



U.S. DEPARTMENT OF EDUCATION

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OFFICE FOR CIVIL RIGHTS
SOUTHERN DIVISION

DISTRICT OF COLUMBIA OFFICE
District of Columbia, North Carolina, South Carolina, Virginia

December 7, 2010

Hand-Delivered and By First Class U.S. Mail

Dr. Donna Hargens
Interim Superintendent
Wake County Public Schools
3600 Wake Forest Road
P.O. Box 28041
Raleigh, NC 27611-8041

Mr. Ron Margiotta, Chair
Board of Education
Wake County Public Schools
7800 Secluded Acres Road
Apex, NC 27523

Re: OCR Complaint Nos. 11-10-1311 and 11-10-1313

Dear Dr. Hargens and Mr. Margiotta:

This letter is in reference to the above-referenced complaints that were filed with the District of Columbia Office of the Office for Civil Rights (OCR) within the U.S. Department of Education (the Department) against the Wake County Public Schools System (the District) and the Wake County Board of Education (the Board). As you are aware, the complaints were filed by the National Association for the Advancement of Colored People (NAACP), *et al.*, alleging that the District and the Board are discriminating on the basis of race, color and national origin against students.

OCR'S Responsibilities

As you are aware, OCR is responsible for enforcing certain Federal civil rights statutes and regulations, including Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulation, at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, and national origin in any program or activity receiving Federal financial assistance. The District is a recipient of Federal financial assistance and a public entity and is subject to the provisions of Title VI and its implementing regulation. OCR has jurisdiction over the complaint and we will be proceeding to investigation of the allegations identified below.

Our mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Complaint Allegations Being Investigated

Allegation 1: The Board and District discriminated against "non-White" students (i.e., African-American, Hispanic and mixed-race students) based on race, when, on April 6, 2010, the Board revised its student assignment policy to eliminate consideration of socioeconomic diversity in schools and began the process of implementing a neighborhood schools student assignment policy.

Allegation 2: The Board and the District are discriminating on the basis of race against African-American students through its disciplinary system with regard to short- and long-term suspensions and expulsions, including as to the frequency and severity of punishment, the disciplinary hearing and appeals process, and referrals to the juvenile justice system.

Because OCR has determined that it has jurisdiction over the complaint allegations, and that the allegations were timely filed with OCR, we are opening the allegations for investigation. Please note that opening allegations for investigation in no way implies that OCR has made a determination with regard to the merits. During the investigation, OCR is a neutral fact-finder, collecting and analyzing relevant evidence from the complainant, the recipient and other sources, as appropriate. OCR will ensure that its investigation is legally sufficient and is dispositive of the allegations in accordance with the provisions of Article III of OCR's *Case Processing Manual*, a copy of which is available at <http://www.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

In order to properly conduct this investigation, it is necessary for us to obtain certain information from the District and the Board. Our authority to request that this information be submitted is provided by the regulation implementing Title VI, which provides that asserted considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with Department regulations. Accordingly, we request that complete information responsive to the data and information requests be submitted to us within thirty (30) calendar days of receipt of this letter. If you experience any difficulty complying with this request, you should notify us prior to the expiration of the 30-day period.

Please be informed that this initial data request addresses information relevant to the student assignment allegation, referenced in Allegation 1, above. A separate data request regarding the discipline allegation, as well as one or more additional requests for information regarding student assignment and/or discipline may follow.

We have notified the Complainants that this complaint has been opened. We are required to remind the District and the Board that it may not harass, coerce, intimidate, or discriminate against an individual because he or she filed a complaint or participated in the complaint resolution process. If this happens, the Complainants may file another complaint alleging such harassment or intimidation.

Also, under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon request. If OCR receives such a request, we will seek to protect, to the extent provided by law, personal information that, if released, could constitute an unwarranted invasion of privacy.

If you have any questions or concerns regarding the requested information, please do not hesitate to contact either Betsy Trice, Senior Attorney, at 202-453-5931 or Lorraine Chatman, Senior Attorney, at 202-453-5904, who are lead counsel on the complaints. We look forward to the District's and the Board's cooperation during OCR's resolution activities.

Sincerely,

A handwritten signature in cursive script that reads "Alice B. Wender".

Alice B. Wender
Director
District of Columbia Office
Office for Civil Rights

Enclosure

**Wake County Public Schools and the Wake County Board of Education
Data Request #1**

In order to assist us in resolving the allegations set forth in this complaint, OCR requests that the District provide the information listed below. OCR's authority to request this information is found in the Department's regulation implementing Title VI of the Civil Rights Act of 1964, at 34 C.F.R. § 100.6(c). Accordingly, we request that the following information be provided:

