



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE FOR CIVIL RIGHTS, REGION IV

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April 28, 2022

**VIA EMAIL ONLY**

Ms. Eileen Turenne, Principal  
South Tech Charter Academy  
[eileen.turenne@pbcharterschools.org](mailto:eileen.turenne@pbcharterschools.org)

RE: OCR Complaint No. 04-22-1078  
Resolution Letter

Dear Ms. Turenne:

This letter is to advise you of the outcome of the complaint that the U.S. Department of Education, Office for Civil Rights (OCR) received on November 8, 2021, against South Tech Charter Academy (Academy). The Complainant, XXXXXXXXXX, filed the complaint on behalf of her son, XXXXXXXXXX, a student (Student) at South Technical Academy High School (School). The Complainant alleged that the Academy discriminated against the Student on the basis of disability (Attention Deficit Hyperactivity Disorder) when his English 1 Honors teacher refused to provide extended time in his course during the 2021-22 school year.<sup>1</sup>

OCR enforces Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. § 794, and its implementing regulation at 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability in programs and activities that receive Federal financial assistance from the Department. OCR also enforces 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, which prohibit discrimination against qualified individuals with disabilities by public entities, including public education systems and institutions, regardless of whether they receive Federal financial assistance from the Department. Because the District receives Federal financial assistance from the Department of Education and is a public entity, it is subject to these laws and OCR has jurisdiction.

During the investigation to date, OCR reviewed information provided by the Complainant and the Academy; interviewed the 504 Coordinator and Teacher. Before OCR completed its investigation, the Academy expressed a willingness to resolve the allegation pursuant to Section 302 of OCR's *Case Processing Manual*, which states that allegations may be resolved prior to OCR making a determination if the Academy expresses an interest in resolving the allegations and OCR determines that it is appropriate to resolve them because OCR's investigation has identified issues that can be addressed through a resolution agreement. The following is a summary of the evidence obtained by OCR during the investigation to date.

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<sup>1</sup> OCR originally listed the relevant date as the 2020-21 school year, but the Complainant later clarified that the course was in the Fall 2021, and therefore during the 2021-22 school year.

### **Legal Standards**

The Section 504 regulation, at 34 C.F.R. § 104.33, requires school districts to provide a free appropriate public education (FAPE) to students with disabilities. An appropriate education is regular or special education and related aids and services that are designed to meet the individual educational needs of students with disabilities as adequately as the needs of students without disabilities are met and that are developed in compliance with Section 504's procedural requirements.

### **Factual Background**

The Student's 504 Plan in effect during the 2021-22 school year listed his "physical or mental impairments" as ADHD and Asthma. Specifically, under the 504 Plan's category "Accommodation Area", "General Accommodations", "Assignments/Worksheets" it stated, "Allow days - more time for regular assignments. Arrange for short breaks between assignments. Check comprehension of directions before beginning task, specifying that this should be implemented for "All Teachers/Gen Ed Teachers, All Classes, Daily/As Needed." Additionally, under the 504 Plan's category for "Classroom/Standardized Testing Accommodations" it specifies "50% extended times/frequent breaks" for "All Teachers/All Testing Proctors, All Classes/Testing Locations, As Needed/When Testing."

The Student was in the Teacher's English 2 Honors class from August 2021 to December 2021. During interviews with OCR, the Teacher stated she understood the Student's accommodations to include 50% extra time on tests and assignments, including class work. The Teacher stated that most assignments were given on a weekly basis, so that they were given on Monday and due Friday in the online system. The Teacher stated that she calculated extra time to be based on the estimated length of the assignment and not the due date so if an assignment would take about thirty minutes the Student would need forty-five minutes to complete it. The Teacher stated she understood that since the Student was assigned on Monday and given until Friday his extra time was already built in and he did not get any extra days or time compared to other students in the class. In contrast, when OCR interviewed the 504 Coordinator stated, she that the Student's accommodation related to assignments was written to provide flexibility to "allow more days" to be discussed with teachers based on the Student's needs, and he was to receive the extra fifty percent of time related to testing only not assignments.

On November 1, 2021, a 504 meeting was held based on the Complainant's request. The notes from the meeting indicated that the 504 Coordinator and the Student's Teacher were present. Notes from the meeting and an interview with the Teacher confirm that the Teacher discussed that she did not believe that the Student needed extra time to complete his assignments and the Student should be able to better manage or plan his work, while the Complainant did not agree and wanted the Student to be provided the extra time, beyond the five allotted days, in case he needed it. The 504 Coordinator stated to OCR that she recalled the Teacher and Complainant disagreeing on this issue, and the Student specifically asking for one extra day to complete his weekly assignments. The 504 Coordinator said she reiterated that the Student needed his accommodation and should be given an extra day to complete his weekly assignments. The 504 Coordinator said she thought the Teacher understood that the Student should be provided the extra day based on his accommodation and was in agreement to provide the extra day or until Saturday for his weekly assignments.

During OCR's interview with the Teacher she acknowledged that the Student did state he needed extra time for his weekly assignments when she asked him during the 504 meeting, although he never asked her directly otherwise. However, the Teacher stated she did not recall receiving instructions from the 504 Coordinator to provide the extra day for his assignments. The Teacher stated that after the 504 meeting she went to her Assistant Principal and confirmed with him that he was in agreement with her interpretation that the Student should not receive extra days on assignments compared to other students since it was already built into the flexible schedule he had from Monday to Friday.

Due to the inconsistent statements from School staff interviewed related to the meaning of the Student's assignment accommodation, OCR would need to interview the School Counselor who took notes and was also present at the November 1, 2022, 504 meeting, and the Assistant Principal, in order to complete the investigation.

### **Conclusion**

On April 18, 2022, the Academy signed the enclosed Resolution Agreement which, when fully implemented, will address the allegation investigated. The provisions of the Agreement are aligned with the allegation and the information obtained during OCR's investigation and are consistent with applicable law and regulation. The Agreement requires the Academy adjust the Student's grade in his English 2 Honors Course and provide training to School staff to ensure students are provided all 504 accommodations, and if there is any disagreement related to an accommodation that a 504 meeting is held to clarify it. Please review the enclosed Agreement for further details. OCR will monitor the Academy's implementation of the Agreement until the Academy has fulfilled the terms of the Agreement.

This concludes OCR's investigation of the complaint. This letter should not be interpreted to address the Academy's compliance with any other regulatory provision or to address any issues other than those addressed in this letter. This letter sets forth OCR's determination in an individual OCR case. This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. OCR would like to make you aware that individuals who file complaints with OCR may have the right to file a private suit in Federal court whether or not OCR finds a violation.

Please be advised that the Academy may not harass, coerce, intimidate, or discriminate against any individual because he or she has filed a complaint or participated in the complaint resolution process. If this happens, the individual may file another complaint alleging such treatment.

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, personally identifiable information that, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

We appreciate the Academy's cooperation in the resolution of this complaint. If you have any questions, please contact Lorraine Irier, the OCR attorney assigned to this complaint, at 404-974-9349 or [lorraine.rier@ed.gov](mailto:lorraine.rier@ed.gov).

Sincerely,

/s/

Ebony Calloway  
Team Leader  
Atlanta Region Office  
Office for Civil Rights

Enclosure

cc: Mr. Russell Feldman, School Board Chair [russell.feldman@southtechschools.org](mailto:russell.feldman@southtechschools.org)