



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

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REGION II  
NEW JERSEY  
NEW YORK  
PUERTO RICO  
VIRGIN ISLANDS

December 29, 2017

Dr. Kimberly Gruccio  
Superintendent  
Egg Harbor Township School District  
13 Swift Drive  
Egg Harbor Township, New Jersey 08234

Re: Case No. 02-16-5002  
Egg Harbor Township School District

Dear Dr. Gruccio:

This letter is to notify you of the resolution of the above-referenced compliance review that the U.S. Department of Education (the Department), Office for Civil Rights (OCR) initiated pursuant to Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100. Title VI prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving financial assistance from the Department. The Egg Harbor Township School District (the District) is a recipient of financial assistance from the Department. Therefore, OCR had jurisdictional authority to conduct this compliance review under Title VI.

The compliance review examined whether the District discriminated against African American and Hispanic students, and students who are English Language Learners (ELL), by establishing and implementing policies and procedures that resulted in their exclusion from college and career readiness programs and courses at the high school level (e.g., honors and Advanced Placement (AP) courses), and with respect to other courses at the elementary and middle schools levels that would prepare African American, Hispanic, and ELL students to participate in higher level courses (e.g., Gifted and Talented Education (GATE) and other advanced courses).

### **Applicable Legal Standards**

The applicable standards for determining compliance are set forth in the regulation implementing Title VI, at 34 C.F.R. § 100.3(a), (b) (1) and (2). Section 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. Section 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 that is different from that afforded to others. Section 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.

## **Findings of Fact**

The District is a public school district serving students enrolled in pre-kindergarten through 12th grade in Egg Harbor Township, Atlantic County, New Jersey. The New Jersey Department of Education (NJDOE) placed the District in District Factor Group “CD,” representing the sixth highest socioeconomic status grouping of eight groupings.<sup>1</sup>

The District has seven schools: one high school (Egg Harbor Township High School); two middle schools serving grades 6 through 8 (Alder Avenue Middle School and Fernwood Avenue Middle School); one “intermediate” school serving grades 4 and 5 (Dr. Joyanne D. Miller Elementary School); and, three elementary schools serving grades pre-k through 3 (Clayton J. Davenport Elementary School, E. H. Slaybaugh Elementary School, and H. Russell Swift Elementary School). Students are typically assigned to the District’s elementary and middle schools based on where they live within the District’s boundaries. All students attend the intermediate school and the high school.

OCR obtained enrollment data for District schools for school years 2013-2014, 2014-2015, and 2015-2016; the most recent data available when OCR initiated the review. The data was disaggregated by race, national origin, and ELL status. OCR also requested enrollment data for the District’s college and career readiness programs and courses at the high school level and other courses at the elementary, intermediate, and middle school levels that would prepare students to participate in higher level courses; this data was also disaggregated by race, national origin, and ELL status. OCR conducted statistical analysis to determine whether there was a statistically significant disproportionate under-representation of African-American, Hispanic, and/or ELL students in these courses and programs.<sup>2</sup>

The District’s high school higher level learning opportunities consisted of honors courses, AP courses, and content-area academies. The District also offered programs and courses at the elementary, intermediate and middle school levels that could potentially affect enrollment in high school higher level learning opportunities. OCR requested information about the eligibility criteria for these courses and programs, and about how parents and students are informed of the eligibility criteria for these programs and courses. OCR also interviewed District officials about these courses and programs, including the Supervisor of State and Federal Programs (who supervised, among other things, the District’s ELL program), the District Supervisor of Mathematics, the District Director of Guidance, and teachers for the elementary and middle school GATE programs. A description of the information reviewed and analyzed is set forth below by grade level.

