

November 17, 2016

Dr. Maria L. Rianna  
Superintendent of Schools  
Glen Cove City School District  
Dosoris Lane  
Glen Cove, New York 11542

Re: Case No. 02-16-1292  
Glen Cove City School District

Dear Dr. Rianna:

This letter is to notify you of the determination made by the U.S. Department of Education, Office for Civil Rights (OCR) with respect to the above-referenced complaint filed against the Glen Cove City School District. The complainants alleged that the District discriminates against African-American, Hispanic and English Language Learner (ELL) students, on the basis of race and/or national origin, by utilizing admissions criteria for the District's middle school honors program that result in the exclusion of such students from the program.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. § 2000d *et seq.*, and its implementing regulation, at 34 C.F.R. Part 100, which prohibit discrimination on the bases of race, color and national origin in programs and activities receiving financial assistance from the U.S. Department of Education (the Department). The District is a recipient of financial assistance from the Department. Therefore, OCR has jurisdictional authority to investigate this complaint under Title VI.

The regulation implementing Title VI, at 34 C.F.R. § 100.3(a), provides that no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program operated by a recipient. The regulation implementing Title VI, at 34 C.F.R. § 100.3(b)(1), prohibits a recipient, on the ground of race, color, or national origin, from denying an individual a service or benefit of a program; providing different services or benefits; subjecting an individual to segregation in any matter related to the receipt of a service or benefit; restricting an individual in any way in receiving a service or benefit; treating an individual differently in determining whether the individual satisfies any admission or eligibility requirement for provision of a service or benefit; and, denying an individual an opportunity to participate in a program or affording an opportunity to do so which is different from that afforded to others. The regulation implementing Title VI, at

34 C.F.R. § 100.3(b)(2), prohibits a recipient from utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin.

The administration of student enrollment in courses can result in unlawful discrimination based on race in two ways: first, if students are subject to different treatment based on their race, and second, if a policy is neutral on its face and administered neutrally but has a disproportionate and unjustified effect on students of a particular race.

In its investigation, OCR reviewed documentation that the complainants and the District submitted. During the course of OCR’s investigation, the District expressed interest in entering into an agreement with OCR to resolve the allegation without further investigation. OCR made the following determinations based on the information obtained to date.

Enrollment Data

The District has a total of six schools: one high school (Glen Cove City High School); one middle school (Robert M. Finley Middle School); and four elementary schools (Deasy Elementary School, Gribbin Elementary School, Connolly Elementary School, and Landing Elementary School). According to data the District provided, as of June 2016, the District had a total of 3,184 students,<sup>1</sup> 1,819 (57.13%) are Hispanic, 925 (29.05%) are white, 297 (9.33%) are African American, 114 (3.85%) are Asian, 3 (.09%) are Native Hawaiian/Other Pacific Islander, and 26 (.82%) are multi-racial. The following shows enrollment for school year 2015-2016, by school, disaggregated by race:<sup>2</sup>

**2015-2016 Overall Enrollment**

	<b>Total</b>	<b>Asian</b>	<b>Black or African American</b>	<b>Native Hawaiian/ Other Pac Islander</b>	<b>White</b>	<b>Hispanic/ Latino</b>	<b>Multi</b>
Glen Cove High School (9-12)	970	46 (4.74%)	111 (11.44%)	0 (0.00%)	294 (30.31%)	514 (52.99%)	5 (0.52%)
Robert M. Finley Middle School (6-8)	716	21 (2.93%)	69 (9.64%)	1 (0.14%)	223 (31.15%)	399 (55.73%)	3 (0.42%)
Deasy Elementary School (K-2)	404	11 (2.72%)	31 (7.67%)	1 (0.25%)	92 (22.77%)	262 (64.85%)	7 (1.73%)
Gribbin Elementary School (K-2)	375	10 (2.67%)	22 (5.87%)	0 (0.00%)	105 (28.00%)	229 (61.07%)	9 (2.40%)
Connolly Elementary School (3-5)	373	14 (3.75%)	21 (5.63%)	1 (0.27%)	118 (31.64%)	219 (58.71%)	0 (0.00%)
Landing Elementary School (3-5)	346	12 (3.47%)	43 (12.43%)	0 (0.00%)	93 (26.88%)	196 (56.65%)	2 (0.58%)
<b>Totals</b>	<b>3,184</b>	<b>114 (3.58%)</b>	<b>297 (9.33%)</b>	<b>3 (0.09%)</b>	<b>925 (29.05%)</b>	<b>1,819 (57.13%)</b>	<b>26 (0.82%)</b>

<sup>1</sup> This figure does not include pre-k students.

