22/23
Date

/s/
Cosimo Tangorra
Superintendent
New Hartford Central School District