

**SUBMITTED ELECTRONICALLY AND BY EXPRESS MAIL**

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**COMPLAINT AGAINST THE FAIRFAX COUNTY PUBLIC SCHOOL SYSTEM  
REGARDING DISCRIMINATORY ADMISSION POLICIES  
FOR THE THOMAS JEFFERSON HIGH SCHOOL FOR SCIENCE AND TECHNOLOGY**

The Coalition of The Silence (COTS) and the Fairfax County Branch of the NAACP (NAACP-Fairfax) jointly file this Complaint against the Fairfax County Public School system, 8115 Gatehouse Road, Falls Church, VA 22042.

This Complaint is filed on behalf of *all* African American and Latino students and students with disabilities within the Fairfax County Public School System (FCPS). These students collectively comprise at least one third of the entire FCPS student body. Nevertheless, for decades, these students have been grossly and disproportionately underrepresented in admission to the Thomas Jefferson High School for Science and Technology (TJ) – public high located in Fairfax County that was recently ranked by Newsweek magazine as the #2 high school in the Nation.

Current disparities in admission to TJ raises legitimate claims pursuant to Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin. On information and belief, if data were publicly reported regarding disability status, similar disparate impact claims would be legitimately raised pursuant to Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability. <sup>1</sup>

**BACKGROUND**

According to the US Census Bureau, Fairfax County is one of the most affluent counties in the country. The Fairfax County Public School system is the 12<sup>th</sup> largest school system in the country with 177,000 students and over 200 schools. FCPS serves a 400 square mile geographic area and is administered through a system of 8 “clusters” and 24 high school “pyramids.”

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<sup>1</sup> / Because specific data on children with disabilities are not readily available, this complaint focuses on discrimination against Black and Latino students. However, it is important to note that 14% of FCPS students are identified with a disability and receive services pursuant to IDEA. An unknown number of FCPS students also have been identified with a disability and receive services through Section 504 of the Rehabilitation Act of 1973 instead of IDEA.

Fairfax County is also among the most racially and ethnically diverse public school systems in the country, with a student body that is 44% white, 22% Hispanic, 20% Asian, 10% Black and 4% multiracial, American Indian or other. Over 150 languages are spoken in the homes where Fairfax County students live.

There is also substantial socio-economic diversity in Fairfax. Despite the county's overall affluence, over 25% of the students who attend Fairfax County Public Schools qualify for the federal free or reduced price meals program.<sup>2</sup> The vast disparities in Fairfax County's socio-economic underpinnings translates into disparities in political influence, including influence on the school board regarding the investment of public funds on some programs versus others.

The county's size and diversity –geographic, ethnic, racial, socioeconomic and political – has resulted in enormous disparities in the quality of Fairfax County schools and the programs offered in these schools. As a result, FCPS has evolved into a system that essentially operates a network of separate and unequal schools through inequitable delivery of level 4 Advanced Academic services at the elementary and middle school level.

The impact of these separate and unequal schools manifests itself most directly during the admission process for TJ. TJ is a Governor's Magnet School located in Fairfax County. Students attending public or private schools and who live in six other northern Virginia jurisdictions are able to attend TJ, with tuition for their attendance paid by their county or city school system to Fairfax County. The six other jurisdictions are: Arlington County, Prince William County, Loudon County, Fauquier County, Falls Church City and Fairfax City. Alexandria City specifically chose not to be part of the TJ consortium.

In spite of its broad geographic jurisdiction, the vast majority of students who attend TJ matriculate from FCPS middle schools. Nearly every FCPS student admitted to TJ attended a level 4 Advanced Academic center in middle school. Because Black and Latino students are denied access to these services at the very earliest stages of identification for "giftedness," the lack of Black and Latino representation at TJ should come as no surprise.

### **MOST RECENT EVIDENCE OF DISCRIMINATION**

On April 13, 2012, FCPS released its latest admission figures for TJ. As has been the case since it was first designated as a Governor's School in 1985, African American and Latino students are dramatically underrepresented in the Class of 2016.

For example, even though Latino students comprise nearly one quarter of the current student body within FCPS (22%), only 2.7% of the students admitted to TJ this year identify as Hispanic. Similarly, African American students make up approximately 10% of the FCPS student body, yet only 1.5% of students admitted to TJ this year are Black.

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<sup>2</sup> Although there is substantial evidence of tremendous bias impacting economically disadvantaged students in their access to TJ and other advanced academic programs within FCPS, because such bias is not actionable pursuant to Title 6, it is not the subject of this Complaint.

Considering the actual number of students is even more striking. Of the 480 students admitted to TJ and who will begin classes this fall, only 7 are Black and 13 are Hispanic. Data on the number of students with disabilities admitted to TJ has never been routinely provided.

These already meager percentages become even more striking when one considers the fact that some students do not matriculate from FCPS middle schools. Looking back at the Class of 2014, the last class for which this data is available, of the 17 Black and Hispanic students admitted for the class of 2014, only 10 were FCPS eighth graders. Of the remaining 7 students admitted to that class, the 3 were Hispanic students who attended private school and 4 were Black students who attended private school or public school in a county other than Fairfax.