<sup>2</sup> This table and the tables throughout do not include categories of American Indian or Native Alaskan students, or students whose ethnicities are unspecified, as the District did not report any data in these categories to OCR.

The following shows ELL enrollment for school year 2015-2016, by school, disaggregated by race:

### 2015-2016 ELL Enrollment

	Total	Asian	Black or African American	Native Hawaiian/ Other Pac Islander	White	Hispanic/Latino	Multi
Glen Cove High School	161	2 (1.24%)	0 (0.00%)	0 (0.00%)	6 (3.73%)	153 (95.03%)	0 (0.00%)
Robert M. Finley Middle School	110	0 (0.00%)	0 (0.00%)	0 (0.00%)	4 (3.64%)	106 (96.36%)	0 (0.00%)
Deasy Elementary School (K-2)	130	1 (0.77%)	0 (0.00%)	0 (0.00%)	5 (3.85%)	124 (95.38%)	0 (0.00%)
Gribbin Elementary School (K-2)	100	2 (2.00%)	0 (0.00%)	0 (0.00%)	5 (5.00%)	92 (92.00%)	1 (1.00%)
Connolly Elementary School (3-5)	95	0 (0.00%)	0 (0.00%)	0 (0.00%)	2 (2.11%)	93 (97.89%)	0 (0.00%)
Landing Elementary School (3-5)	84	0 (0.00%)	1 (1.19%)	0 (0.00%)	3 (3.57%)	80 (95.24%)	2 (0.58%)
<b>Totals</b>	<b>682</b>	<b>5 (0.73%)</b>	<b>1 (0.15%)</b>	<b>0 (0.00%)</b>	<b>25 (3.67%)</b>	<b>648 (95.01%)</b>	<b>3 (0.44%)</b>

### Middle School Honors Program and Enrollment Criteria

OCR determined that in 2013, the District initiated a three-year review of the effectiveness of the admission process for the middle school honors program.<sup>3</sup> Based on the review, the District concluded that students had been denied admission to the program based on what it considered to be “flawed criteria.”<sup>4</sup> The District therefore launched a program called “Expanding Opportunities for All,” to implement changes to the program that included, among other things: (i) ending the Grade 6 honors program, effective school year 2014-2015; (ii) ending use of criteria for placement in Grade 7 and Grade 8 honors classes, beginning in school year 2016-2017; and (iii) eliminating the honors designation for all courses in the middle school, beginning in school year 2016-2017. The District maintained certain “accelerated” course offerings for school year 2016-2017, including Grade 7 pre-algebra, Grade 8 Regents earth science, and Grade 8 Regents algebra, but increased the potential enrollment for Grade 8 Regents earth science and Grade 8 Regents algebra from 60 to 225 students, and implemented a self-selection process for

<sup>3</sup> The review consisted of: (i) internal discussions among District staff; (ii) comparison to other Long Island school district middle school honors programs, particularly with respect to criteria for admission to Regents level courses in eighth-grade math and science; (iii) presentations at a public Board of Education meeting and a District Curriculum Committee meeting; (iv) public comments; (v) feedback provided to the District’s Assistant Superintendent for Curriculum from teaching staff through a roundtable meeting and individual meetings; and (vi) input from individual parents.

<sup>4</sup> The District noted that selection for Grade 6 honors classes was based on a matrix including students’ New York State testing scores from fourth grade; and that some students were denied access to honors classes if they missed the required GPA by a few percentage points.

