

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
25 EDC 02827

█ by parent or guardian █, █ Petitioner, v. Wake, Rolesville Wake County Board of Education Respondent.	FINAL DECISION
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THIS MATTER is before this Tribunal for entry of an Order based upon Respondent's Notice of Insufficiency, and the Order of Insufficiency Granting Leave for Petitioners to Amend Petition filed August 22, 2025. After a conference call held on October 10, 2025, the Undersigned finds that the Petition should be dismissed without prejudice as insufficient and Petitioners have not filed an Amended Petition within the allotted timeframe specified in the Order of Insufficiency Granting Leave for Petitioners to Amend Petition.

APPEARANCES

For Petitioners:

█, *pro se*
█
█, *pro se*
█

For Respondent:

Carolyn Murchison
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Tharrington Smith, LLP
P.O. Box 1151
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ISSUE

Whether this case should be dismissed as insufficient?

BASED UPON review of all relevant matters in the record, the Undersigned makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. On August 4, 2025, Petitioners, ■■■, by ■■■ parents, ■■■ and ■■■, filed a Petition for a Contested Case Hearing in the above-captioned matter alleging violations against Respondent, Wake County Board of Education, of the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. §§ 1400 *et seq.* (“IDEA”) and N.C. Gen. Stat. §§ 115C-109.6 *et seq.*

2. Respondent was served with the Petition on August 12, 2025.

3. On August 15, 2025, the Undersigned issued an Order Setting Hearing calendaring the hearing to begin on September 22, 2025.

4. Respondent filed a Notice of Insufficiency and Response on August 21, 2025 arguing the Petition insufficient under 20 U.S.C. § 1415(b)(7)(A)(ii).

5. A contested case petition as provided under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 *et seq.*, and North Carolina General Statute § 115C-116 must be based on a dispute regarding the “**identification, evaluation or educational placement of a child with a disability, or the provision of FAPE to the child.**” 34 CFR § 300.507(a)(1); *see also*, 34 CFR § 300.503(a)(1) and (2).

6. The issue included in the Petition is the school’s decision to retain ■■■. However, this decision is not a matter within the jurisdiction of this Tribunal, as it is unrelated to his identification as a child with a disability, his evaluation, education placement, or provision of FAPE.

7. On August 22, 2025, the Undersigned issued an Order of Insufficiency Granting Leave for Petitioners to Amend Petition, finding the Petition insufficient pursuant to 20 U.S.C. § 1415(b)(6); 34 CFR § 300.507(a)(1), and allowing Petitioners thirty (30) days to file an Amended Petition.

8. Petitioners failed to comply with the Order and did not timely file an Amended Petition. At the October 10, 2025 conference call, Respondent did not consent to providing Petitioners additional time to file an Amended Petition; therefore, the Petition is dismissed without prejudice.

FINAL DECISION

BASED UPON the foregoing, all claims in Petition 25 EDC 02827 are **DISMISSED**.

MOREOVER, prior to publication of this Final Decision, all personally identifiable information about [REDACTED] or other information which may make it possible to identify [REDACTED] with reasonable certainty **SHALL BE REDACTED**.

NOTICE OF APPEAL RIGHTS

In accordance with the Individuals with Disabilities Education Act and North Carolina's Education of Children with Disabilities laws, the parties have appeal rights regarding this Final Decision.

Any party aggrieved by the findings and decision of an Administrative Law Judge may under N.C. Gen. Stat. § 115C-109.6 institute a civil action in State court within thirty (30) days after receipt of the notice of the decision or under 20 U.S.C. § 1415 a civil action in federal court within ninety (90) days after receipt of the notice of the decision.

Because the Office of Administrative Hearings may be required to file the official record in the contested case with the State or federal court, a copy of the Petition for Judicial Review or Federal Complaint must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely preparation of the record.

STAY OF FINAL DECISION

This Final Decision is immediately enforceable by the State Board of Education and remains in effect until the party aggrieved moves the reviewing court for a Stay of the Final Decision and the reviewing court grants the Stay pursuant to N.C. Gen. Stat. § 150B-48.

IT IS SO ORDERED.

This the 21st day of October, 2025.



Stacey Bice Bawtinheimer
Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 N.C. Admin. Code 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center which will subsequently place the foregoing document into an official depository of the United States Postal Service.



Parent



Parent

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Attorney For Respondent

Teresa Silver King
NC Department of Public Instruction
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Affiliated Agency

This the 21st day of October, 2025.



Karen L Rust
Law Clerk
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