



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

REGION IX
CALIFORNIA

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April 5, 2018

Christopher Steinhauser
Superintendent
Long Beach Unified School District
1515 Hughes Way
Long Beach, California 90810

(In reply, please refer to Docket # 09-13-5002)

Dear Superintendent Steinhauser:

The U.S. Department of Education (Department), Office for Civil Rights (OCR), has completed its resolution of the above-referenced compliance review at the Long Beach Unified School District (District). This compliance review examined whether African-American and English Learner (EL) students are subjected to discrimination because they are not provided with equal educational opportunities to participate in the District's Science, Technology, Engineering and Math (STEM) and other college and career ready programs and courses.

OCR conducted its investigation under the authority of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d, and its implementing regulation, 34 C.F.R. Part 100. Title VI prohibits discrimination on the bases of race, color, or national origin in programs and activities operated by recipients of Federal financial assistance. The District receives funds from the Department and is subject to Title VI and the regulation.

OCR's investigation was initiated in the 2012-13 school year. It has included interviews of District and school staff, students, and parents, and a review of data and documentation. OCR visited the District's administrative office in June 2013 and subsequently reviewed data provided by the District, including District and school site enrollment data; enrollment or admissions data and program information for each high school and Small Learning Community (SLC) in the District; and information concerning referral, outreach and admissions practices, professional development and staff training; and internal District reviews of STEM programs and other efforts to address access to STEM programs and activities.

During the 2013-14 school year, OCR visited five comprehensive high schools: Cabrillo, California Academy of Math and Sciences (CAMS), Jordan, Lakewood and Polytechnic (Poly); and six middle and K-8 schools: Bancroft, Hudson, Jefferson, Powell, Rogers and Washington. At each secondary and K-8/middle school onsite, OCR interviewed the Principal and Vice Principal, Lead Teachers for STEM and other academically rigorous programs and SLCs, counselors, the coordinators of EL and Advancement Via Individual Determination (AVID) programs and various staff responsible for coordinating parent engagement, including the school site's English Language Advisory Committee (ELAC). In addition, focus

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groups were conducted, of five to ten students, at each of the high schools visited. Approximately 70 students participated in the focus groups. OCR also interviewed parents at one high school. OCR conducted follow-up interviews with District administrators and coordinators, and obtained supplemental documents during the 2013-14 through the 2016-17 school years. OCR also reviewed information concerning the enrollment process for the 2017-18 school year.

Prior to OCR completing its investigation of this compliance review, the District voluntarily agreed to the commitments described in the enclosed Resolution Agreement (Agreement). The legal standards, facts gathered to date, and the reasons for OCR's resolution are summarized below.

Legal Standard:

Under the Title VI regulations, at 34 C.F.R. §100.3(a) and (b), a school district may not treat individuals differently on the basis of race, color, or national origin with regard to any aspect of services, benefits, or opportunities it provides. Section 100.3(b)(1) states that a school district may not, directly or through contractual or other arrangements, on the basis of race, color or national origin, (i) deny an individual any service, financial aid or other benefit, (ii) provide an individual any service, financial aid or other benefit that is different, or is provided in a different manner, from that provided to others, (iii) subject an individual to segregation or separate treatment in the receipt of any service, financial aid, or other benefit, (iv) restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit, (v) treat an individual differently in determining whether he or she satisfies any admission, enrollment, eligibility or other requirement which must be met to receive any service, financial aid, or other benefit, or (vi) deny an individual an opportunity to participate, or afford an opportunity to participate which is different from that afforded others. The regulation, at 34 C.F.R. §100.3(b)(2), also provides that a recipient may not, directly or through contractual or other arrangements, use criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin.

Facts Gathered to Date:

Background

The District is the third largest school district in California, serving between 82,500 and 76,000 students between the 2012-13 and 2016-17 school years. During the 2012-13 school year, the District had 85 schools, including 56 elementary schools, 15 middle schools, eight comprehensive high schools, and three alternative or continuation high schools. During the period of review, 2012-13 through 2016-17, the total percentage of students enrolled in the District, was approximately as follows: African-American students, 14%; white students, 14%; English Learners, 22%; English Learners reclassified as fluent English proficient students (RFEP), 18%. The total high school population, on average, was approximately 16% African-American, 15% white, 13% EL, and 31% RFEP.

At the time of OCR's on-sites, the District had a highly selective, specialized STEM high school, California Academy of Math and Science (CAMS), for which all students were required to meet minimum entrance criteria. Throughout the review period, students entering most of the District's other comprehensive high schools chose among several programs or academies that focused on a variety of subject areas. The District divided these programs into SLCs, which have no eligibility criteria, and Secondary Specialized Programs (SSPs), which have defined minimum entrance criteria, generally based on middle school grades and test scores. SSP eligibility criteria vary by program, and range from a simple 2.0 grade

point average (GPA) to a 3.75 GPA, minimum scores on standardized tests, and completion of Algebra in eighth grade. Nine of the District's SSPs, including CAMS, provided academically rigorous curriculum that was designed to go above and beyond required college preparatory curriculum; for the purpose of this review, OCR has identified these SSPs as highly selective academic programs (hereinafter SSP HSAP). Students at most comprehensive high schools that are not school-wide SSPs are enrolled in an SLC or SSP.

OCR's investigation focused on whether, under Title VI and its implementing regulation, African-American and current or former EL students were not provided with an equal opportunity to participate in high school SLCs and SSPs that focused on STEM, and in its most selective and rigorous SSPs. For purposes of this review, STEM programs are schools, academies, smaller learning communities, other specialized programs or sequences of courses and activities, which have an instructional focus on any of the STEM areas and which prepare students for advanced study or careers in those areas. OCR identified seven District high schools that in 2012-13 — when the compliance review began — had SSP HSAP and/or STEM programs. Within these high schools, OCR focused its investigation on the ten STEM SLCs and SSPs and nine SSP HSAPs.¹ The nine SSP HSAPs included CAMS, for which the entire high school is an SSP HSAP.