Grade 7 pre-algebra, Grade 8 Regents algebra, Grade 8 Regents earth science and the elective courses for Grades 6-8 Humanities and Research.<sup>5</sup>

Prior to this change, OCR determined that the District's middle school honors program (the program) for school year 2015-2016 consisted of honors courses offered to seventh and eighth grade students at the Robert M. Finley Middle School (the school) who met established criteria.<sup>6</sup> Honors courses offered to seventh grade students include English, social studies, pre-algebra and science. Honors courses offered to eighth grade students include English, social studies, Regents earth science and Regents algebra.<sup>7</sup>

Prior to school year 2016-2017, the District used the following criteria to determine placement in the program for Grade 7. For all Grade 7 honors classes, students needed to have a 93% or higher grade point average (GPA) in the corresponding Grade 6 course for the subject area (i.e., English, social studies, math or science); however, students who were on the cusp of the requisite 93% GPA could also receive approval to enroll in Grade 7 honors classes following a parent request and/or teacher recommendation, if deemed appropriate. If a parent requested placement in Grade 7 honors classes for a student on the threshold of a 93% GPA, the student was enrolled in non-honors classes for the first 5-10 weeks of the seventh grade year to demonstrate his or her readiness for honors classes. The District would then move the student to honors classes if the student's sixth grade and receiving seventh grade teachers were in agreement regarding the student's readiness. If a teacher recommended placement in Grade 7 honors classes for a student on the threshold of a 93% GPA, the teacher of the relevant honors course would evaluate the student prior to enrollment to determine whether enrollment in the relevant honors course was appropriate based on certain subjective criteria.<sup>8</sup>

Prior to school year 2016-2017, the District used the following criteria to determine placement in the program for Grade 8. For all Grade 8 honors courses, students who had taken Grade 7 honors courses needed to have an 85% or higher GPA in the corresponding Grade 7 honors course for the subject area (i.e., English, social studies, pre-algebra or science). Students who had not taken Grade 7 honors classes needed to have a 93% or higher GPA in the corresponding Grade 7 course for the subject area (i.e., English, social studies, math or science) to be placed in honors classes for Grade 8. Students who were on the cusp of the requisite 93% GPA could be placed in Grade 8 honors classes through the same process described above.

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<sup>5</sup> The sixth grade honors program has ended; however, the Humanities and Research courses are new electives with no criteria for enrollment. The self-selection process consists of informational meetings with staff, students and parents; parent submission of course enrollment forms; teacher review of course request forms, followed by teacher input and recommendations; and follow-up meetings with parents as needed. Regardless of teacher input and recommendations, all students who self-select are permitted to enroll in accelerated classes. Students who are not successful in accelerated classes for the first quarter of the school year are allowed to move out of those classes.

<sup>6</sup> As set forth above, the school ended its Grade 6 honors program in spring 2014, effective school year 2014-2015.

<sup>7</sup> OCR determined that placement in middle school honors classes affected placement in certain high school regular and honors classes. For example, students could enroll in Grade 9 geometry only if they had taken Grade 8 Regents algebra. Additionally, students who took Grade 8 Regents earth science could enroll in Grade 9 honors living environment (science) with a 85% or higher GPA, whereas students who did not take Grade 8 Regents earth science needed to have a 90% or higher GPA to enroll in Grade 9 honors living environment.

<sup>8</sup> Such factors included a high interest in learning; an analytic mind; strong determination and perseverance; responsibility for her/his own learning; a willingness to seek challenge; and effective collaborative skills.

Enrollment Data for the Program

OCR determined that during school year 2015-2016, there were 211 seventh grade students in the District, of whom 111 (52.61%) are Hispanic, 79 (37.44%) are white, 13 (6.16%) are African American, and 8 (3.79%) are Asian. OCR further determined that during school year 2015-2016, there were 261 eighth grade students in the District, of whom 152 (58.24%) are Hispanic, 72 (27.59%) are white, 28 (10.73%) are African American, 6 (2.30%) are Asian, 1 is Native Hawaiian/Other Pacific Islander, and 2 are multi-racial.

**2015-2016 Overall Enrollment Grades 7 & 8**

Grade	Total	Asian	Black or African American	Native Hawaiian/ Other Pac Islander	White	Hispanic/ Latino	Multi
7	211	8 (3.79%)	13 (6.16%)	0 (0.00%)	79 (37.44%)	111 (52.61%)	0 (0.00%)
8	261	6 (2.29%)	28 (10.73%)	1 (0.38%)	72 (27.59%)	152 (58.24%)	2 (0.77%)

OCR further determined that during school year 2015-2016, there were 28 seventh grade ELL students in the District, of whom 27 (96.43%) are Hispanic, and 1 (3.57%) is white. OCR also determined that during school year 2015-2016, there were 40 eighth grade ELL students in the District, of whom 40 (100.00%) are Hispanic.