### **A. Kindergarten through Second Grade:**

#### **1. Kindergarten Primary Enrichment Program**

The District offers an initiative at the kindergarten level, entitled the Primary Enrichment Program (PEP). PEP is provided to all students in kindergarten classes at the District’s three elementary schools. The assigned GATE teacher at each elementary school meets with whole classes for three, 40-minute sessions over the course of the school year. PEP is designed to challenge all kindergarten students to higher-level thinking skill, and to expose students to different activities. PEP also begins the identification process, through informal teacher

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<sup>1</sup> The NJDOE uses “District Factor Groupings” to allow comparison of districts by common socioeconomic characteristics. From lowest socioeconomic status to highest, the categories are A, B, C, CD, DE, FG, GH, I, and J.

<sup>2</sup> Depending on the size of the groups being compared and other factors, OCR utilized a Chi Square, Fisher’s Exact or z-test for this statistical analysis.

observation during group sessions, for the District's first and second grade GATE programming. Since all students participated in these programs, OCR did not identify any compliance concerns regarding PEP.

## **2. First and Second Grade GATE Programs**

In first and second grades, the GATE teacher at each elementary school conducts a series of four to six whole group lessons, twice per year, for all students. These lessons provide instruction in higher-level thinking skills similar to the PEP kindergarten program. In the fall, all students participate in Convergent and Evaluative thinking tasks. For example, in first grade, fall lessons focus on chemical energy (students make playdough) and wind energy (students make windmills). In the spring, all students participate in Divergent and Visual Spatial thinking tasks aimed towards creative, spatial or evaluative thinking. These lessons provide the GATE teacher four opportunities (two in first grade and two in second grade) to observe students' work on assigned tasks that incorporate the skill being covered. Since all students participated in these sessions, OCR did not identify any compliance concerns regarding the whole group sessions.

In addition to the whole group enrichment sessions for all students in first and second grade, the District also identifies students who demonstrate the ability to apply the particular thinking skills beyond the lesson; these students are taken out of their regular education classroom to work with the GATE teacher in a small group setting of approximately five to eight students. The District did not provide information to OCR regarding how students were chosen for these small group sessions. OCR interviewed XXXX XXXX XXXX XXXX XXXX XXXX, who informed OCR that in making the decision about which students will participate in the small group sessions, they and the regular classroom teachers consider the students abilities, as observed in the whole group sessions. In these small group sessions, students work with the GATE teacher on projects using the same thinking skills, but at a higher degree of complexity. Identified students participate in approximately seven to nine small group lessons per semester. The XXXX XXXX informed OCR that different students are identified for participation in this program each semester, as the thinking skills change. Parents/guardians are notified if their child is selected for participation in small group settings, and must provide written consent in order for their child to participate. The District does not formally track which first and second grade students at any of the elementary schools are selected for small group settings in the fall or spring semesters, so OCR was unable to determine if African-American, Hispanic and/or ELL students were under-represented in these small group settings.

## **B. Third through Sixth Grade GATE Programs**

During school year 2015-2016, the District enrolled 254 students in grades 3-6 in GATE programs. Twenty-eight of these students (11.02%) were Hispanic, and seven (2.76%) were African-American. OCR determined that although Hispanic students represented 11.02% of students enrolled in GATE programs during school year 2015-2016, they represented 23.72% of total enrollment in grades 3-6; and although African-American students represented 2.76% of students enrolled in GATE programs, they represented 10.77% of enrollment in grades 3-6. Using a Chi-Square statistical test, OCR determined that Hispanic and African-American students were underrepresented in GATE programs for grades 3-6 to a statistically significant degree.

During school year 2015-2016, there was one ELL student enrolled in GATE programs for grades 3-6, out of sixty ELL students enrolled in grades 3-6 in the District. Using a Fisher's Exact statistical test, OCR determined that ELL students' underrepresentation in GATE programs in grades 3-6 was statistically significant.

## 1. Third Grade GATE Program

The District's GATE Pullout Program begins in third grade at all District elementary schools. Students selected for the program are pulled out from their regular education classrooms to meet with GATE teachers three to four times per week (40 minutes per class). The program is intended to provide students with opportunities to further develop the areas in which they show the greatest interest. Units of content in the program are flexible from year to year based on current events and areas of interest for the students. Students study “how to learn” skills, advanced research skills, and communication skills. The District advised OCR that the GATE Pullout Program “procedures” are discussed at each school’s “Back to School Night,” but that these “procedures” are not printed for parents to access. The District did not provide any information to OCR regarding how parents could appeal any decision not to enroll a student in the program.