- The six STEM SLCs are: in Cabrillo High School, Cabrillo Health Occupations and Careers (CHOC); in Millikan, Generating Respect for the Earth Environment and Nature (GREEN) and Millikan Integrated Technology (MIT); in Polytechnic, Beach Academy of Math and Science (BEACH); Medical and Paramedical Services (MAPS); and in Lakewood High School, Odyssey.
- The four STEM SSPs are: in Cabrillo High School, Cabrillo Engineering and Design (CED); in Jordan High School, Architecture, Construction and Engineering (ACE) and Aspirations in Medical Services (AIMS); and in Lakewood, Applied Technology Magnet (ATM).
- The nine SSP HSAPs are: CAMS; in Cabrillo High School, University Scholars; in Jordan High School, International Baccalaureate (IB); in Lakewood High School, Merit Scholars; in Millikan High School, QUEST; in Polytechnic High School, Center for International Curriculum (CIC) and Program of Additional Curricular Activities (PACE); and in Wilson High School, Wilson Academic Vision of Excellence (WAVE) and Distinguished Scholars.

OCR's investigation focused on the aforementioned high school and high school programs, including the process through which students apply for and are admitted to the programs, their enrollment in the programs, and the opportunities and services offered to students in the programs. The factual findings below address enrollment data for 2012-13 (the last full school year prior to the 2013-14 on-sites), numerical data and testimony concerning the enrollment process for students who began high school in 2013-14, and interview information about programs in place during that year, as well as changes made by the District to the admissions and enrollment policies in the intervening years and the updated information about the impact of such changes concerning admissions and enrollment for the 2016-17 school year.²

¹ Because all high school SLCs and SSPs are designed to prepare students for college and careers, OCR's review of additional "college and career ready" programs was limited to HSAPs. The District has several continuation high school and alternative programs which were not part of this review.

² OCR analyzed numerical data concerning student enrollment in 2012-13 and 2016-17, and data concerning student participation in the high school choice process in 2012-13 (leading to enrollment in 2013-14) and in 2015-

High School Application, Admissions and Enrollment

From the 2012-13 school year until at least the 2017-18 school year, in order to enroll in any District high school, SSP or SLC, students participated in a Districtwide choice process during the fall of their eighth grade year. At all times, this process has been governed by District policy, which set forth the criteria and process for application, admission and enrollment. Prior to the application process, parents and students receive information from the District concerning the programs offered at each high school, the program eligibility criteria (where applicable), and the process for choosing among programs. However, as discussed below, throughout the period of review, the District has significantly revised the process for selection.

High School Selection: 2012-13 through 2013-14 School Years

During the 2012-13 school year, all District students in the eighth grade were required to complete a paper "Application for High School/Secondary Specialized Programs" and submit it to their counselor. The District informed OCR that parents were informed about the high school choice process through the District web site, a "School Choice" packet mailed to their homes, and other public outreach. A districtwide high school choice fair was held at one of the high schools, District high schools hosted evening workshops, and many middle schools also held community meetings. Individual SSPs also recruited students at middle schools and at community events. Interpretation was provided for parents in Spanish and Khmer where needed.

The application required students to rank their top three choices among high schools, and to rank the SLCs available at each high school they selected. In addition, students were given the option of ranking up to three SSPs (which included CAMs), which had a competitive admission process. Teachers, counselors and administrators from each SSP were responsible for admitting students to that SSP. Students applying to SSPs were admitted based on the entrance criteria for the particular program, including grades, test scores, and, for some programs, letters of recommendation and other supplementary information. CAMs and several SSPs asked students to complete a supplemental application, which requested answers to questions about their interests and activities and in some cases requested essay responses.

Teachers and counselors from each SSP received information about the students who had applied to their program, including information on their grades and test scores and how they had ranked the programs. OCR interviewed counselors and lead teachers for SSPs at five high schools, including CAMs. The processes they used to select candidates varied by SSP, and depending on the nature of the program and the number of applicants. In many cases, witnesses identified that students with demonstrated interest, or strength in a particular area could be admitted to an SSP even if they did not meet the minimum grade and score criteria.

District and site staff informed OCR that students were placed in SLCs through a separate process, which was administered centrally. Students were given enrollment preference at their school of residence. After first being admitted to a high school, they were enrolled in an SLC based on their rankings of the SLCs at that school on the choice application. There were no entrance criteria for SLCs.

16 (leading to enrollment in 2016-17). OCR also reviewed information concerning the enrollment process for the 2017-18.

Through the application process, students had the possibility of ranking up to 15 SSPs and SLCs (three SSPs, plus three SLCs at their home school and at each of up to three schools of choice). During interviews with OCR, parents indicated that they found the process confusing, and were not certain how their students had been placed in the high schools or programs within those high schools. Several EL parents informed OCR that they had found the school choice process to be complicated and difficult to navigate. They stated that they had not been given enough information during their child's eighth grade year to make an informed decision about the high school and SLC choice.

High School Selection: Beginning in 2014-15

Starting in the 2014-15 school year, the District began centralizing its high school placement decisions. Schools and programs no longer require separate applications, and schools and SSPs are no longer responsible for selecting students for admission. Instead, as of the 2014-15 school year, the parents of all eighth grade students apply online, through a High School Choice Application form ("Choice application").³ Generally, students select an SLC at their school of residence and may also select and rank other programs at any school in the District, including both SLCs and SSPs. The online Choice application provides a brief description of each program and the criteria, if any, for admission.

During the review period, the District provided information to families prior to the application due date, including, for example, online information, automated telephone calls, and "School Choice" fairs with representatives from all programs, which were located centrally close to public transportation. High schools hosted "Site Night(s)", and many programs allowed students to visit and "shadow." Notice of the School Choice fairs was generally provided by multiple means, including by email, phone messages, paper notices, television spots, and other forms of advertising. In addition, middle schools typically held workshops to help parents fill out the Choice application. OCR found that in 2015-16, 97.5% of District families completed an application. SLCs and SSPs no longer conduct separate recruitment at District middle schools.

Once applications are submitted, the computer system assigns students to schools and programs, based on their expressed preferences and, for SSPs, their GPAs, test scores, and/or HSAIs, depending on the program eligibility criteria. The eligibility criteria of the most selective SSPs – specifically six of the nine SSP HSAPs⁴ – call for the selection among eligible applicants from high to low GPA. Students may be admitted into multiple SSPs; the computer acceptance system incorporates estimates about attrition and multiple acceptances.