**2015-2016 ELL Enrollment Grades 7 & 8**

Grade	Total	Asian	Black or African American	Native Hawaiian/ Other Pac Islander	White	Hispanic/ Latino	Multi
7	28	0 (0.00%)	0 (0.00%)	0 (0.00%)	1 (3.57%)	27 (96.43%)	0 (0.00%)
8	40	0 (0.00%)	0 (0.00%)	0 (0.00%)	0 (0.00%)	40 (100.00%)	0 (0.00%)

OCR determined that during school year 2015-2016, the number of opportunities for seventh and eighth grade students in honors courses was as follows:

**2015-2016 Enrollment in Honors Courses Grades 7 & 8**

Grade	Total	Asian	Black or African American	Native Hawaiian/ Other Pac Islander	White	Hispanic/ Latino	Multi	ELL
7	88 <sup>9</sup>	5 (5.68%)	4 (4.55%)	0 (0.00%)	45 (51.14%)	30 (34.09%)	3 (3.41%)	0 (0.00%)
8	63	2 (3.17%)	7 (11.11%)	0 (0.00%)	27 (42.86%)	25 (39.68%)	2 (3.17%)	0 (0.00%)

<sup>9</sup> The race/ethnicity of one student enrolled in the Grade 7 honors program in school year 2015-2016 was unidentified.

Based on the foregoing, OCR determined that for school year 2015-2016, African-American students represented 6.16% of the District's total enrollment in Grade 7 (13 of 211), and 4.55% of students enrolled in Grade 7 honors courses (4 of 88). OCR further determined that African-American students represented 10.73% of the District's total enrollment in Grade 8 (28 of 261), and 11.11% of students enrolled in Grade 7 honors courses (7 of 63). Using a Fisher's Exact statistical test, OCR determined that African-American students were not underrepresented to a statistically significant degree in the program when compared to White students and to all other students.

OCR determined that for school year 2015-2016, Hispanic students represented 52.61% of the District's total enrollment in Grade 7 (111 of 211), but only 34.09% of students enrolled in Grade 7 honors courses (30 of 88). OCR further determined that Hispanic students represented 58.24% of the District's total enrollment in Grade 8 (152 of 261), but only 39.68% of students enrolled in Grade 8 honors courses (25 of 63). Using a Chi Square statistical test, OCR determined that Hispanic seventh and eighth grade students were underrepresented in the honors program to a statistically significant degree when compared to White students and to all other students. None of the 151 students in honors courses in grades 7 or 8 was an ELL student; although one student in Grade 7 was a former ELL student (Hispanic) who had exited the District's ELL program.

In contrast, white students represented 37.44% of the District's total enrollment in Grade 7 (79 of 211), and 51.14% of students enrolled in Grade 7 honors courses (45 of 88). Additionally, white students represented 27.59% of the District's total enrollment in Grade 8 (72 of 261), and 42.86% of students enrolled in Grade 8 honors courses (27 of 63). Using a Chi Square statistical test, OCR determined that White seventh and eighth grade students were overrepresented in the honors program to a statistically significant degree when compared to all other students.

On November 14, 2016, the District entered into the enclosed agreement with OCR to resolve the complaint allegation without further investigation. OCR will monitor the implementation of the agreement.

This letter should not be interpreted to address the District'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. The complainants may have the right to file a private suit in federal court whether or not OCR finds a violation.

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 complainants 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. In the event that OCR receives such a request, OCR 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.

If you have any questions regarding OCR's determination, please contact Lauren Numeroff, Compliance Team Attorney, at (646) 428-3895 or [Lauren.Numeroff@ed.gov](mailto:Lauren.Numeroff@ed.gov); or Lisa Khandhar, Compliance Team Attorney, at (646) 428-3778 or [Lisa.Khandhar@ed.gov](mailto:Lisa.Khandhar@ed.gov).

Sincerely,

/s/  
Timothy C.J. Blanchard

Encl.

cc: XXXXXXXXXXXX XXXXXXXX, Esq.