Published data since 2006 show persisting disparities:

<u>Class of 2016</u>					
<b>TOTAL</b>	<b>White</b>	<b>Asian</b>	<b>Hispanic</b>	<b>Black</b>	<b>Multiracial<sup>3</sup></b>
480	126	308	13	7	27
%	26.2%	64.2%	2.7%	1.4%	5.6%
<u>Class of 2015</u>					
<b>TOTAL</b>	<b>White</b>	<b>Asian</b>	<b>Hispanic</b>	<b>Black</b>	<b>Multiracial</b>
479	161	273	13	6	26
%	33.6%	56.9%	2.7%	1.2%	5.4%
<u>Class of 2014</u>					
<b>TOTAL</b>	<b>White</b>	<b>Asian</b>	<b>Hispanic</b>	<b>Black</b>	<b>Multiracial</b>
480	166	276	13	4	21
%	34.6%	57.5%	2.7%	.8%	4.3%
<u>Class of 2013</u>					
<b>TOTAL</b>	<b>White</b>	<b>Asian</b>	<b>Hispanic</b>	<b>Black</b>	<b>Multiracial</b>
480	175	260	6	8	31
%	36.4%	54.2%	1.2%	1.7%	6.4%
<u>Class of 2012</u>					
<b>TOTAL</b>	<b>White</b>	<b>Asian</b>	<b>Hispanic</b>	<b>Black</b>	<b>Multiracial</b>
476	205	219	10	3	39
%	43.1%	46%	2.1%	.6%	8.1%

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<sup>3/</sup> The multiracial category could include some students who also identify as Black or Hispanic. It also may include students of middle eastern descent who often do not identify with the traditional categories of race used in the US. Asian/White is the largest single cohort of self identified multiracial students in Fairfax. Significantly, even if every student self identified as “multiracial” were Black or Hispanic, the disparate impact remains.

**Class of 2011**

<b>TOTAL</b>	<b>White</b>	<b>Asian</b>	<b>Hispanic</b>	<b>Black</b>	<b>Multiracial</b>
489	254	188	13	7	27
%	51.9%	38.4%	2.6%	1.4%	5.5%

**Class of 2010**

<b>TOTAL</b>	<b>White</b>	<b>Asian</b>	<b>Hispanic</b>	<b>Black</b>	<b>Multiracial</b>
507	254	192	18	10	33
%	50%	37.9%	3.5%	2%	6.5%

**PAST EFFORTS TO IMPROVE TJ ADMISSION HAVE NOT YIELDED RESULTS**

Based on a summary prepared by staff for the FCPS Minority Student Achievement Oversight Committee, the total number of Black and Hispanic students in TJ from 1988 to 2010 was as follows.

<b>Year</b>	<b>Approx. Total</b>	<b>Black</b>	<b>Hispanic</b>	<b>Total B/H</b>	<b>B/H %</b>
1989	1584	51	29	80	5%
1990	1648	46	28	74	4.4%
1991	1656	48	40	88	5.3%
1992	1647	62	54	116	7%
1993	1620	65	60	125	7.7%
1994	1620	70	66	136	8.4%
1995	1620	68	68	136	8.4%
1996	1640	73	73	146	8.9%
1997	1626	76	77	153	9.4%
1998	1644	68	79	147	8.9%
1999	1644	55	71	126	7.7%
2000	1641	38	60	98	6%
2001	1672	21	48	69	4.1%
2002	1670	22	39	61	3.65%
2003	1679	19	40	59	3.5%
2004	1694	23	40	63	3.7%
2005	1739	30	48	78	4.48%
2006	1804	27	44	71	3.9%
2007	1802	33	46	79	4.4%
2008	1816	33	50	88	4.8%
2009	1793	28	38	66	3.7%
2010	1805	34	42	76	4.2%

The years 1992-1998 represented the period when the highest number Black and Hispanic students were admitted to TJ. During that period, the TJ admissions process substantially differed from the current process. Pursuant to that admissions policy, 8<sup>th</sup> graders were selected based on scores on the American Guidance Service admission test and recommendations from an Oversight Committee that could recommend underrepresented

minority students for admission in order to ensure a diverse and balanced student body. In 1997, TJ reached its highest number of Black and Latino students, with total of 153 students comprising 9.4% of the student body.

In 1998, the year following this peak, the school board abandoned the admissions policies that had created a more diverse and balanced student body in favor of a test score dominated process. The decision was purportedly based on new interpretation of decades old supreme court rulings, including *Regents of the University of California v. Bakke*, 438 US 265 (1978) and *City of Richmond v. J.A. Croson Company*, 488 US 469 (1989). Given that these rulings had been set forth decades earlier and that the change came just as Black and Hispanic students were becoming a critical mass within TJ, political pressures likely came to bear on this decision as well.

