



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
CIVIL RIGHTS BUREAU

July 31, 2020

Patricia LaBarr
Superintendent
Watertown City School District
1351 Washington Street, P.O. Box 586
Watertown, NY 13601

Dear Superintendent LaBarr,

As you know, on May 31, 2019, the Office of the Attorney General of the State of New York (“OAG”) commenced an investigation of the Watertown City School District (“District”) in relation to an incident involving a reenactment of a slave auction conducted in a fourth-grade classroom in one of the District’s schools.

OAG’s investigation included interviews with parents of affected students who were present in the class and participated in the reenactment, interviews with other parents of students in the District, review of documents produced by the District and review of publicly available information. The investigation sought to identify any violations of federal and state civil rights laws, including, *inter alia*, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, the Equal Educational Opportunities Act, 20 U.S.C. § 1701 *et seq.*, and the Dignity for All Students Act (“DASA”), N.Y. Educ. Law §§ 10-18.

The OAG investigation found that on May 28, 2019, during a fourth-grade social studies lesson, unrelated to slavery, a teacher instructed an African American boy and girl to come to her desk at the front of the room. The teacher stated that they would learn about slavery and have a simulated slave auction in class. The teacher instructed that “in slave times” slaves would have their hands behind their backs and told the boy and the girl to place their hands accordingly, referring to them as brother and sister who would be shackled and split up upon sale. The teacher began calling out numbers and instructed other students in the room to start bidding on the two African American students at the front. The teacher then stated that slaves would take their “master’s” surnames and instructed the African American student to refer to their winning bidders as “masters.” The teacher further stated that the African American students should not try to escape because they would be chased down and violence would be done to them. The

investigation did not reveal evidence suggesting that the teacher acted with express authorization, permission or approval from the school district.

The investigation found that the teacher's reenactment had a profoundly negative effect on all students present—especially the African American students who reported that they experienced lasting emotional harm from these events and the District community at large. The investigation revealed that the District, upon learning of the simulated slave auction, immediately placed the teacher on administrative leave. The teacher did not return to the classroom and has since resigned.

Since our office commenced this investigation, the District has taken steps to ensure that an incident of this nature does not recur. The District reports that it has reported the teacher to the State Education Department Licensing Authority. OAG acknowledges that the District has contacted and interviewed the parents of the various students affected and took measures to counsel the affected students. The District has also undertaken additional training and measures to ensure that an episode of this nature does not recur. The District asserts that it has complied with all relevant laws and regulations, and that its current Code of Conduct is not deficient, improper or unlawful.

In light of these developments, our office finds that a resolution of its investigation is appropriate. To that end, the District agrees to take the following steps to provide our office with oversight of the District's reforms, in order to ensure future compliance with the law.

First, the District expressly agrees and acknowledges that it will continue to be in compliance with the obligations, terms, and conditions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d *et seq.*, the Equal Education Opportunities Act, 20 U.S.C. § 1701 *et seq.*, the Dignity for All Students Act, New York Education Law § § 10-18 and any other applicable laws and regulations and that any violation in the future may result in a potential for liability the same as any other educational institution.

Second, within sixty (60) days of the execution of this Letter Agreement, the District agrees to hire or designate a current employee as its Chief Diversity Officer ("Diversity Officer"). Prior to this hire or designation the District shall submit the resume of the individual to the OAG for review and approval. The Diversity Officer shall have primary responsibility for implementing the terms set forth in this Letter Agreement. The Diversity Officer shall also be responsible for developing a culturally sensitive curriculum, in consultation with District staff and the Diversity Consultant as described in this Letter Agreement, *infra*, to teach students about slavery and the contribution of African Americans to American history. The Diversity Officer shall also be responsible for implementing this curriculum in grade appropriate fashion across District schools.

Within thirty (30) days of OAG approving the appointment or designation of the Diversity Officer, the District shall provide a written notification to District students and parents informing them of the substance of this Letter Agreement and of the designation of the Diversity Officer. The notice shall specify that the Diversity Officer is the primary point of contact for any

concerns regarding discrimination, harassment, or other district climate related issues at District schools and shall provide contact information for the Diversity Officer. The written notification may be made in paper or online, in e-mail format, and the District commits that it shall be sent in one form or the other to all students and parents.