As stated above, Hispanic, African-American and ELL students were under-represented in the third grade GATE program to a statistically significant degree. Eligibility for the third grade GATE program in school year 2015-2016 was determined based on ability, achievement, and teacher recommendations.

To assess ability, during the winter of second grade, the InView (IQ) test<sup>3</sup> was administered to all students; the test was only administered in English. The District's Supervisor of State and Federal Programs (ELL supervisor) informed OCR that ELL students do not sit for the InView IQ test, unless an ELL instructor or general education teacher recommends that an ELL student take the test.<sup>4</sup> The District typically looks for students who achieve a score of at least 115 on the InView test to receive further consideration for the GATE program.<sup>5</sup> To assess achievement in reading and math, the District utilized STAR (an online, nationally normed reading assessment) and the average of math trimester scores. The teacher recommendation was based on a form that consisted of 30 questions completed by second grade teachers, who could rate students 1-5 for each question.

In all, the criteria were weighted as follows: InView test 1-9 points, math trimester scores 1-5 points, STAR reading assessment 1-5 points, and teacher recommendation 1-5 points. All rising third grade students who scored 14 or more points qualified for the program. Parents/guardians were notified if their child was selected for participation in the program by letter from their respective school principal, and had to provide written consent in order for their child to participate. Students who participated in the third grade GATE Pullout Program automatically qualified for the fourth grade program, as discussed in greater detail below. The District did not provide information for individual students who were not selected; so OCR was unable to determine which criterion/criteria resulted in the under-selection of Hispanic, African-American and ELL students for the third grade GATE program.

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<sup>3</sup> The InView Test is an English language, innovative cognitive-abilities assessment. InView comprises five tests that reliably measure skills and abilities important for academic success: (1) verbal reasoning – words; (2) verbal reasoning – context; (3) sequences; (4) analogies; and, (5) quantitative reasoning.

<sup>4</sup> In school year 2017-2018, for the first time, the District offered all ELL students the opportunity to sit for the Naglieri Non-Verbal Ability Test in lieu of the InView IQ test. The District will then use a conversion metric to calculate raw scores from the Naglieri test to the InView test.

<sup>5</sup> If a student does not meet the 115 InView IQ test score threshold, the student would not be automatically disqualified for admission; rather, the District stated that it would individually consider the other criteria to determine if the student otherwise qualified. The District did not state how this individual consideration of other criteria would take place, or provide a list of students who otherwise qualified even though they did not meet the 115 InView IQ test score threshold.

## **2. Fourth and Fifth Grade GATE Programs**

The District's GATE Pullout Program continues in the fourth and fifth grade levels at the District's intermediate school. As stated above, all students who participated in the third grade GATE Pullout Program automatically qualified for the fourth grade program. Students selected for the program are pulled from their regular education classroom to meet with GATE teachers three times per week (37 minutes per class). Much like the third grade program, the fourth and fifth grade curricula are flexible from year to year based on current events and areas of interest for the students, and students work on continuing to develop the same skill sets as in the third grade program. As stated previously, the District advised OCR that the GATE Pullout Program "procedures" are discussed at each school's "Back to School Night," but that these "procedures" are not printed for parents to access. The District did not provide any information to OCR regarding how parents could appeal any decision not to enroll a student in the program. As stated above, Hispanic, African-American and ELL students were under-represented in the fourth and fifth grade GATE programs to a statistically significant degree.