The consequences of the 1998 change of policy were dramatic and immediate. Between 1998 and 1999, the number of Black and Hispanic students dropped nearly 15% - from 147 to 126 students. Between 1998 and 2000, the numbers dropped from 147 to 98 – a 33% drop. At its nadir in 2003, only 59 Black and Hispanic students attended TJ, out of a total of 1679 students. This 61% drop meant that Black and Hispanic students comprised only 3.5% of the TJ student body.

**THE 2004 BLUE RIBBON COMMISSION REPORT OFFERED SEVERAL KEY RECOMMENDATIONS THAT HAVE BEEN IGNORED, DISTORTED OR MISAPPLIED**

For decades, the Black and Latino community has complained to FCPS and to school board members about disparities in TJ admission. While piecemeal changes at the margin have been adopted and empty promises frequently made, there is apparently no appetite for comprehensive and meaningful reform.

The most comprehensive effort to identify ways to increase diversity within TJ was the formation of a Blue Ribbon Commission on TJ Admissions (hereinafter “Commission”), authorized by a unanimous resolution of the school board on December 12, 2003. The Commission, which convened in February 2004, was “comprised of educators with expertise in selective admissions at the high school, college and university levels, as well as expertise in science and engineering education and education policy.” In May 2004, the Blue Ribbon Commission Report was delivered to the School Board (hereinafter “BRC Report”). A full copy of the BRC Report is attached as Exhibit A.

The BRC Report has been blamed for the introduction of too much subjectivity into the TJ admission process, in order to increase the number of underrepresented minority students. Such criticism is misplaced. Indeed, had more of the reports recommendations been implemented, FCPS might have avoided two challenges that it now faces: a shameful lack of African American and Latino student participation AND evidence that many of the White and Asian students who are admitted are not adequately prepared for TJ or committed to the school’s core mission.

Among the BRC Report’s findings was that TJ’s lack of diversity “limited[ed] the school’s ability to prepare graduates ‘to become responsible citizens and leaders in the 21<sup>st</sup>

century.” It went on to state that “[t]he strikingly low rate of enrollment among African American and Hispanic students substantially limits the educational experiences of the *entire* TJHSST community.” See BRC Report, page 5 (emphasis added). The BRC Report also found that the admission process in place in 2003 was “significantly inferior to that of the most highly selective high schools and post-secondary institutions that have maintained high academic standards while achieving substantially more inclusive student populations.” Id.

In the period leading up to the BRC Report, TJ used a two-part admission process. In the initial stage, all applicants took the Specialized High School Admissions Test. A composite index was created based on 80% standardized test score and 20% overall GPA. These composite index scores were then ranked and the top 800 students became semifinalists. It was not until the semifinalist stage that additional supporting documents such as teacher recommendations, extracurricular interests and short essays were considered.

In reviewing this admission process, the BRC concluded:

“Although it is clear that many qualified students advance to the next round in the selection process, it is likely that the system introduces two types of error: some students in the pool of 800 may not embody the characteristics that reflect the school mission statement and that TJHSS values most highly, while some of the excluded students may indeed have the characteristics that TJHSST is seeking. There is abundant evidence showing that such qualities as intellectual curiosity, motivation for the sheer joy of learning, and the passion for scientific pursuits are not easily captured by standardized tests and grade point averages. These qualities are not well reflected in the selection index formula currently used at TJ.”

BRC Report, p. 5.

Based on this observation, the BRC recommended that:

“the application process become more comprehensive *and that the information currently considered only at the semifinalist stage be considered for all applicants.* This includes the review of the full application packet containing test scores, middle school grades, teacher recommendations, a data sheet listing activities and awards, short essays written at the time of the exam, and all relevant information on a student’s background and interests.”

BRC Report, p. 6 (emphasis added).

Had the School Board in 2004 implemented this major recommendation from the BRC Report, FCPS would have been able to prescreen the TJ semifinalist pool so that only students with a demonstrable commitment to the high school’s science and technology mission would move forward. In this way, the “right” students would be considered for admission to TJ, not just exceptionally bright students who happen to test well in math and have strong GPAs, but no specific commitment to science or technology.

It is worth noting that the unanimously passed resolution to create the Blue Ribbon Commission was among the final votes of one of Fairfax County's most diverse 12-member school boards that included three African American members (Robert Frye, Ernestine Heastie, Rita Thompson), and one Asian member (Ilryong Moon). The Superintendent of the School System was Latino, Dr. Dan Domenech.

When the Report was completed and delivered to the Board six months later, retirements and an intervening election resulted in a 12 person board that included only one minority, Ilryong Moon. Mr. Moon serves as Chairman of the current School Board and remains its only minority member. Dr. Domenech retired as Superintendent of FCPS in 2004 and was replaced by current Superintendent Jack Dale.

### **FAIRFAX COUNTY SCHOOL BOARD'S JULY 19, 2012 WORK SESSION DISCUSSION BARELY ADDRESSED RACIAL AND ETHNIC DISPARITIES IN TJ ADMISSION**

On July 19, 2012, the Fairfax County School Board convened a work session that discussed, among other things, TJ admission challenges (hereinafter "Work Session"). In a room that was packed to capacity primarily by TJ parents and staff, the conversation almost immediately veered away from concerns regarding the underrepresentation of African American and Latino students at TJ and towards discussion about how to ensure the "right" FCPS students would get into TJ.