Third, within sixty (60) days of the date of execution of this Letter Agreement, the District shall submit for OAG review and approval a revised and updated Code of Conduct governing all District employees and students, which strengthens its current prohibitions, responsibilities, policies, and procedures with respect to racial and ethnic discrimination and harassment, as well as other prohibited behaviors, after consultation with and input from diverse members of the school community. The District disputes, however, that its current Code of Conduct is in any manner deficient, improper or unlawful.

Within thirty (30) days of OAG's approval of the updated Code of Conduct, the District shall provide written notifications to students and parents, informing them of the updates to the Code of Conduct and specifically referencing its provisions concerning racial and ethnic discrimination and harassment. The written notification may be made in paper or online via e-mail and the District commits that the form will be affirmatively sent to the families of all students.

Fourth, within forty-five (45) days of the date of execution of this Letter Agreement, the District shall submit for OAG review and approval a DASA Compliance Plan ("Compliance Plan") comprehensively institutionalizing and strengthening the policies and procedures the District has in place related to DASA. The Compliance Plan shall include strengthening, adding and/or improving upon the following elements to ensure the District is and remains fully compliant with the requirements of DASA and shall be consistent with OAG-SED DASA Implementation Guidance.¹ The Compliance Plan shall contain:

- Policies prohibiting bullying and harassment in District schools, whether the perpetrator or victim is a student or District employee;
- Procedures to ensure the documentation, investigation, and resolution of any complaint of bullying or harassment made by any student or person in parental relation to a student, and that explicitly set forth:
 - i. All individuals responsible for documenting in writing any complaint of discrimination made by any student or parental relation, whether such complaint is made in written or verbal form;

¹ In August 2016, the OAG and the New York State Education Department ("SED") jointly issued to all school districts statewide the "Dignity for All Students Act – Guidance on Investigating, Responding, and Reporting" ("OAG-SED DASA Implementation Guidance"), which provided model forms and detailed descriptions of procedures required for districts to ensure compliance with DASA.

- ii. Pertinent individuals responsible for investigating such complaints, for resolving such complaints, and communicating such resolutions to affected parties;
- iii. Timeframes for the documentation and completion of all steps set forth above; and
- iv. Procedures to ensure the accurate aggregation of all documented incidents across District schools, and their timely transmission to the superintendent and, ultimately, to SED.

Within thirty (30) days of OAG approval of the Compliance Plan the District shall provide written notification to students and parental relations informing them of the Compliance Plan. The written notification may be made in paper or online and the District commits that it will affirmatively send notification to all families of the students.

Following OAG approval of the Compliance Plan, the District shall timely review and investigate compliance and take appropriate corrective action to resolve such complaints in accordance with the terms of the revised Code of Conduct, the Compliance Plan and applicable law. The District shall maintain all records concerning each complaint, its investigation and resolution as discussed below.

Fifth, within thirty (30) days of the execution of this Letter Agreement, and at its own expense, the District shall identify for OAG review and approval a third-party consultant (the "Diversity Consultant") to assist the District in development and implementation of anti-harassment and discrimination training protocols. The Diversity Consultant shall have experience in racial/ethnic diversity and sensitivity training in educational or other institutional settings. The Parties acknowledge that the District is already working with consultants in this area and the District commits that it will continue to work with those consultants and continue its programs in this regard.

Within sixty (60) days of OAG approval of the Diversity Consultant, the District shall develop and submit for OAG review: (1) a training plan and (2) anti-harassment discrimination training protocols created in consultation with the Diversity Consultant. One training protocol will cover students, while the second will cover District employees, administrators, and other adult district community members. Among other topics these protocols shall address: (a) the history of racial and ethnic discrimination in America; (b) examples of comments and behaviors that could constitute discrimination or harassment at the District, including the concept of microaggressions; (c) steps all students and District Employees can take to foster an atmosphere of inclusion and support of differences at the District schools; (d) implicit bias; and (e) age and grade appropriate changes or modifications to District curricula that address the history of racial and ethnic discrimination in America. The training protocol for District employees shall also cover the Compliance Plan. The training plan shall require training for each group at regular intervals, but trainings shall be held at least twice a year and no less than once per academic

period (e.g., semester). In addition, the District shall also take reasonable steps to incorporate changes proposed by the Diversity Consultant into the District's classroom curricula for each grade.²

The Parties acknowledge that the ongoing COVID-19 pandemic has affected the ability of the District's students, teachers, and employees to engage in in-person meetings. Nonetheless, the District will endeavor to implement the above-described training plan and training protocols, once approved by OAG, either through in-person or online training methods, within thirty (30) days. The Diversity Officer shall maintain attendance records for all training sessions conducted pursuant to this Letter Agreement.