Students who did not participate in the third grade GATE Pullout Program could be considered for participation in the fourth and fifth grade GATE program. In school year 2015-2016, this was determined based on student performance on the state standardized tests in English Language Arts (ELA) and math,<sup>6</sup> InView IQ test scores, and teacher recommendations. The criteria were weighted as follows: InView test 1-9 points, math PARCC scores 1-5 points, ELA scores 1-5 points, and teacher recommendation 1-5 points. All rising fourth grade students who scored 15 or more points, and all rising fifth grade students who scored 16 or more points, qualified for the program. Beginning in school year 2016-2017, students had to re-qualify for the fifth grade program (and sixth grade program); however, the District stated that in most cases, once students were selected for the GATE program, they stayed in the program through sixth grade.<sup>7</sup> Parents/guardians were notified if their child was selected for participation in the program by letter from their respective school principal, and had to provide written consent in order for their child to participate. The District did not provide information for individual students who were not selected; so OCR was unable to determine which criterion/criteria resulted in the under-selection of Hispanic, African-American and ELL students for the fourth and fifth grade GATE programs.

## **3. Sixth Grade GATE Program**

The District's GATE Pullout Program continues in the sixth grade at both of the District's middle schools, but is not offered in subsequent grades. The sixth grade GATE program is the same as the third through fifth grade GATE program, except that selected sixth grade students meet every other day for 70 minutes. As stated previously, the District advised OCR that the GATE Pullout Program "procedures" are discussed at each school's "Back to School Night," but that these "procedures" are not printed for parents to access. The District did not provide any information to OCR regarding how parents could appeal any decision not to enroll a student in the program. As stated above, Hispanic, African-American and ELL students were under-represented in the sixth grade GATE program to a statistically significant degree.

As stated above, students had to re-qualify for participation in the sixth grade GATE program; although the District informed OCR that most students were able to re-qualify. Eligibility for the sixth grade GATE program

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<sup>6</sup> The New Jersey Assessment of Skills and Knowledge (NJ ASK) test was administered in school year 2013-2014, and Partnership for Assessment of Readiness for College and Careers (PARCC) test was administered in school years 2014-2015 and 2015-2016.

<sup>7</sup> Prior to school year 2016-2017, students were automatically qualified for the program year to year between third grade and sixth grade.

in school year 2015-2016 was determined based on the same metrics utilized for the fourth and fifth grade programs; all rising sixth grade students who scored 16 or more points on the matrix qualified for the program. Parents/guardians were notified if their child was selected for participation in the GATE program by letter from their respective school principal, and had to provide written consent in order for their child to participate. The District did not provide information for individual students who were not selected; so OCR was unable to determine which criterion/criteria resulted in the under-selection of Hispanic, African-American and ELL students for the sixth grade GATE program.

#### **4. Fourth through Sixth Grade Accelerated Math Programs**

The District offers an accelerated math program to students in grades four through six in preparation for taking Algebra I in seventh grade and geometry by the eighth grade.<sup>8</sup> Program students cover 1.5 years of content per school year. OCR determined that the fourth through sixth grade accelerated math programs can be considered GATE programs, because the District identifies and selects students to receive enriched educational instruction not provided to others, based upon their ability and achievements in math. The District did not provide any information to OCR regarding how parents are notified of the availability of this GATE Pullout Program; or, how they could appeal any decision not to enroll a student in the program.

During school year 2015-2016, there were 56 students in the fourth and fifth grade Accelerated Math programs at the District's intermediate school. One African-American student and six Hispanic students enrolled in the program. Using a Fisher's Exact statistical test, OCR determined that the underrepresentation of Hispanic students and African-American students in the fourth and fifth grade Accelerated Math programs was statistically significant. None of the sixteen ELL students in the fourth and fifth grades were enrolled in the Accelerated Math program during school year 2015-2016.

During school year 2015-2016, there were 27 students in the sixth grade Accelerated Math program at the District's two middle schools. There were no African-American students, and only two Hispanic students enrolled in the program. Using a chi-square statistical test, OCR determined that African-American and Hispanic students were underrepresented in the sixth grade Accelerated Math program to a statistically significant degree. None of the twelve ELL students in the sixth grade were enrolled in the sixth grade Accelerated Math program during school year 2015-2016.