Concerns about the "right" students being admitted to TJ have recently come to the forefront. Several news reports and letters from TJ teachers claim that a substantial percentage of TJ students need math remediation. It is important to qualify that such "remediation" does not refer to basics like arithmetic. As TJ principal Evan Glazer pointed out, remediation at TJ means bringing the students above the SOL honors level. As it stands, 100% of TJ 9<sup>th</sup> graders passed the Algebra 2 SOL, with 90% achieving the "pass advanced" level. It also should be noted that any student at risk of earning only a "C" average at TJ – which could result in removal from the school – will also receive "remediation."

Not surprisingly, some have unfairly blamed the increased need for "remediation" at TJ to efforts to increase Black and Hispanic student admission. They say this even though Black and Hispanic students comprise less than 4% of the entire student body. Even if every one of these students needed remediation – which is not at all clear -- such a small number of Black and Hispanic students can hardly be the cause of such an apparently significant problem. Nevertheless, the perception persists.

### **PAST EFFORTS TO ADJUST TJ ADMISSION HAVE FAILED**

In documents prepared by FCPS staff at the July 19 Work Session, staff provided documentation on the history of TJ admission processes. Copies of these Work Session Documents are attached hereto as **Exhibits B 1-3**.

Included among these documents is a chart that purports to lists all “Changes to TJHSST Admissions Since 2004.” According to this document, in September 2004, the TJ admission process was changed such that:

“All students who scored above specific minimum raw scores on the TJ admissions test and have more than a specific minimum GPA in their middle school academic classes became ‘semifinalists,’ which (sic) added more weight to the GPA.”

According to the chart, between September 2004 and July 2008, there were no additional changes to the TJ admission policy, although somewhere during that time frame the requirement that students write two essays during the test must have been added.

In July 2008, the chart indicates that the admissions test was revised and shortened.

Beginning in July 2009, several additional changes were noted including:

- Modifying the sliding scale used for determination of the semifinalist pool, increasing the minimum GPA to 3.0 instead of 2.67 and the minimum test score of 65 instead of 60, along with a minimum math score of 30.
- Reducing the number of teacher recommendations from 3 to 2
- Revising the teacher recommendation form and the Student Information Sheet to provide additional information regarding the traits that are important for success at TJ
- Creating committees to review the Student Information Sheet and teacher recommendations and using specific guidelines and rubrics for a more objective final score.
- Changing the weighting for admission so that based on 20% student information sheet; 20% teacher recommendation; 20% essay; 20% math portion of admission test; and 15% 7<sup>th</sup> and 8<sup>th</sup> grade math and science GPA.
- Admitting students in numerical order beginning with the highest scoring applicant first until 480 are admitted.
- Establishing a waitlist of 50 students.

The above referenced changes do not substantially reflect recommendations of the Blue Ribbon Commission and at least one – the use of a combined test score and GPA to create a sliding scale – is in direct conflict with the recommendations.

In 2010, the admission process was adjusted to the process in place today. It continues to start with a one-page application, a timed standardized test and responses to two essay prompts. Semifinalists continue to be chosen based on a “sliding scale” that balances test score and GPA. The 2010 changes also left intact the practice of only considering comprehensive information about a candidate AFTER he or she has been designated as a semifinalist.

Today, 65% of the final TJ admission decision relies on subjective factors. Specifically, semifinalist applications are weighed as follows:



- Student Essay 25%
- Student Information Sheet 20%
- Teacher Recommendation 20%
- Math Score from Admission Test 20%
- Math and Science GPA 15%

Because of starkly uneven deployment of key resources, discussed below, such subjectivity harms Black and Latino students in FCPS disproportionately.

**CHANGES PROPOSED BY FAIRFAX COUNTY ASSOCIATION FOR THE GIFTED WILL PERPETUATE DISCRIMINATION AGAINST BLACK AND HISPANIC STUDENTS**

The Fairfax County Association for the Gifted (FCAG) has been particularly vocal on the issue of admitting the “right” TJ students. In essence, FCAG argues that the “right” students are not getting in because too much of the current admission process relies on subjective data. FCAG is pushing for heavier weighting of standardized test scores as a threshold for admission to TJ.

FCAG’s recommendation has considerable traction with members of the Fairfax County School Board. While complainants agree with FCAG that the current process is flawed, the FCAG recommendation does not specifically address the discriminatory impact of the current admission process and could instead replace it with a system that we categorically know will lead to similarly discriminatory impacts for Black and Latino students.

Test scores – without additional context and balance -- are not a reliable predictor of future success. On information and belief, FCPS has never been able to produce longitudinal data supporting the myth that tests scores have predictive value.