1. Provide a detailed narrative describing the student assignment plan(s) that was/were in place prior to November 2009 (i.e., before the Board decision in place in Allegation 1). In the narrative, indicate:
 - What factors and/or criteria were utilized in determining to which school a Node and/or an individual student would be assigned;
 - For the 2007-2008 and 2008-2009 school years, the number of students by race/national origin and socioeconomic status (SES), as measured by a student's qualifying for free and/or reduced price lunch (FRPL), who were assigned to schools for SES-diversity purposes.
2. Provide a detailed narrative response to the complaint allegations. In the narrative response, explain how the student assignment policies and procedures were changed by the Board's decision to no longer consider SES in student assignments, as well as its rationale for doing so. Provide copies of all documents related to the change in the student assignment policy in 2010.
3. Provide a copy of all student assignment and transfer policies, plans, or written procedures implemented by the District since 2000. This should include a copy of the District's and Board's current policies and procedures governing student assignment, the creation and/or modification of attendance boundaries, and student transfers.
4. If not already provided, indicate whether the Board has adopted a "new" student assignment plan and/or policy as a result of the Board's decision to no longer consider SES and, if so, provide a copy of such plan and/or information as to the status of the Board's implementation of a "new" student assignment plan and timetable, if any, for making further changes.
5. Indicate whether the District and/or Board are currently implementing a "pilot" student assignment plan for 2010-2011 school year, and if so, provide a copy of such plan. If there was no "pilot" plan for 2010-2011, provide a copy of the student assignment plan for 2010-2011. Also provide the following:
 - a. Identify which Nodes and schools were included in the pilot; explain how it was determined which Node(s) would be included in such "pilot"; when the "pilot" took effect; and the status of the "pilot";
 - b. If not answered in response to a., identify each Node that was assigned to a different school in 2010-2011 than 2009-2010;
 - c. The number of students by race/national origin and SES included in each Node that was reassigned as of the 2010-2011 school year;
 - d. Data (by race/national origin and SES) for each Node that was reassigned for 2010-2011 on how students scored on North Carolina State-wide assessments;

- e. Indicate whether students at all levels (elementary, middle and high school) were/will be "grandfathered" under any proposed student assignment plan or "pilot;"
 - f. Indicate whether any student(s) included in any such "pilot" were *not* reassigned because the student participated in a magnet and/or other specialized program; and
 - g. Indicate whether parents/guardians of student included in any such "pilot" were notified of the reassignments and when and how notice was provided.
6. If not already provided, provide an explanation of the District's Node system, including when and how students were assigned to Nodes for 2010-2011, how Nodes were assigned to schools), and what the "Node" number designations and sub-designations mean, and indicate whether the District has a growth and planning "model" that it is following as it relates to the Node assignments.
 7. Provide the number of students by race/national origin and SES (FRPL status) of each of the District's schools for the 2008-2009 and 2009-2010 school years and the District-wide enrollment by race/national origin and SES. (Please provide this information in electronic format, e.g., CD, and, if available, in an Excel format separated by Node and by School.)
 8. Provide a list of the names of each school in the District to and/or from which students were reassigned for the 2010-2011 school year. As to each such school, also provide the following:
 - a. The number and the racial composition of each school in the District included in the 2010-2011 reassignment(s) *before* any reassignment of students into the school.
 - b. The number of students and the racial composition of each school in the District to which students were reassigned during the 2010-2011 school year *after* any reassignment of students from the school.
 - c. Indicate for each school that had students reassigned into or out of it, the number of students that were reassigned in by race/national origin and SES, and the number of students that were reassigned out by race/national origin and SES.
 - d. For each student reassigned, indicate the student's race, their "Node," the school that the student was reassigned from and the school that the student was reassigned to.
 9. Provide a copy of all proposed student assignment plans that were considered by the District and/or Board but rejected during the process that led to the Board's elimination of the prior student assignment plan and/or elimination of consideration of SES in making student assignment decisions. Provide copies of all emails or correspondence to or from Board members and/or to or from District staff dated on or before the 2010-2011 student assignment plan was adopted.
 10. Provide a copy of all studies, reports, analyses, demographic data, enrollment projections, and other documentation considered by the District and/or Board prior to and/or since elimination of the prior student assignment plan.
 11. Provide Annual Yearly Progress (AYP) data indicating the numbers of students by school, race/national origin *and* SES status who met AYP for the 2009-2010 SY.

12. Provide the number (or percentage) of students by school, race/national origin *and* SES status who passed the N.C. State Assessment(s) for the 2009-2010 SY.
13. Provide a listing of all specialized programs (for example, magnet programs) and extracurricular activities were offered at the Garner and Southeast Raleigh High Schools during the 2009-2010 school year. Also, indicate whether the District provided transportation to students participating in extracurricular activities at these schools.
14. Provide large maps illustrating and/or showing the following:
 - a. Where all "Nodes" are located and the number of students by race/ethnicity and SES status included in each "Node." for 2009-2010 and 2010-2011.
 - b. The attendance area boundaries, with a list of assigned nodes, for each District school during the 2009-2010 school year.
 - c. The attendance area boundaries, with a list of assigned Nodes for each District school for the 2010-2011 school year.
 - d. All school locations, by school name, if not included on other maps.
15. Provide a copy of all documents and information that the District has provided to AdvancedEd related to the Board's student reassignment decision/determination. Also, if additional documents and/or information related to student assignment are provided to AdvancedEd during the course of OCR's investigation, provide us with a copy of those materials at the same time that they are provided to AdvancedEd.