Eligibility for the fourth, fifth and sixth grade accelerated math programs in school year 2015-2016 was determined based on: InView IQ test (5 points); Benchmark Assessment (5 points);<sup>9</sup> Placement Test (9 points);<sup>10</sup> and, teacher recommendations (5 points). All District students underwent the assessments for the math acceleration program each year, unless a parent opted their child out of testing. Students had to re-qualify for the program every school year.

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<sup>8</sup> In school year 2013-2014, the Accelerated Math Program was offered to students in grades three through six; however, beginning in school year 2014-2015, the program was no longer offered to third grade students.

<sup>9</sup> The District's Supervisor of Mathematics explained that the benchmark assessment is used to identify a student's gaps in learning. The assessment is created by District employees and tests grade-level content.

<sup>10</sup> The District's Supervisor of Mathematics explained that placement tests assess students' higher-level thinking ability, and consist of more rigorous problems than the benchmark assessment.

## C. Middle School (Seventh and Eighth Grades)

### 1. Two-Year Track Seventh and Eighth Grade Accelerated Math Program

The District offers a two-year track accelerated math program to students in seventh and eighth grades. Students selected for the program study Algebra I in seventh grade and geometry in eighth grade. Information about the seventh and eighth grade accelerated math program is available in each middle school's student handbook. The District did not provide any information to OCR regarding how parents and/or students could appeal any decision not to enroll a student in the program.

During school year 2015-2016, the District's two middle schools enrolled 80 seventh grade students in the Accelerated Math program. Twelve of these students (15.00%) were Hispanic, and three (3.75%) were African-American. OCR determined that although Hispanic students represented 15.00% of students enrolled in the seventh grade Accelerated Math program during school year 2015-2016, they represented 21.53% of total enrollment in seventh grade; and although African-American students represented 3.75% of students enrolled in the seventh grade Accelerated math program, they represented 11.67% of enrollment in seventh grade. Using a Fisher's Exact statistical test, OCR determined that African-American students were underrepresented in the seventh grade Accelerated Math program to a statistically significant degree; Hispanic students were not underrepresented to a statistically significant degree. During school year 2015-2016, there were no ELL students enrolled in the seventh grade Accelerated Math program, and only four ELL students in the seventh grade. The District did not provide enrollment data for its eighth grade Accelerated Math program.

Eligibility for the two-year track beginning in seventh grade for school year 2015-2016 was based on an equal distribution of the following criteria, each worth five points: Advanced Placement Test; Student Growth Objectives (SGO) Test;<sup>11</sup> Prior School Year's Math Grade Average; and, teacher recommendations.<sup>12</sup>

### 2. Seventh and Eighth Grade Advanced Science Courses

The District offers advanced sciences courses for students in both seventh and eighth grades. The advanced courses offer the same grade-level content, with the same general curriculum as regular science courses with additional enrichment opportunities. Students enrolled in accelerated math are automatically qualified for advanced science courses; there is not a separate enrollment process.

### 3. Seventh and Eighth Grade World Language Honors Program

The District offers seventh and eighth grade students at the District's two middle schools the opportunity to enroll in French 1 or Spanish 1 as part of its World Language Honors Program. Successful program completion prepares students to enroll in French 2 or Spanish 2 in their ninth grade year. The District sends a letter to all sixth grade parents informing them of the option to participate in the World Language Honors Program. Students whose parents express interest in the program are considered for the program based on a recommendation from their sixth grade English teacher and having an "A" average (90 or above) in English

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<sup>11</sup> SGOs are measures of student learning, aligned with state standards that all teachers in New Jersey must set for their students every school year.

<sup>12</sup> Classroom teachers recommend students for the Accelerated Math program using a form developed by the District's Accelerated Math teachers based on instruments developed by the Neag Center for Gifted Education and Talented Development at the University of Connecticut. Scores are tabulated and converted to point values according to five point scales.

class.<sup>13</sup> The District provided enrollment data for its World Language honors program at Alder Avenue Middle School; however, OCR did not conduct a statistical analysis of this program because the data set appeared to be flawed. For example, it reflected no ELL students enrolled at the school.