There is a reason for this. Test scores are easily gamed. Indeed, the emergence of veritable “test prep factories” is one reason why FCPS retreated from overreliance on these tests. Test prep factories can absolutely train students to excel, especially on the math portion of the standardized tests. However, such tests do not measure the deeper analytical skills, creativity and internal motivation needed to succeed at TJ. Simply put, success at Thomas Jefferson High School for *SCIENCE AND TECHNOLOGY* depends upon more than just high math test scores.

**THE CURRENT ADMISSION PROCESS HARMS BLACK AND LATINO STUDENTS WHO ARE DISPROPORTIONATELY UNDER IDENTIFIED AS ELIGIBLE FOR LEVEL 4 ADVANCED ACADEMIC SERVICES IN MIDDLE SCHOOL**

There are 27,744 middle school students in Fairfax County who attend 26 middle schools. Eleven of these middle schools house so-called “Level 4 Advanced Academic Centers.” A list of centers, along with the school’s *overall* ethnic, racial and FRM status breakdown is below. On information and belief, if more detailed data were readily available specifically for the centers, substantial racial and ethnic disparities between the schools’ overall demographic breakdown and the Level 4 Advanced Academic Centers would be evident, especially in those schools with large Black and Latino populations.

	<b>Total # Student</b>	<b>Asian</b>	<b>Black</b>	<b>Hisp</b>	<b>White</b>	<b>FRM</b>
<b>Carson</b>	1344	36.01	6.63	7.64	45.13	9.04
<b>Frost</b>	1024	22.69	3.43	9.06	59.87	8.20
<b>Glasgow</b>	1386	15.19	12.76	42.57	27.14	61.31
<b>Hughes</b>	918	14.09	18.12	20.69	41.28	34.45
<b>Jackson</b>	1147	25.68	9.0	28.60	31.60	16.59
<b>Kilmer</b>	1137	21.81	2.79	12.58	57.44	11.91
<b>Lake Braddock</b>	1446	21.15	5.75	15.84	52.17	15.62
<b>Longfellow</b>	1331	24.14	2.44	9.59	58.65	7.55
<b>Rocky Run</b>	1001	33.95	4.63	11.01	44.65	13.58
<b>Sandburg</b>	1212	6.54	19.52	29.80	39.47	42.44
<b>Twain</b>	16.32	18.28	25.28	34.85	34.72	16.93

The differences between Level 4 Advanced Academic services and other programs of study are substantial, especially when offered in magnet style “centers.” According to the FCPS website, Level 4 Advanced Academic Middle School Centers offer “identified students”:

“a full-time, highly challenging instructional program in all core subjects: English, mathematics, social studies, and science. ...The level IV program provides full-time academic placement for highly gifted students. Teachers follow a curriculum framework to differentiate the depth, breadth, and pace of instruction based on the FCPS Program of Studies. Students work with academic peers in all core subject areas.”

Being “identified” as eligible for Level 4 services is no easy task for Black or Latino students in Fairfax County. Data specifically broken down for elementary and middle school was not readily available. However, overall K-8 data is striking.

Among the 12,044 elementary and middle school students identified last year as eligible for Level IV GT services by FCPS last year, substantial racial and ethnic disparities are evident:

- Of the students found only 455 were Black (3.8%) – even though 10% of students in FCPS are Black;
- Only 752 Hispanic students (6.2%) were deemed eligible -- even though these students make up 22% of the student body;
- 3,903 Asian students (32.4%) were identified, even though Asians represent only 20% of the FCPS student body;

- 6,174 white students (51.3%) were identified, even though whites are only 44% of FCPS’s student body ;
- Another 736 students identified as multiracial (6.1%) and 22 identified as “other” (.1%).

The vast majority of students who matriculated to TJ from a FCPS middle school had received center based level 4 GT services. Thus, qualification for admission to TJ is essentially predetermined by students’ access – or lack of access -- to level 4 advanced academic programs that are discriminatorily deployed by FCPS as early as kindergarten.

The majority of students (313/480) admitted to TJ for the Class of 2016 attended middle schools with a Level 4 Advanced Academic Center:

Carson	76
Frost	18
Jackson	20
Kilmer	43
Lake Braddock	23
Longfellow	72
Rocky Run	51
Twain	10

More than half the students (242/480) admitted to TJ this year attended four “feeder” schools: Carson; Longfellow; Rocky Run and Kilmer. African American and Latino students, who respectively comprise 10.4% and 20.6% of overall middle school enrollment, are underrepresented at these schools.

This year, FCPS cited privacy concerns and did not disclose the number of students admitted from any middle school when that number of students admitted is less than 10. We do not know, for example, how many students were admitted from Glasgow, Hughes or Sandburg – the three Level 4 Advanced Academic Center Middle Schools with among the highest combined Black and Hispanic populations. We also do not know which schools sent “zero” students to TJ.

**STUDENTS FROM “FEEDER SCHOOLS” BENEFIT IN TJ’S CURRENT ADMISSION SYSTEM**

Besides providing access to more rigorous academic opportunities, “feeder schools” clearly know the TJ admission game. Teachers and staff at these schools are experts in counseling their students through the full gambit of the TJ admission process. Teacher and staff also have substantial experience and skills in writing effective letters of recommendation for their students. These letters of recommendation are crucial and a weakly written one can torpedo an otherwise excellent application.

