

June 20, 2011

Alice B. Wender, Director
Lorraine Chatman, Attorney
District of Columbia Office
Office for Civil Rights
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202-1475

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

Dear Ms. Wender and Ms. Chatman:

The undersigned are members of the National Coalition on School Diversity (Coalition), a network of national civil rights organizations, university-based research institutes, local educational advocacy groups, and academic researchers seeking a greater commitment to racial and economic diversity in federal K-12 education policy. We are writing in regard to the Title VI complaint filed with the U.S. Department of Education's Office for Civil Rights (OCR) on September 24, 2010 against the Wake County (North Carolina) Board of Education (Board) as a result of its decision to dismantle the district's socioeconomic diversity student assignment plan.

It is our understanding that the complainants make two crucial allegations. First, the complainants have submitted evidence indicating that the Board engaged in intentional racial discrimination in adopting a new, "neighborhood schools" assignment plan. The complaint states that the reassignments pursuant to this plan were made with the discriminatory intent to satisfy a small and vocal set of parents who made clear their desire that students be moved in and out of certain schools on the basis of race. Second, the complainants have demonstrated that these reassignments have an unjustified disproportionate impact on students of color that will deprive many of them of equal educational opportunities and likely exacerbate the achievement gap between those students of color and White students.

We submit this letter because both allegations raise the most serious of concerns, as the first would be a violation of Title VI of the Civil Rights Act of 1964 itself and the second, at the very least, a violation of the OCR's Title VI regulations. In addition, this unfortunate shift in school board policy provides a prime example of the pending dangers of which we and other members of the Coalition have warned and which demand leadership and clear policy guidance from the U.S. Department of Education (ED).

First, we urge ED to become more proactive in its funding priority incentives to promote integration and discourage resegregation. Currently, a district like Wake County is effectively free to resegregate its schools with no obvious financial consequences under Title I of the Elementary and Secondary Education Act or recent competitive grant applications. Members of the Coalition have previously offered proposals regarding how the Title I funding formula can be revised to provide incentives for school districts to deconcentrate poverty and penalize those who

do the opposite. Coalition members have also encouraged ED to include school diversity metrics in measures of statewide and district progress and as a competitive preference priority in grant programs, such as Race to the Top. Measures such as these are crucial in preventing the harmful results of racial isolation and securing the educational benefits of diversity, both of which are demonstrated by decades of research. In fact, during the early stages of considering changes to their assignment policy, members of the Wake County Board of Education considered these very issues, in particular querying whether a resegregative policy would entail federal financial consequences to the district's magnet funding. Finding none, they proceeded on their course (Tumultuous session ends diversity policy, *News and Observer*, March 24, 2010).

Second, members of the Coalition have engaged in a longstanding dialogue with the OCR and the U.S. Department of Justice (DOJ) regarding the need to issue policy guidance on the Supreme Court's decision in *Parents Involved in Community Schools v. Seattle School District #1* (2007). We are aware that a 2008 "Dear Colleague" letter from the previous administration incorrectly interprets *Parents Involved* as discouraging the use of race-conscious strategies to promote school diversity. Fortunately, in their February 2011 *amicus curiae* brief in *Doe v. Lower Merion School District*, DOJ and ED articulated a position consistent with our recommendations about the need for school districts to have flexibility and support in developing student assignment policies that avoid and reduce racial isolation. We therefore anticipate that new guidance will reflect the critical positions highlighted in their brief, so that school districts pursuing diversity initiatives designed to foster integration and eliminate racial isolation will be encouraged to do so under the auspices of the federal government.

Prior to the current resegregative plan, the Wake County socioeconomic diversity plan served to mitigate many of the negative effects of individual and school-level poverty, creating racially diverse schools and opportunities for low-income students to learn. For these reasons, the achievement of low-income and minority students in Wake County is the envy of the nation, and more than seventy school districts throughout the country have implemented desegregation plans modeled after Wake County's commitment to socioeconomic diversity. We encourage the OCR to consider the current resegregation trends and potential harmful academic outcomes in Wake County, North Carolina of the utmost importance and urgency, as well as support policies and legal guidance that would discourage actions of this sort in the future.

Sincerely,

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