Students may appeal if they did not receive their first choice, but the District reported that the appeal rate has declined significantly since the centralized assignment system was implemented. In this regard,

³ The District provided information to OCR that at least as of the 2017-18 school year, the Choice Application was pre-populated with the student's GPA, standardized test scores, High School Academic Index (HSAI – a measure that combines test scores and GPA, and which is used by some SSPs as an eligibility criterion), and eighth grade math course. The Choice application also indicates whether students are eligible to apply for each SSP. The District informed OCR that this information is provided so that parents understand their students' progress to date, and the high schools and high school programs for which they are qualified. Students must select at least one SLC at their school of residence and may also select and rank up to five other programs at any school in the District, including both SLCs and SSPs.

⁴ A seventh, SSP, CAMS, guarantees a minimum of two admitted students from each District middle school, ranked by a weighted index of test scores, from high to low.

the District informed OCR that middle school counselors work with eighth grade students to discourage them from applying from programs for which they do not qualify based on the minimum criteria.

High School Enrollment for SSP and SLC STEM and HSAP – all years

According to 2012-2013 data provided by the District, 25,092 high school students were enrolled in the District. 5,546 of these students were enrolled in the SSP and SLC STEM programs that were the focus of this review, including 816 African-American students (14.7%), 682 EL students (12.3%), and 662 white students (11.9%). The total enrollment in the nine HSAPs was 4,026, including 384 African-American students (9.5%), 28 EL students (0.7%), and 1,280 white students (31.8%).

By the 2016-17 school year, the total high school student population had decreased to 23,910 students. The total enrollment in the SSP and SLC STEM programs that were the focus of this review⁵ was 5,056, including 663 African-American students (13%), 605 EL students (12%), and 517 white student (14.7%). The total enrollment in the nine HSAPs was 4,112, including 345 African-American students (8.4%), 26 EL students (0.6%), and 1,106 white students (26.9%).

As an initial step in assessing whether the District discriminated between students on the basis of race, color or national origin in the selection and enrollment process, OCR analyzed whether there were any statistically significant disparities⁶ in 2012-13 or 2016-17 school years between the enrollment of African-American and white students in each of the programs it reviewed, when compared to their enrollment in the population of the school in which the program was located.⁷ OCR conducted a similar analysis regarding the disparity between EL and non-EL students. In addition, because many students who enter the District as EL are reclassified as fluent English proficient, RFEP, before they reach high school, OCR also analyzed the enrollment of students who had ever been considered EL (EL/RFEP), when compared to non-EL/RFEP students.

The analysis revealed that during both of the years for which data was analyzed all but one of the STEM SLCs reviewed showed no significant disparities in terms of enrollment in either year among any of the populations that were the subject of this review. The exception was Odyssey where there was a statistically significant disparity between the enrollment for both African-American and EL/RFEP

⁵ Since OCR's received its initial data, the District has added STEM programs at McBride High School (two of the three pathways) and Sato High School (both pathways). Both schools accept students entirely through applications; both showed significant disparities in enrollment for African American, EL and EL/RFEP students in 2016-2017 when compared to white student enrollment. Since the high schools and programs had not been established when the review began, they have not been considered in the compliance review.

⁶ In comparing student representation in SLC and SSP STEM and HSAP programs, OCR compared African-American enrollment to white enrollment, and EL enrollment to non-EL students (both native English speakers and students who had initially been classified as fluent English proficiency (FEP) or had initially be classified as EL, but subsequently reclassified as FEP (RFEP)), and EL/RFEP students to non-EL/RFEP students. OCR used either a Chi square or Fisher Exact test, depending on the numbers involved. As used herein, a disparity in rates of acceptance or enrollment in SLCs or SSPs is deemed "statistically significant" if it is 5% or less likely that the disparity is the result of random chance ($p < .05$). In other words, the disparity is caused by something, and is not random.

⁷ For CAMS, which is a schoolwide SSP HSAP program that enrolls students from the District and from ten other school districts, OCR compared the enrollment of students at CAMS who were District residents in each category with the overall enrollment of high school students in the District in the same category.

students and white and non-ELL/RFEP students in both years. EL students were enrolled at a significantly lower rate in 2012-13 and at a significantly higher rate in 2016-17.⁸

OCR also reviewed disparities at the four STEM SSPs it reviewed, CED, AIMS, ACE, and ATM. Only ACE showed a disparity between the enrollment of African-American and white student enrollment, and that disparity was no longer statistically significant by 2016-17. While all four revealed a disparity between EL and non-EL enrollment in at least one of the years reviewed; this disparity appeared in both years at only AIMS and ACE. There were no disparities in either year between the enrollment of EL/RFEP and non-EL/RFEP students in any of the four programs.

OCR also found statistically significant disparities between African-American and white students in SSP HSAPs at Merit Scholars, QUEST, CIC, WAVE and Distinguished Scholars in both years, and at CAMS in 2016-17. Comparisons of enrollment rates in the nine SSP HSAPs showed substantially higher disparities. OCR found statistically significant disparities between EL and non-EL enrollment at all of the SSP HSAPs it reviewed. While these disparities disappeared in three programs — University Scholars, IB, and Merit Scholars — when former EL (RFEP) students were also considered, there were also statistically significant disparities for EL/RFEP students in both years in four SSP HSAP programs — QUEST, CIC, WAVE and WAVE Distinguished Scholars, and at CAMS high school.

Because the largest number of statistically significant disparities in enrollment appeared in the most selective programs in the District, specifically the nine SSP HSAPs, OCR then focused further review on these remaining programs. The following section includes a description of each of them, along with the information OCR obtained concerning the admission and enrollment of eighth grade students to each of these high school programs.