#### **D. High School (Ninth through Twelfth Grades)**

Egg Harbor Township High School, which houses all District high school students,<sup>14</sup> offers five instructional levels: standard instruction, college prep classes, advanced classes, honors classes, and AP classes. Standard instruction classes are intended to prepare students for two-year college programs, vocational education, or work. College prep and advanced classes are more rigorous than standard instruction, and designed to prepare students to attend four-year colleges. Honors and AP courses are designed to provide the most in-depth education in a particular subject area.

##### **1. High School AP and Honors Courses**

The District stated that during school year 2015-2016, the high school offered 96 courses at the honors or AP level in: Business and Computer; Consumer Science; English; Mathematics; Science; Social Studies; Visual and Performing Arts; Music; and, World Language. The District publishes a Program of Studies, available online and in hard copy upon request, which lists all of the courses offered.<sup>15</sup> Expanded reading assignments, research activities, and independent projects occupy a major portion of each honors or AP course, and summer projects may also be required. Students who enroll in an AP course are required to sit for the corresponding AP exam.<sup>16</sup>

Enrollment in AP and Honors courses totaled 5,326 students, of whom 625 (11.73%) were Hispanic, 359 (6.74%) were African-American, and 2632 (49.42%) were white. OCR determined that although Hispanic students represented 11.73% of students enrolled in the high school's honors and AP courses during school year 2015-2016, they represented 21.12 % of total enrollment in high school; and although African-American students represented 6.74% of students enrolled in honors and AP courses, they represented 13.08% of enrollment in high school. OCR determined that during school year 2015-2016, ELL students represented 2.22% of total enrollment at the high school, but only 1.50% of students enrolled in honors or AP courses - eight instances out of 5,326 total enrollments. Using a one-sample z-test of proportions, OCR determined that Hispanic, African-American and ELL students were underrepresented in honors and AP courses at the high school to a statistically significant degree.

Students who meet necessary pre-requisites (which might include participation in one of the higher-level learning opportunities previously discussed for grades three through eight) and receive a recommendation from the appropriate content-area teacher may enroll in honors and/or AP level classes. First, students discuss recommended courses for the forthcoming school year with their content area teachers. Next, school counselors review students' grades and past academic performance, and consult with their teachers prior to discussing course selection with students. The District's Director of Guidance informed OCR that all new and returning high school students meet with assigned high school counselors from January through April to consider course

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<sup>13</sup> Also beginning in seventh grade, native/heritage Spanish-speaking students who wish to continue learning Spanish are placed in the Hispanohablantes class, which focuses on developing students' reading and writing skills in Spanish. The District did not indicate whether the Hispanohablantes course was considered to be part of the honors program.

<sup>14</sup> Eagle Academy High School, an alternative high school program with an enrollment of 63 students in school year 2015-2016, is housed within Egg Harbor Township High School.

<sup>15</sup> OCR notes that the District's Program of Studies for school year 2015-2016 did not list 96 AP and honors courses.

<sup>16</sup> Students contribute approximately \$50-55 dollars per exam, and the District pays the remaining cost for the exam. Students who qualify for free/reduced lunch do not pay any fee to sit for the AP exam, as the District, State of New Jersey and College Board collectively pay the entire cost.

selection for the following school year. A parent may override their child's decision to enroll in a particular course.

If a student wants to enroll in a particular honors or AP level course but does not receive a teacher recommendation, a parent may appeal the decision to the content-area supervisor. The content-area supervisor will discuss any concerns the content-area teacher has about the student, and decide whether the student may enroll in the requested course. The District did not provide information for individual students, so OCR was unable to determine what resulted in the under-representation of Hispanic, African-American and ELL students in high school AP and honors courses.

## **2. Dual Enrollment Programs**

The District has dual enrollment agreements with two nearby post-secondary institutions, Atlantic Kings College and Stockton University. As part of this dual enrollment program, students can earn college credit for certain honors-level courses, including Honors Psychology and Honors Philosophy. Dual enrollment courses are taught by District staff. Students can enroll in these courses using the same process as any other honors-level course. The District did not provide enrollment data for its dual enrollment programs in partnership with Atlantic Kings College and Stockton University.