Indeed, on information and belief, weak and even negative “letters of recommendation” were responsible for several otherwise highly qualified Black or Hispanic students not being offered admission to TJ. Setting aside teachers who would purposefully torpedo a student, teachers in more demanding and stressful middle school environments might not

have the time to devote to drafting a high quality letter. He or she might not have incentive to do so either, especially if he or she believes the odds are so stacked against the student that the entire application process is an exercise in futility. By comparison, “feeder school” teachers might not need to spend the time learning how to write an effective letter and, even if they do, because of the culture of feeder schools and the high expectations they have for their students, investing that extra time would not be considered burdensome. The complex and high expectations for TJ Letters of Recommendations are attached hereto as **Exhibit C**.

Besides letters of recommendation, TJ admission decisions also heavily weigh so-called “Student Information Sheets.” A copy of such a sheet is attached hereto as **Exhibit D**. While the sheet is suppose to be filled out by the student, feeder school teachers and parents can coach their students on the most effective way to complete these sheets, which include “short answer” questions about a student’s motivation and commitment.

A specific question on the student information sheet is especially troubling. It asks the student to “Describe in detail your most important out-of-school or after-school activity or interest in grades 6, 7 or 8 and why you consider this your most important out-of-school/after school activity or interest.” Questions about after school activity suggest that every student in FCPS has access to high quality out of school options. For many Black and Latino students, especially those from lower socioeconomic backgrounds, their most significant after school activity may well be babysitting their younger siblings while their parents work.

Even if students do not need to babysit, lack of transportation or financial resources might severely limit their options to participate in music, sports or other activities. They might also need to use afterschool time to go to the library to have access to a computer – especially as FCPS becomes more and more reliant on online textbooks and research projects. This same student could be gifted and have profound demonstrable interest in math or science. However, he or she could be seriously disadvantaged in the TJ admission process by this question, and others like it.

### **A CULTURE OF BIAS AND LOW EXPECTATIONS OF BLACK AND LATINO STUDENTS PERSISTS IN FAIRFAX COUNTY**

The “soft bigotry of low expectations” is alive and well in Fairfax County and it came raging into the limelight in March of 2012 when a teacher at Marshall High School demanded that the only African American student in her class read a Langston Hughes poem “Blacker.” When the student asked her what she meant by that, the teacher allegedly demonstrated by speaking to the student using “Ebonics.” This incident, which was widely publicized in the press, is but one example of challenges that African American and Latino students face in Fairfax. Anecdotal evidence suggests that incidents are increasing. There may be an

explanation for this. Even as the FCPS student body becomes more and more diverse, FCPS cut funding for staff cultural competency training.<sup>4</sup>

The lack of cultural competence leads teachers from different backgrounds to underestimate the intellectual abilities and talents of their students based on irrelevant factors including language, clothing, mannerisms, communication style, and even lack of parent engagement. The astonishing underrepresentation of Black and Latino students in Level 4 Advanced Academic Programs beginning as early as elementary school suggest such cultural bias is deeply embedded across the system.

In light of these demonstrable biases and given the subjectivity of the current admission process, it should come as no surprise that middle schools with the highest percentages of African American and Hispanic students send very few, if any, students to TJ.

### **MANY BLACK AND LATINO STUDENTS IN FAIRFAX COUNTY ATTEND MIDDLE SCHOOLS THAT DO NOT OFFER ADVANCED MATHEMATICS OR OTHER COURSES**

Beyond the discriminatory access to level IV GT centers and programs, there are known differences in middle school curriculums that contribute to discriminatory outcomes in TJ admission. Rigorous math curriculum is not evenly deployed across Fairfax County. Fair or not, exceptional ability in math is considered the most important academic factor for admission to TJ.

Until recently, many middle schools did not offer Algebra 1 in 8<sup>th</sup> grade. Algebra 1 in 8<sup>th</sup> grade is a prerequisite for admission to TJ. Just as the Algebra 1 access issue was resolved, however, the goal post shifted. 8<sup>th</sup> grade geometry has now become the key indicator for successful entry into TJ. Access to geometry in 8<sup>th</sup> is not evenly deployed. As a result, those students who are able to take geometry in 8<sup>th</sup> grade have an advantage in admission. For example, during the subjective review of applications, a reader might consider a student who takes honors geometry as especially motivated. Thus, students who would have gladly taken honors geometry had it been available at their school, are unfairly disadvantaged. In addition, exposure to higher level math contributes to stronger overall math scores on the standardized test portion of the application, whether geometry is specifically tested or not.

Consider Carson Middle School as an example. Carson is among the most prolific feeders into TJ. It boasts on its website that it offers Honors Geometry to its 8<sup>th</sup> graders. Something is giving Carson students a demonstrable benefit in the TJ admission process. That “something” could very well be “Honors Geometry.”