California Academy of Math and Science (CAMS)

Information provided by the District describes CAMS as a comprehensive four-year high school operated by the District and located on the campus of California State University, Dominguez Hills (CSUDH), which seeks to increase the nation's pool of graduates in math and science through a rigorous, relevant and innovative college-preparatory curriculum. The CAMS recommended course of study includes four years of math and science, including accelerated, honors and advanced placement (AP) courses, and several engineering, electronics, robotics, biotechnology, and computer integrated manufacturing electives. CAMS students may earn transferrable university credit in grades 11 and 12 by taking tuition free courses through CSUDH. Upon graduation, CAMS students have completed twenty two units of university credit. The CAMS materials state that its curriculum far exceeds University of California entrance requirements and that nearly all students go on to four-year universities.

In 2012-13, applicants to CAMS completed a supplemental application, which included required essay questions about their interests and activities, and submitted recommendations from their middle school counselor and seventh or eighth grade math and science teachers. CAMS staff reviewed applications and selected students based on their supplemental application as well as their grades and test scores.

⁸ ACE, at Jordan, also showed a significant disparity between African-American and white student enrollment in 2012-13. In that year, ten of the 74 white students enrolled at Jordan were in ACE. By 2016-17, this statistical disparity had disappeared.

Since the centralization of the high school admissions process, students are accepted based on their STEM index, a score that combines students' academic GPA and their standardized test scores, with math scores weighing five times more heavily than English language arts scores. Two students from each District middle school are guaranteed admission, as ranked by their STEM index.

OCR determined that 28% of the District eighth grade students who listed CAMS as one of their first three choices in 2012-13 were accepted. 32% of the white applicants and 32% of the African-American applicants were accepted, while none of the three EL applicants were accepted. In 2015-16, 53% of the students from District middle schools who listed CAMS as their first choice were accepted, but none of the seven African-American applicants were accepted. By contrast, eight white students listed CAMS as their first choice; all eight were accepted. Three of the four EL students, and 20 of the 41 EL/RFEP students who listed CAMS as their first choice were accepted.

OCR also analyzed the overall enrollment of CAMS students in grades 9-12 who were District residents, by race and language proficiency, as compared to the overall enrolled District high school population. OCR's analysis showed a statistically significant disparity between the enrollment of EL and non-EL students, and between EL/RFEP and non-EL/RFEP students at CAMS in both 2012-13 and 2016-17. OCR also found a significant disparity between African-American and white students in 2016-17.

University Scholars (Cabrillo High School)

The University Scholars Program is described by the District as preparing Cabrillo's brightest, most academically driven students to sustain a high GPA while taking a rigorous course of study, including several accelerated, AP) and honors courses. The University Scholars materials state that students receive support through student advisory groups, after-school tutorials and visits to universities and from university guest speakers. The University Scholars recommended course of study exceeds California's A-G requirements, which are the minimum for enrollment in a University of California or a California State University and, in this regard, includes four years of math and science and two years of AP electives. Per District policy, students who apply to University Scholars are selected randomly from students who apply who have a 3.0 GPA and an HSAI of at least 1402.

Based on District provided data, OCR determined that, in 2012-13, 45% of the total students who ranked University Scholars as their first, second, or third choice were accepted. 67% of the white applicants, 38% of the African-American applicants, and 2% of the EL applicants were accepted. Thirteen students ranked University Scholars as their first choice for enrollment in the 2016-17 school year; nine, or 69% were accepted. No African-American or white students ranked University Scholars as their first choice. One of the two EL students and five of the eight RFEP students who ranked it as their first choice were accepted.

OCR's analysis also showed a statistically significant disparity between EL and non-EL students enrolled in University Scholars in both 2012-13 and 2016-17, but no statistically significant disparity between enrolled African-American and white students, or between enrolled EL/RFEP and non-EL/RFEP in either year.

International Baccalaureate (Jordan High School)

Information provided by the District describes Jordan High School's IB program as an academically rigorous program for students taking IB or Gifted and Talented Education (GATE) coursework in middle school. It is part of an established international academic program that enables students to participate

in an internationally recognized honors program that prepares them for the rigors of college. The IB recommended course of study includes accelerated and AP math and IB science courses and students may take a full schedule of college level coursework in the 11th and 12th grade. In order to qualify for admission, students must have a 2.8 GPA; eligible students are randomly selected for admission.

OCR determined that 67% of the students who listed the IB as one of their first three choices in 2012-13 were accepted. 69% of the African-American applicants, and 100% of the white applicants, but only 32% of the EL applicants were accepted. In 2015-16, 76% of students who listed the IB as their first choice were accepted, including one of the three EL applicants and 14 of the 18 EL/RFEP applicants. No African-American or white students listed the IB as their first choice of program in 2015-16.

OCR's analysis also showed a statistically significant disparity between EL and non-EL students enrolled in IB at Jordan in both 2012-13 and 2016-17, but no significant disparity between enrolled African-American and white students, or between enrolled EL/RFEP and non-EL/RFEP students in either year.

Merit Scholars (Lakewood High School)

Information provided by the District describes Lakewood High School's Merit Scholars as a rigorous college preparatory program. The 2017-18 Merit Scholars web page states that 100% of 2017 Merit Scholar graduates were accepted into four year colleges, and describes the mission of the program as: "support[ing] scholars through a rigorous Advanced Placement Capstone course of study through the integration of research, service and communication preparing Merit Scholars for success in top universities and a competitive, global economy." The recommended course of study is designed to exceed the A-G requirements and requires students take a minimum of three AP courses.

Applicants for Merit Scholars in 2016-17 were required to have an academic GPA of at least 3.3 and specified minimum standardized test scores in English and math⁹. Eligible applicants are then selected according to GPA, from high to low. OCR determined that 20% of the students who listed Merit Scholars as one of their first three choices in 2012-13 were accepted. 30% of the white applicants were accepted, but only eleven percent of the African-American applicants and none of the fifty EL applicants were accepted. In 2015-16, 89% of the students who listed Merit Scholars as their first choice for enrollment in 2016-17 were accepted. 100% of the white first choice applicants were accepted, while 85% of the African-American applicants and 50% of the EL applicants were accepted.

OCR's analysis also showed a statistically significant disparity between the enrollment of African-American and white students and between the enrollment of EL and non-EL students in Merit Scholars. There was no significant disparity between enrolled EL/RFEP and non-EL/RFEP applicants.