## **3. High School Academies**

The high school offers a four-year Medical Science Academy (the Academy) and an Academy of Law and Business (ALAB), beginning in the ninth grade. With respect to the Academy, during school year 2015-2016, there were 33 students enrolled, including four African-American students and one Hispanic student. Using a chi-square statistical analysis, OCR determined that Hispanic students, but not African-American students, were underrepresented to a statistically significant degree in the Academy. During school year 2015-2016, there were eleven students enrolled in the ALAB, including two African-American students and three Hispanic students. African-American students and Hispanic students were not underrepresented in ALAB as compared to their proportion of total student enrollment in high school. During school year 2015-2016, there were no ELL students accepted to either of the high school academies; however, no ELL students applied for admission to either academy.<sup>17</sup>

### **a. Medical Science Academy**

Only incoming freshmen are eligible to apply to the Academy. According to the District, the Academy is designed for extremely self-motivated students who have a strong interest in the medical field. Students in the Academy take two lab science courses during each of their first three years. During their senior year, Academy students take lab science, two full-year non-lab science courses, and complete a Clinical Research and Observation course. Science 2.0, Genetics & Neuroscience, Fundamentals of Anatomy & Physiology, Forensic Science and Sports Medicine & Athletic Injury are courses exclusively offered as part of the Academy.

Students interested in the Academy are required to submit an application form; two essays; seventh grade PARCC scores; middle school grades, including eighth grade third marking period scores; and, recommendations from the student's 8<sup>th</sup> grade math and science teachers. During school year 2015-2016, the

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<sup>17</sup> Six students who had exited the ELL program applied; five of these were accepted. Of the two students who were not accepted to the Academy, one was Hispanic and the other was white.

District required an applicant to the Academy to meet the following criteria: have “competitive”<sup>18</sup> scores in both Language Arts & Math on the 7th Grade PARCC assessment or equivalent standardized assessment; demonstrate exceptional aptitude for science and math; have a minimum of a ‘B’ average for Advanced Math & Science; have a minimum of an ‘A’ average for Math & Science; and, have a strong interest in some aspect of medical science careers.

The Academy has a finite number of seats available, and not all eligible students are guaranteed admission. Eligible students not initially selected for the Academy are placed on a waitlist. As stated above, OCR determined that Hispanic students, but not African-American students were underrepresented to a statistically significant degree in the Academy; and, no ELL students applied for the Academy. The District did not provide information for individual students; so OCR was unable to determine which criterion/criteria resulted in the under-representation of Hispanic students in the Academy.

### **b. Academy of Law and Business**

According to the District, ALAB is designed to offer a unique and specialized program to open students’ minds to a variety of global career opportunities in business, finance, and law. ALAB students follow a structured sequence of Business and Law classes for all four years of high school. During the second semester of their senior year, students have opportunities to engage in real world experiences through job shadowing/internships with local companies. ALAB courses include Honors Intro to Business, Honors Intro to Law, Honors Finance, Honors Marketing, Honors Criminal and Civil Law, Honors Business Law, Honors College Accounting, Honors Economics, Honors International Business, Honors Entrepreneurship and Emerging Enterprises, Honors Design and Management of Internet Services, Honors Constitutional Law, and Honors Senior Experience. College credit is available in certain junior and senior year ALAB courses. ALAB courses are considered honors-level courses and are assigned a 10% weight to a student’s cumulative GPA.

Students interested in participating in the ALAB are required to submit an application form; two essays; seventh grade PARCC scores; middle school grades, including eighth grade third marking period grades; and, recommendations from a content area teacher and a specialized content area teacher. Only incoming freshmen are eligible to apply. During school year 2015-2016, the District required an applicant to ALAB to meet the following criteria: be recommended by core academic and other eighth grade teachers; earn grades of B or better for core eighth grade academic subjects and a minimum of an A average for Math & Science; have “proficient” scores on the NJASK;<sup>19</sup> have “competitive”<sup>20</sup> scores in both Language Arts & Math on the 7th Grade PARCC assessment or equivalent standardized assessment; attend a Mandatory Informational Meeting; and, submit a Formal Application, including an essay. As stated above, African-American students and Hispanic students were not underrepresented in ALAB as compared to their proportion of total student enrollment in high school; and, no ELL students applied for the ALAB. Accordingly, OCR did not identify any compliance concerns regarding ALAB.