There are other courses outside of math that confer benefits in the TJ admission process for some students but not others. According to the TJ website, credit is given for foreign

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<sup>4</sup> Such cultural competence training should not be confused with the nondiscrimination compliance video and quiz that all FCPS employees, including school board members, must view and take at the outset of employment.

language courses taken for high school credit in middle school. On information and belief, such courses are not uniformly available across Fairfax County.

**DISMANTLING KEY PROGRAMS FOR UNDERREPRESENTED STUDENTS  
CONTRIBUTES TO EXISTING DISPARITIES**

Affluent students in Fairfax County, whose parents can afford and take them to summer prep courses, have an undeniable advantage when it comes to TJ admissions. The gaming of the testing process is among the reasons why MSAOC and others sought to reduce weight of such standardized test scores.

If FCPS increases the weight of standardized tests in the TJ admission process, fairness dictates that it figure out how to level the playing field. Admission to TJ is a privilege and can be life changing for a student. Nearly every TJ student attends college, most attending top tier universities. Students are nurtured in an environment with smaller class sizes, an extra class period, and a corps of exceptionally qualified teachers. To allow some students access to the richness of the bounty of TJ, without trying to level the playing field for all students, seems to violate the fundamental principle of equal opportunity for all in public education.

FCPS once had such programs. Quest and Young Scholars were among the most promising. Indeed, the Blue Ribbon Commission specifically cites programs used by other “highly respected secondary institutions specializing in mathematics and science” and goes on to state that:

“The BRC is encouraged by information about the Young Scholars and Quest programs and similar initiatives already underway in Fairfax County Public Schools. We recommend continued investment in those initiatives.”

Despite this recommendation and the strenuous objections of Fairfax County’s Minority Student Achievement Oversight Committee and then school board member Martina Hone, who was the board’s only African American member at the time, the Quest program was “redesigned” into oblivion. The Saturday TJ test prep portion of the program was eliminated and replaced with an afterschool program that competed with other important afterschool programs, including music and sports.

Young Scholars was similarly gutted during 2008-09 budget cycle. Among the most important components of the Young Scholars program was its Summer Enrichment Academy. During the 2008-09 budget cycle, Ms. Hone attempted to restore \$250,000 to this program by reallocating funds from a staffing reserve fund that included millions of dollars and was routinely raided by other Board members for their pet projects. Nevertheless, Ms. Hone’s effort was dismissed as irresponsible and the summer program was not funded through the school board budget process that year, although some schools were able to scrape together replacement funding. But the signal was unmistakable: FCPS was retreating from its past commitment to develop a robust pipeline to underrepresented minority students who would be qualified for admission to TJ.

## **TJ MIDDLE SCHOOL STUDENT RECRUITMENT EFFORTS ARE UNEVEN**

In a stunning example of FCPS's "tone-deafness" on the issue of diversity and inclusiveness, staff presented a video at the July 19 work session that purported to reflect its enhanced outreach efforts to underrepresented minority students as early as elementary school. Remarkably, the video included only one African American child out of a dozen other children. Unlike the other children on the video, most of whom were white or Asian, the one African American child was barely audible and showed no strong interest in science or technology, except to whisper that she wanted to be a nurse. For FCPS staff to put forward this video as proof of its commitment to increased outreach to underrepresented minorities can only be described as mind boggling.

Uniform outreach to all middle schools was not a standard practice in the past. Ignoring some middle schools seemed to reflect the cynical belief that these schools simply could not yield enough qualified candidates to justify the effort. And while it is true that each middle school in Fairfax County has a staff member who serves as the TJ admission liaison, we cannot be assured that each liaison is performing his or her task with equal commitment.

Outreach matters. The lack of outreach and encouragement to schools with large numbers of Black and Hispanic students creates a self-perpetuating cycle. Students are not told they are qualified, so they do not apply. And those who do believe they are qualified do not apply because TJ is not perceived as a welcoming place for them. The election last year of a white student to serve as President of TJ's Black Student Union – which was lauded by some as an example of TJ's progressiveness – did not help matters. For many underrepresented minorities, it reinforced the perception that Black students are not supported and cannot thrive at TJ.

## **THE DISCRIMINATION EVIDENCED BY TJ ADMISSION DISPARITIES REFLECTS INSTITUTIONAL DISCRIMINATION AT THE EARLIEST GRADE LEVELS**

As early as kindergarten within FCPS, students are evaluated for "giftedness." According to the FCPS website, "Children identified for FCPS advanced academic services exhibit exceptional performance capability in academic, intellectual, and creative endeavors. In order to meet their needs and develop to their potential, these learners require a differentiated curriculum." A timeline found on FCPS website outlines screening intervals and steps as follows:

- Grade K: School based screening (Spring)
- Grade 1: Naglieri Nonverbal Ability Test (NNAT) to all first graders (Spring)
- Grade 2: Cognitive Ability Test to all 2<sup>nd</sup> graders (Oct/Nov)
  - Families notified of GT eligibility (January)
  - Referrals for Level IV services due (February)
- Grade 3: Eligible students placed in Level IV
- Grade 3-5: *One-time* retest opportunity (Fall)
  - Students new to FCPS tested (October)
  - Referrals to level IV (February)
  - School based screening for levels II and III services (Spring)

Decisions on Level IV services are not solely test based. Beyond the test, a central screening committee also reviews files. Families are encouraged to provide supplemental information. Obvious disparities exist in terms of certain groups of parents having the wherewithal to supply such supplemental documentation – if they are even asked to do so.