QUEST (Millikan High School)

Information provided by the District describes Millikan High School's QUEST as a community of GATE and high achieving students. QUEST materials state that it provides a pathway of honors and AP designed for gifted students; students are provided with a unique experience of a UC approved Senior Project class, as well as interdisciplinary field trips and college tours. QUEST eligibility criteria include a

⁹ Beginning with the 2017-18 school year, the District list of eligibility criteria includes only English language arts scores. CAMS continues to accept eligible students based on their STEM index scores.

GPA of 3.5 or higher, specified minimum standardized test scores in ELA and math and enrollment in Algebra during eighth grade. Eligible applicants are selected from high to low GPA.

OCR determined that, in 2012-13, 21% of the students who listed QUEST as one of their first three choices were accepted. 31% of the white applicants were accepted, while only 12% of the African-American applicants and none of the 51 EL applicants were accepted. In 2015-16, 80% of the students who listed QUEST as their first choice were accepted. 86% of the 100 white applicants were accepted. Only 26 African-American students listed QUEST as their first choice; 81% of them were accepted. Six of the seven EL applicants were accepted. Only 69% of the EL/RFEP applicants were accepted.

OCR's analysis also showed a statistically significant disparity between African-American and white, EL and non-EL, and EL/RFEP and non-EL/RFEP students enrolled in QUEST in both 2012-13 and 2016-17.

PACE (Poly High School)

Information provided by the District describes Polytechnic High School's PACE as a nationally recognized, college preparatory program that is rigorous and highly structured. The PACE web page states that "[a] structured curricular sequence ensures that all PACE students receive the same excellent teaching in core areas (English, math, science, and social science) from these specially chosen teachers throughout the freshman, sophomore, and junior years," and that "PACE remains the gold standard in specialized secondary programs due to our continuous pledge to growth and to providing academic excellence. Our students gain the content knowledge and study skills necessary to succeed in the most competitive of higher learning environments." The current web page notes that students receive one-of-a-kind opportunities in the fields of environmental and government policy, biomedical research and engineering and computer technology.

The PACE eligibility criteria include a GPA of 3.75, enrollment in Algebra in eighth grade, high standardized test scores and a minimum HSAI. Eligible students are selected by GPA, from high to low. OCR determined that, in 2012-13, 18% of the students who listed PACE as one of their first three choices were accepted. 31% of the white applicants were accepted, while only 12% of the African-American applicants, and none of the 77 EL applicants were accepted. In 2015-16, 80% of the students who listed PACE as their first choice were accepted. 97% of the 60 white applicants were accepted, while ten (67%) of the fifteen African-American applicants were accepted. Four EL students applied; two were accepted.

OCR's analysis also showed a statistically significant disparity between African-American and white, EL and non-EL, and EL/RFEP and non-EL/RFEP students enrolled in PACE in both 2012-13 and 2016-17.

Center for International Curriculum - CIC (Poly High School)

Information provided by the District describes CIC as having a rigorous, honors, college preparatory curriculum with a global approach. The CIC recommended course of study is designed to exceed the A-G requirements, including four years of accelerated, honors and AP math and science, and several foreign language options, including Chinese, Japanese, German and Spanish. The CIC web page states that CIC has a dedicated faculty (i.e., that CIC classes generally enroll only CIC students), that CIC students are the only students in the District who have the opportunity to study Chinese or Japanese, and that CIC has a 100% college admissions rate.

Students with a 3.5 GPA are eligible to apply to CIC. In 2012-13, CIC application required the submission of a supplemental application, which included short answers and an essay. Since the placement decisions were centralized, students have been accepted based on their GPA, from high to low. OCR determined that 20% of the students who listed CIC as one of their first three choices in 2012-13 were accepted. 40% of the white applicants were accepted, while only 15% of the African-American applicants, and none of the 92 EL applicants were accepted. OCR determined that 86% of the students who ranked CIC as their first choice were accepted in 2016. 40 white students applied and 92% of them were accepted; only 19 African-American students applied, 84% of whom were accepted. 75% of the EL applicants were accepted.

OCR's analysis also showed a statistically significant disparity between African-American and white, EL and non-EL, and EL/RFEP and non-EL/RFEP students enrolled in CIC in both 2012-13 and 2016-17.

Distinguished Scholars (Wilson High School)

Information provided by the District described Wilson High School's Distinguished Scholars as a program that challenges high achieving college bound students. Students enrolled in Distinguished Scholars take additional courses beyond the Classical Diploma awarded to all Wilson students, including accelerated, honors, and advanced placement (AP) courses, to prepare for success "at America's top universities." The Distinguished Scholars recommended course of study includes four years of math and four years of science; all science classes are accelerated, honors or AP. Wilson recently formed SLCs, and current materials describe Distinguished Scholars as an honors track within each SLC.

In order to be eligible for the Distinguished Scholars program, students must have a 3.3 academic GPA and have taken Algebra in eighth grade. Students are selected based on GPA, from high to low. OCR determined that 47% of the students who listed Distinguished Scholars as one of their first three choices in 2012-13 were accepted. 75% of the White applicants were accepted, while only 31% of the African-American applicants, and none of the 111 EL applicants were accepted. 91% of the students who ranked Distinguished Scholars as their first choice in 2015-16 were accepted. 63 white students but only twelve African-American students applied; 92% of the applicants from both groups were accepted. 70% of the ten EL applicants were accepted.

OCR's analysis also showed a statistically significant disparity between African-American and white, EL and non-EL, and EL/RFEP and non-EL/RFEP students enrolled in Distinguished Scholars in both 2012-13 and 2016-17.

WAVE (Wilson High School)

Information provided by the District in 2012-13 describes WAVE as a program that was developed for students who want to exceed beyond Distinguished Scholars. WAVE materials stated that students took the Distinguished Scholars required curriculum plus a minimum of five AP classes and college courses, and that they also completed twenty five hours of Service Learning and a final project. WAVE's current webpage describes it as the District's most rigorous program, with a multidisciplinary focus, which allows students the opportunity to graduate from high school with enough college credits to start college as a sophomore, and notes that WAVE graduates gain admission to the nation's most prestigious universities.