### **Resolution**

During the course of the investigation to date, OCR identified potential compliance concerns with respect to student participation in college and career readiness programs and courses, and other relevant courses.

<sup>18</sup> The District did not define “competitive.”

<sup>19</sup> The District provided updated information indicating that in school year 2015-2016, it was no longer using NJASK scores, but rather the PARCC assessment as noted above. The District did not define “proficient.”

<sup>20</sup> The District did not define “competitive.”

Statistical analysis revealed that African-American, Hispanic and ELL students were under-represented to a statistically significant degree in most of the District's higher-level courses and programs when compared to their total enrollment in the relevant school and grade level. There were no written criteria for participating in the first and second grade small group GATE sessions; decisions on eligibility were based solely upon teachers' recommendations, which is a subjective criterion. Further, the District did not maintain records of which students participated in the small group GATE sessions in first and second grade. The District only provides information about the "procedures" for the GATE programs for third through sixth grades at each school's "Back to School" night, and does not publish or disseminate any of these "procedures." The District did not provide any information to OCR to indicate how parents might appeal an eligibility decision for the GATE programs for third through sixth grades. The IQ test that was part of the eligibility criteria for participation in the third grade GATE program was, until school year 2017-2018, only administered in English. Further, this IQ test appeared to be a critical criterion for participation in the third grade GATE program; the District did not provide any information about students who were allowed to participate in the third grade GATE program despite failing to meet the IQ score threshold. Participation in the third grade GATE program was critical for participation in the fourth through sixth grade GATE programs. Additionally, the District did not provide any information about how parents or students were notified of the availability of the fourth through sixth grade accelerated math program, or how parents or students might appeal an eligibility decision. Participation in the fourth through sixth grade accelerated math program was critical for participation in higher-level learning opportunities in math in middle and high school. Additionally, participation in the seventh and eighth grade advanced science courses was only open to those who were eligible for participation in the seventh and eighth grade accelerated math program. OCR was unable to determine whether African-American, Hispanic and ELL students were under-represented to a statistically significant degree in the seventh and eighth grade world language honors program due to unreliable data. Participation in some high school AP and honors courses were dependent upon participation in higher-level learning opportunities at prior grade levels. The District did not provide information for all students at the high school level, so OCR was unable to make a determination about what resulted in the under-representation of African-American, Hispanic and ELL students in high school AP and honors courses. Further, the District did not provide any enrollment data for the dual enrollment programs.

The District expressed its interest in resolving the compliance review without further investigation. Accordingly, on December 22, 2017, the District signed a resolution agreement to resolve the compliance review. OCR will monitor the implementation of the resolution agreement. If the District fails to comply with the terms of the resolution agreement, OCR will resume its investigation.

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.

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 case 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 letter and related correspondence and records upon request. In the event that OCR receives such a request, it 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 David Krieger, Senior Compliance Team Attorney, at (646) 428-3893 or [david.krieger@ed.gov](mailto:david.krieger@ed.gov); Alexander Artz, Senior Compliance Team Attorney, at (646) 428-3901 or [alexander.artz@ed.gov](mailto:alexander.artz@ed.gov); Jonathon LeBeau, Compliance Team Investigator, at (646) 428-3790 or [jonathon.lebeau@ed.gov](mailto:jonathon.lebeau@ed.gov); or Anna Moretto Cramer, Compliance Team Leader, at (646) 428-3826 or [anna.moretto.cramer@ed.gov](mailto:anna.moretto.cramer@ed.gov).

Sincerely,

/s/

Timothy C. J. Blanchard

Encl.

cc: XXXX, Esq.