



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

RENAISSANCE TOWER
DALLAS, TEXAS 75270

REGION VI
LOUISIANA
MISSISSIPPI
TEXAS

July 13, 2023

By email only to: cqmoore@wcpss.net

Catty Moore
Superintendent
Wake County Public School System
5625 Dillard Drive
Cary, NC 27518

Re: OCR Docket No. 11-23-1231
Wake County Public School System, North Carolina

Dear Superintendent Moore:

This letter is to inform you of the disposition of the referenced complaint against Wake County Public School System (the District) with the U.S. Department of Education (the Department), Office for Civil Rights (OCR). The Complainant is a student who is blind, uses assistive technology, and has an IEP (individual education program). The Complainant alleged that:

- (1) The District is failing to afford persons with disabilities an opportunity to participate in and benefit from the services, programs, and activities communicated through the District's websites and third-party websites that is equal to opportunities afforded to others; and
- (2) The District is failing to fully implement the Complainant's IEP with respect to the Microsoft Excel Honors course in which he is currently enrolled. He alleges there are barriers in the technology used to deliver the course, including content and functionality related to delivering lesson content and assessing his progress, which were neither removed, nor adequately addressed through alternative means of access to the course content.

OCR investigated this case under the authority of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and its implementing regulation, 34 C.F.R. Part 104, which prohibit discrimination on the basis of disability by recipients of Federal financial assistance. OCR also enforces Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 *et seq.*, and its implementing regulation, 28 C.F.R. Part 35, which prohibit discrimination on the basis of disability by public entities. As a recipient of Federal financial assistance from the Department and a public entity, the District is required to comply with Section 504 and Title II. The bases for OCR's resolution of this matter are explained below.

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

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On March 25, 2023, OCR informed you that it had dismissed the first allegation pursuant to Section 110(k) of OCR's Case Processing Manual (CPM), as the Complainant requested that the first allegation be withdrawn.

Thereafter, OCR continued with its investigation of the second, remaining allegation. Prior to the completion of OCR's investigation, the District expressed an interest in voluntarily resolving the remaining allegation in the complaint, and signed the enclosed resolution agreement (the Agreement).

With respect to the second allegation, the OCR investigation to date indicated that the District may not have provided the Complainant with accessible technology used to deliver his Spring 2023 semester Microsoft Excel Honors course, nor adequately addressed barriers in the technology used to deliver the course through alternative means to access the course content, in a consistent and timely manner.

Section 302 of OCR's *Case Processing Manual* (CPM) states that a complaint allegation may be resolved at any time when, prior to the conclusion of the investigation, a recipient expresses an interest in resolving the complaint allegation and OCR determines that it is appropriate to resolve the allegation with a voluntary resolution agreement. In this case, the District expressed interest in voluntarily resolving the allegations.

On July 11, 2023, the District signed the Agreement to resolve the complaint. When fully implemented, the Agreement will address the remaining allegation investigated. OCR will monitor the implementation of the Agreement until the District is in compliance with the terms of the agreement and Section 504 and Title II.

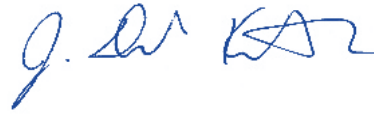
This letter is not a formal statement of OCR policy and should not be relied upon, cited, or construed as such. OCR's formal policy statements are approved by a duly authorized OCR official and made available to the public. This concludes OCR's investigation of the complaint. The Complainant may have the right to file a private suit in federal court regardless of OCR's determination.

Please be advised that the District 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 a 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. In the event that OCR receives such a request, we will seek to protect, to the extent provided by law, personally identifiable information, which, if released, could reasonably be expected to constitute an unwarranted invasion of personal privacy.

Thank you for the District's cooperation in the resolution of this complaint. If you have any questions, please contact me at (214) 987-1453 or David.Kutch@ed.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Kutch", with a stylized flourish at the end.

David Kutch
Attorney

Enclosure

Courtesy copy via email only to:

Adam Mitchell, counsel
amitchell@tharringtonsmith.com