Students must have a 3.7 GPA and have taken Algebra in eighth grade in order to qualify for WAVE; they are then selected based on their GPAs from high to low. 84% of the 77 students who listed WAVE as their first choice in 2015-16 were accepted, including 86% of the 24 white students, 100% of the three African-American applicants, one of the three EL applicants, and 17 of the 22 EL/RFEP applicants.¹⁰

OCR's analysis also showed a statistically significant disparity between African-American and white, EL and non-EL, and EL/RFEP and non-EL/RFEP students enrolled in WAVE in both 2012-13 and 2016-17.

Equitable Opportunities to Access STEM Preparation in Middle School

OCR conducted on-site interviews at four middle schools and two K-8 schools in the District during the 2013-14 school year, in order to investigate whether opportunities for adequate preparation to participate in high level high school science programs varied by middle school student population, and whether any students were discouraged from applying to STEM or HSAP high school programs on the basis of race, color, or national origin.

In the 2013-14 school year, the District enrolled 2,826 African-American middle school students (15.8% of its enrolled middle school students) and 2,751 white middle school students (15.8% of its enrolled middle school students). In the 2013-14 school year, the District enrolled 3,173 EL middle school students, 17.7% of its enrolled middle school students. OCR identified schools with differing populations of African-American, white, and EL students. All of the schools OCR visited, except Hudson K-8 (with 16.8% African-American student enrollment; 1.6% white student enrollment; 22% ELL), offered Robotics elective programs, many of which participated in District or regional competitions. Although larger numbers of white students than African-American students participated overall in the programs, OCR found no statistically significant disparities and no evidence that white students were favored in admissions procedures. EL students participated in the Robotics programs at four middle schools.

OCR also determined that all of the middle and K-8 schools it visited offered students a variety of additional STEM-focused programs, including science electives, accelerated mathematics classes, and/or computer classes. Both K-8 schools (16.9%/21.5% African-American, 1.6%/1.0% white, and 22%/40.69% EL) and one 6-8 school (12.2% African-American; 1.0% white; 32% EL) offered Mathematics, Engineering, and Science Achievement (MESA) a statewide science and mathematics enrichment program that focuses on problem solving and intensive math.

OCR interviewed school staff and counselors at each middle and K-8 school regarding their efforts to inform middle school students about program options. Counselors reported visiting eighth grade classes and holding school assemblies and information sessions to provide information about the school options and the application process. Staff at several of the schools with the highest non-white enrollment mentioned that parents (especially those who did not speak English) were often confused by the process, that some students feared rejection from selective programs and therefore did not apply, and that it was difficult to familiarize students with the large number of high school program options available.

During fall 2017, District administrators informed OCR that the District had taken steps to address some of the concerns. Specifically, more information is provided to students and parents through District-level workshops and information sessions, at which interpretation into the major languages of the

¹⁰ Data provided for 2012-13 did not include application information for WAVE.

District is available. In addition, parents receive information about the programs for which their students are eligible as part of the application process. Because, as discussed below, the District expressed an interest in voluntary resolution, OCR did not conduct further interviews with middle school staff, students, and parents during the more recent years to understand whether these changes were effective and/or whether there was any evidence of discrimination with respect to the outreach, preparation, or application processes for STEM and SSP HSAP high school programs.

Participation in High School Choice

In addition to reviewing data on student enrollment in STEM and HSAPs, OCR reviewed information on student participation in the high school choice process with respect to the application to, and admission into selective programs.

Based on data provided by the District for the 2012-13 school year, OCR determined that approximately 90% of eighth grade students participated in the school choice process by listing at least one school or SLC on an application for High School. OCR also found that 84% of African-American students, 83% of EL students, and 87% of EL/FEP students, submitted high school or SLC preferences. Based on a Chi square analysis, OCR determined that the application rate of each of these groups was lower, to a statistically significant degree, than that of their white and non-EL peers.

OCR also determined that, in 2012-13, approximately 67% of eighth grade students applied to at least one SLC through the high school application process. While 74% of white students applied to an SSP, only 60% of African-American students and 51% of EL students applied to an SSP. The application rate of both African-American students and EL students was lower, to a statistically significant degree, than that of their peers.

OCR also found that, while approximately 45% of students who applied to an SSP were selected in their first choice program in 2012-13, this selection rate varied significantly by race and language proficiency. Thus, while 70% of white students were selected by their first choice of programs, only 35% of African-American students, 37% of ELL/FEP students, and 12% of EL students received their first choice of program.

The data submitted by the District shows that approximately 97.5% of students enrolled in 9th grade in 2016-17 had submitted a Choice application the prior school year. 95% of African-American students, 98% of white students, and 99% of EL and EL/RFEP submitted applications.

Although almost all ninth graders had submitted a Choice application for the 2016-17 school year, the rate at which they applied to SSPs continued to vary significantly by race. The data showed that about 43% of students overall ranked an SSP as their first choice. OCR found, however, that while 64% of white students applied to an SSP,¹¹ only 30% of African-American students, 18% of EL students, and 34% of EL/RFEP students did so. The application rate of African-American, EL, and EL/RFEP students to an SSP was lower, to a statistically significant degree than that of their white, non-EL, and non-EL/RFEP counterparts.

¹¹ Because of the format of the data, OCR was only able to calculate the percentage of students who listed an SSP as their first choice. It is possible that some students listed an SLC as their first choice, but gave a lower ranking to an SSP.

OCR also found that the rate at which students were accepted to their first choice SSP program varied by race and language proficiency. 81.5% of all students who listed an SSP as their first choice in 2016 were accepted to that SSP. Over 90% of white students were accepted to their chosen SSP, while only 74% of African-American students, 68% of EL students, and 77% of EL/RFEP students were accepted. OCR found that the acceptance rate of African-American, EL, and EL/RFEP students was lower, to a statistically significant degree than that of their white, non-EL, and non-EL/RFEP counterparts.