Sixth, within forty-five (45) days of the execution of this Letter Agreement, the District will submit for OAG review, a plan to revise, expand and implement age appropriate strategies within the District for teaching that encourages and reinforce positive student behavior and do not require engagement with the discipline system ("Discipline Plan").³ The plan shall focus on the following:

- Classroom Management and Behavioral Support for Staff: The District agrees that it shall continue its efforts to have staff consider and utilize, as appropriate, a range of corrective measures before referring a student to disciplinary authorities and/or law enforcement, including, but not limited to behavior contracts reflective writing assignments, conflict resolution, restorative justice practices. The District may refer students to the administration without the use of corrective measures only where the safety of students and/or staff is threatened, the behavior in question is such that the disruption to the educational environment can only be remedied by such referral or the referral is required by law. The District asserts that it already deploys these practices in its day to day operations and will continue to do so.
- Rewarding Positive Behavior: The District agrees that it will continue its existing "Positivity Project, as well as a project on positive referrals. The District shall continue to maintain those programs and shall examine ways to enlarge or expand their utilization.

² The District asserts that it currently has in place a number of programs designed to address many of the above stated issues. These programs include the program of "Positive Referrals," "Olweus," which has a focus upon anti-bullying curriculum, a "Positivity Project," which was first implemented in 2018-2019 school year, the "PAX Behavioral System" at use in many classrooms in the K-4 level, and the program of Professional/Appropriate Behaviors implemented throughout the District. The OAG encourages the District to continue with these programs to ensure an inclusive environment, where kindness is promoted and bullying prevented.

³ The District asserts that it currently has in place a number of such programs, including the programs entitled "Positive Referrals," "Olweus Program," the "Positivity Project," and various other programs that are designed to address these concerns and perceptions.

- Supports for Struggling Students: If after the corrective measures have been fully implemented a student referred for discipline more than once in a school year for behavior that disrupts their education and/or the education of other students, the District will provide school-based support to assist the student. These supports may include, but may not be limited to the following: (i) Adult in-school mentoring; (ii) Peer in-school mentoring; (iii) Access to guidance counselors, student support staff, social workers, or student advocates as appropriate; (iv) Involvement of parents in the discipline process; (v) Development and implementation of a behavior management plan; (vi) Assistance with learning appropriate behavior and developing self-management skills; and (vii) Referral for educational services, where indicated and appropriate.

The District's reform plan will also ensure that the District will, and will continue to, maintain accurate records of all students who are disciplined by the District in each academic year including: the student behavior that resulted in the discipline; the form of the discipline taken; and the demographic information concerning both students who are disciplined as a result of the incident and the students involved in the same incident who were not disciplined.

Seventh, the District agrees that it will actively pursue staff diversification and will continue to do so in the future. Among other things, the District agrees to pursue the following activities in pursuit of this goal during the term of this Letter Agreement, including: placing ads for teacher vacancies in diverse publications; expanding the type and number of sources of recruitment; consulting with the Diversity Consultant regarding best practices in recruitment and retention of a diverse staff.

Eighth, the District agrees that it will maintain and preserve all documents pertaining to this Letter Agreement in either hard copy or electronic format for a period of at least three years. The District asserts that it has in the past retained records pertaining to disciplinary action and other appropriate academic/educational measures undertaken. In addition, the parties agree that the following items will be retained by the District for at least three years: (a) the notifications created pursuant to this Letter Agreement; (b) records concerning implementation of the Compliance Plan and any documentation of complaints, their investigation, and resolution, pursuant to this Letter Agreement; (c) training attendance records maintained pursuant to this Letter Agreement; and (d) records concerning implementation of the Discipline Plan, including documentation of all student referrals for discipline and all interventions taken by the District in response to such referrals, pursuant to this Letter Agreement.

We thank the District for its ongoing cooperation in resolving this matter



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Agreed to by:


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