Level IV GT services are delivered using two models - school based advanced academic programming or in full time, magnet style, Level IV GT Centers. The magnet style centers are widely considered the superior model. For the 2011-12 school year, there were 24 Level IV centers.

According to the FCPS website:

“Students found eligible for placement in a full-time Advanced Academic Program (Level IV) through a central selection process receive a highly challenging instructional program in the four core subject areas. The Level IV program is designed to meet the needs of advanced learners with a strong emphasis on higher level thinking, problem-solving, and decision-making. Students have ongoing opportunities for reflection and self-assessment that develop an understanding of the characteristics, demands, and responsibilities of advanced intellectual development.”

A table of Level 4 Elementary School Centers follows. The table includes general demographic data for the entire school. On information and belief, if more detailed data were available specifically for the centers, it would reveal a pattern of segregated schools within the schools.

<b>Center Site</b>	<b>Cl/Pyramid</b>	<b># Stu</b>	<b>GT%</b>	<b>Asian</b>	<b>Black</b>	<b>Hisp</b>	<b>White</b>	<b>FRM</b>
Belvedere	3/Stuart	634	16.61	8.22	9.4	53.69	25	56.71
Bull Run	7/C'ville	868	19.85	27.24	12.35	19.96	36.54	28.62
Canterbury Woods	3/Woodson	665	34.94	28.77	4.82	7.53	53.61	10.69
Churchill Road	1/Langley	838	36.61	23.74	1.52	5.50	61.64	0.82
Clearview	1/Herndon	654	20.74	15.76	7.56	37.94	34.24	40.51
Colvin Run	1/Langley	871	27.60	20.56	0.56	5.14	69.50	0.89
Forest Edge	8/South Lakes	806	29.50	18.86	20.07	13.54	41.35	33.74
Greenbriar West	7/Chantilly	929	42.14	51.34	2.99	9.41	32.19	4.06
Haycock	1/McLean	853	42.67	22.88	1.29	5.40	62.98	4.63
Hunters Woods	8/South Lakes	1052	43.38	30.61	11.61	8.73	41.94	16.79
Keene Mill	6/W. Spring	617	39.58	20.84	9.63	23.12	41.86	21.37
Lorton Station	4/Hayfield	964	17.97	20.04	32.24	24.29	18.30	45.10
Louise Archer	2/Madison	791	46.82	21.17	3.24	9.09	60.65	9.09
Mantua	3/Woodson	942	23.31	24.55	3.38	10.14	57.09	11.71
McNair	8/Westfield	819	18.17	49.56	21.66	14.97	12.50	24.27
Mosby Woods	8/Oakton	844	27.93	27.81	10.52	19.23	35.67	6.77
Oak Hill	7/Chantilly	843	29.56	32.01	2.10	4.56	55.84	5.49
Riverside	4/Mt Vernon	684	10.57	4.97	33.81	38.78	16.67	63.25
Sangster	6/Lake Brad	874	28.34	14.71	4.53	5.99	68.09	2.07
Springfield Estates	5/Lee	700	39.05	24.96	10.11	23.89	36.60	34.76
Stratford Landing	4/West Pot	846	37.18	5.08	10.28	9.26	69.42	15.99
Sunrise Valley	8/South Lakes	614	33.44	19.13	3.89	7.78	62.36	6.84



White Oaks	6/Lake Brad	742	32.73	23.16	7.49	15.26	47.71	18.17
Willow Springs	7/Fairfax	872	35.92	25.63	3.52	5.35	57.89	6.34

**CONCLUSION**

In FCPS, deeply embedded discriminatory practices in the identification of Black and Latino students who are eligible for Level 4 Advanced Academic begin as early as kindergarten. The impact of being denied access to Level 4 Advanced Academic programs is profound. It almost certainly bars a student from being qualified to compete successfully for admission to TJ years later. Nearly every Fairfax County middle school student admitted to TJ attended a middle school with a Level 4 Advanced Academic Program Center.

In essence, Fairfax County operates a separate and unequal “sub” school system within its overarching taxpayer funded, public school system. That separate and unequal subsystem is comprised of a network of level 4 advanced academic centers where Black and Latino students are grossly underrepresented.

The enormous racial and ethnic disparities evident in TJ admissions numbers and in eligibility decisions for Level 4 Advanced Academic Programs reflect clear violations of Title VI of the Civil Rights Act of 1964 and must not be allowed to stand.

Sincerely,



By: \_\_\_\_\_

Date: July 23, 2012

Martina A. Hone, Esq.  
 Founder & Board Chair  
 Coalition of The Silence



By: \_\_\_\_\_

Date: July 23, 2012

Charisse Espy Glassman  
 Education Chair  
 NAACP-Fairfax County