OCR determined that approximately 25% of the District eighth graders who submitted Choice applications in 2016 had grade point averages of 3.5 or above and were taking Algebra in eighth grade, and were therefore qualified for the most selective programs, which included the SSP HSAPs.¹² In the fall of 2016, 81.5% of those students who met the aforementioned minimum qualification criteria enrolled in an SSP HSAP, a selective Arts program¹³, or in one of two selective schools created after the OCR review began. Of the students who met the minimum qualification criteria, 91.4% of white students, 77.4% of African-American students, 63.8% of EL students, and 86.7% of EL/RFEP students actually enrolled in these programs.

OCR found statistically significant disparities between the rates at which African-American, EL, and EL/RFEP students met these criteria, as compared to their white, non-ELL, and non-ELL/RFEP counterparts. Specifically, 12.6% of African-American students, five percent of EL students and 19.5% of EL/RFEP had GPAs of at least 3.5 and were taking Algebra, while 44.7% of white students and 28.9% of non-EL/RFEP students met the criteria. Because the District expressed an interest in voluntary resolution, OCR did not assess whether middle school Algebra enrollment rates differed on the basis of race, color or national origin.

Analysis:

To assess whether African-American and EL students are not provided with an equal opportunity to participate in STEM and/or highly selective college and career preparatory opportunities, OCR initially identified ten STEM and nine SSP HSAP programs at seven District high schools, including CAMS, a highly selective high school with a schoolwide STEM focus. Six of the STEM programs were non-selective SLCs, and analysis of the enrollment of these programs did not raise concerns regarding equal access for African-American and EL students. Although disparities appeared in the enrollment of one of these programs, Odyssey, OCR did not find evidence of different treatment or a policy of the District that had the purpose or effect of creating any adverse impact with respect to admission or enrollment. For this reason, OCR did not conduct further analysis of the six STEM SLCs.

The remaining thirteen STEM and HSAP programs that OCR reviewed were SSPs, which required students to meet eligibility requirements and be selected for participation. OCR found statistically significant disparities between EL and non-EL students in all but one of these programs, and between EL/REF and non-EL/RFEP students in six of them. OCR also found significant disparities between African-American and white student enrollment in one STEM and six HSAP SSPs in 2012-13, and in seven SSP HSAPs in 2016-17. OCR's analysis focused on the SSP HSAPs with disparities in multiple areas: CAMS,

¹² In that year, PACE required a GPA of 3.75, and WAVE required a GPA of 3.7. All other GPA requirements were at or under 3.5.

¹³ This include Renaissance High School, a high school focusing on arts education, and COMPASS, a selective arts SSP at Millikan High School, which required a 3.0 GPA, but which were not included in this compliance review.

Merit Scholars at Lakewood, QUEST at Millikan, PACE and CIC at Poly, and WAVE and Distinguished Scholars at Wilson.

Pursuant to the Title VI regulations, at 34 C.F.R. §100.3(a) and (b), in order to determine whether a student has been discriminated against on the basis of race/color/national origin under Title VI, OCR looks at whether there is evidence that the student was treated differently than students of other races/colors/national origins under similar circumstances, and whether the treatment has resulted the denial or limitation of services, benefits, or opportunities. If there is such evidence, OCR examines whether the school district provided a nondiscriminatory reason for its actions and whether there is evidence that the stated reason is a pretext for discrimination. For OCR to find a violation, the preponderance of the evidence must establish that the school district's actions were based on the student's race/color/national origin.

Throughout the period of review, the preponderance of the evidence did not show that African-American or EL students were treated differently than similarly situated students or other races, colors, or national origins in the District's STEM and SSP HSAP programs. OCR did not find evidence that individual African-American or EL students who otherwise met the criteria for specific SLCs were treated differently than members of other racial groups. Interviews with middle school teachers, administrators, and counselors provided no evidence suggesting that students were steered towards, or away from, any programs on the basis of their race or, with respect to national origin, any particular language background. District administrators informed OCR that race and English Learner status is not listed on the application form; thus, even when school site SSP staff were involved in the selection process, it was unlikely that their decisions were made on the basis of race, color or national origin. OCR found no evidence to suggest that the computer-based selection system that was in place during the 2016-17 school year led to any difference in treatment based on race, color or national origin. OCR therefore concluded that the District had not violated Title VI by engaging in different treatment of African-American or EL students with respect to their access to STEM or HSAP programs.

OCR also reviewed the evidence to determine whether the District's policies and practices had an unlawful adverse impact on African-American or EL students pursuant to the regulation, at 34 C.F.R. §100.3(b)(2). To determine whether a school district's policy or practice has an unlawful disparate impact on the basis of race, color or national origin, OCR examines: (1) whether a policy or practice that is neutral on its face has a disproportionate, adverse effect on students of a particular race or national origin; (2) whether the policy or practice is necessary to meet an important educational goal (i.e., whether there is a substantial, legitimate educational justification); and (3) if so, whether there is an alternative policy or practice that would result in a lesser disparate impact and be comparably effective in meeting the school district's objectives.

Pursuant to District policy, OCR found that all of the SSP HSAP programs with significant disparities in enrollment throughout the review period between African-American and white students, and between EL and EL/RFEP and non-EL/RFEP students, admit only students with sixth and seventh grade GPAs above 3.0 (in some cases as high as 3.75). Many also require minimum test scores. All admit students who meet eligibility criteria in order of their GPA or test scores (i.e., high to low) rather than randomly. OCR's investigation to date raised concerns that the neutral policies which establish the application, admissions and enrollment process may have a disparate, adverse effect in terms of excluding African-American, EL, and EL/RFEP students from the SSPs.

As outlined above, OCR found statistically significant disparities between the rate of African-American, EL, and/or EL/RFEP students who applied, were admitted to and enrolled in the seven most selective SSP when compared to their white and non-EL/RFEP peers.

OCR first analyzed data concerning student applicants to the District's SSPs. In 2012-13, students submitted paper applications, and SSPs reviewed the applications and selected applicants themselves. Only SSPs could recruit students from outside their school's residential area, and many conducted significant independent outreach. Several SSPs required supplemental applications or allowed students to provide information beyond their grades and test scores. OCR determined that, in 2012-13, a significantly higher percentage of white applicants were accepted than African-American applicants, and a significantly higher percentage of non-EL and non-EL/RFEP than EL and EL/RFEP students were accepted.

OCR also determined that the District significantly changed the process for accepting applications and disseminating information about high school programs during the course of this review. During the 2013-2014 school year¹⁴, the application process changed. By 2016-17, the process was conducted entirely online, supplemental applications had been eliminated, and students were selected centrally, by computer, and according to objective criteria. The District reported devoting significant resources to disseminating information about the revised application process, and the available programs, through a variety of media. The District also informed OCR that middle school counselors work with eighth grade students to discourage them from applying from programs for which they do not qualify.

By the 2015-16 school year, District data shows that 97.5% of eighth grade students submitted applications. OCR found, however, that while 64% of white students applied to an SSP, only 30% of African-American students, 18% of EL students, and 34% of EL/RFEP students did so. The application rate of African-American, EL, and EL/RFEP students to an SSP remained lower, to a statistically significant degree than that of their white, non-EL, and non-EL/RFEP counterparts. In addition, OCR's analysis of the 2015-16 application and acceptance data for the highly selective programs suggested that fewer African-American and EL students who met the minimum criteria applied to HSAP programs. As such, even among District students with high GPAs who completed a rigorous course sequence, significantly fewer EL, EL/RFEP, and African-American students applied to highly selective SSPs.

In 2015-16, according to the District, a substantially higher percentage of applicants overall received their first choice of school, but in some SSPs, including CAMS and PACE, significant disparities in admissions rates for African-American and EL students remained. Overall, the data showed that the acceptance rate of African-American, EL, and EL/RFEP students in their chosen SSPs was lower, to a statistically significant degree, than that of their white, non-EL, and non-EL/RFEP counterparts. In CAMS, for example, all eight of the white students who listed CAMS as their first choice were accepted; in contrast, none of the seven African-American students who listed CAMs as their first choice were accepted.

Furthermore, OCR found little change in the disparities in enrollment of African-American, EL and EL/RFEP students, as compared to white and non-EL/RFEP students, in highly selective SSPs, including CAMS, after the District revised its application and admissions policies. At some schools, such disparities also show-up significantly within the high school itself in terms of access to the most-selective and

¹⁴ Accordingly student who started high school in the 2014-2015 school year had used the centralized system to make their selections during the 2013-2014 school year.

rigorous educational opportunities. At Poly, for example, 80% of the total white students enrolled in the high school, but only 20% of the African-American and EL/RFEP students and less than one percent of the EL students were enrolled in a HSAP program within the high school in 2016-17. In addition, a significantly smaller percentage of African-American, EL, and EL/RFEP eighth graders than white and non-EL/RFEP eighth graders had satisfied the minimum eligibility requirement for the most selective SSPs.

The information provided by the District and in OCR's review of the documentation and information about the programs, raises a concern that students who do not have the opportunity to enroll in these programs are denied a significant benefit in terms of access to the District's most rigorous programs that prepare students for college and highly desirable career. The District's descriptions of each of these programs establishes that the programs offer significant benefits to students who enroll in them, including access to high quality instruction, integrated content, enhanced training in research, access to specialized courses (including two languages not offered elsewhere in the District), and specialized field trips and college tours. Several SSP HSAP programs note their exceedingly high or 100% acceptance rates at colleges and universities. For example, PACE states that it is the "gold standard" in academic excellence and provides "one-of-a-kind opportunities in the fields of environmental and government policy, biomedical research and engineering and computer technology." CAMS states that it is the only District school offering the ability to accrue free transferrable University credits and it touts access to engineering, electronics, robotics, biotechnology, and computer integrated manufacturing electives. CIC and Merits Scholars boast that they each have a 100% college acceptance rate. As such, the evidence gathered to date suggests that students who are not able to access these programs are deprived of a significant educational benefit. Accordingly, the evidence collected to date raises concerns that the District's policy for application, admissions and enrollment for the SSPs, especially CAMS, Merit Scholars, QUEST, PACE, CIC, Distinguished Scholars and WAVE may have a disparate, adverse impact on African-American, EL, and EL/RFEP students.

To complete its investigation and reach a compliance determination, OCR would have reviewed additional data and information for the most recent school years, including but not limited to with respect to whether the District's policies related to SSP HSAP application, admission and enrollment are necessary to meet an important educational goal, and, if so, whether there is a less discriminatory alternative policy that would be comparably effective in accomplishing the same educational objectives of the District. OCR would also have needed to obtain updated information concerning student applications to highly selective SSPs, information about the process currently used by middle school counselors to advise students in the high school application process, and information about the effectiveness of the program for African-American and EL students in preparing them for highly rigorous high school programs. Before completing its investigation and reaching a compliance determination, the District expressed an interest in resolving this compliance review through a voluntary Agreement, and OCR agreed it was appropriate to do so.

Conclusion:

Based on the commitments made in the enclosed Agreement, OCR is closing the investigation of this compliance review as of the date of this letter. In the voluntary Agreement, the District has committed to conducting its own annual analysis of student applications, admission, and enrollment in its SSPs, including HSAPs, to identify programs with significant differences in the rates of admission and enrollment of African-American and current or former EL students when compared to their white and non-EL/RFEP peers and to develop a plan to implement policies that may have a less adverse impact and

that are comparably effective in meeting the District's educational goals for such identified programs. The District also agreed to provide training and/or written guidance on any District-developed plan.

When fully implemented, the Agreement is intended to address OCR's compliance concerns in this investigation. OCR will monitor the implementation of Agreement until the District has satisfied its terms.

This concludes the resolution of this compliance review, and 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, retaliate, or discriminate against any individual because he or she has participated in the OCR 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, it will seek to protect, to the extent provided by the law, personal information that, if released, could reasonably be expected to constitute an unwarranted invasion of privacy.

Thank you for your cooperation in resolving this case. If you have any questions regarding this letter, please contact Civil Rights Attorneys Rhonda Ngom at rhonda.ngom@ed.gov, Dana Isaac Quinn at dana.isaacquinn@ed.gov, or Katherine Riggs at katherine.l.riggs@ed.gov.

Sincerely,

/s/

Sara Berman
Team Leader

Enclosure

cc: Brent North, General Counsel