



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

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October 28, 2014

James G. Memoli
Acting Superintendent
School District of South Orange & Maplewood
525 Academy Street
Maplewood, New Jersey 07040

Re: Case No. 02-13-5003
School District of South Orange & Maplewood

Dear Mr. Memoli:

This is to advise you of the resolution of the above-referenced compliance review conducted by the U.S. Department of Education (Department), New York Office for Civil Rights (OCR). The compliance review assessed whether the School District of South Orange & Maplewood (the District) in New Jersey is providing African American students with equal access to its college and career readiness courses and programs at the high school level (e.g., Honors and Advanced Placement (AP) courses); and with respect to courses at the elementary and middle school levels that would prepare African American students to participate in higher level learning opportunities.

OCR initiated this compliance review under Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 U.S.C. § 2000d *et seq.*, and its implementing regulation at 34 C.F.R. Part 100, which prohibit discrimination on the basis of race, color, or national origin in programs and activities receiving financial assistance from the Department. As a recipient of such assistance, the District is subject to Title VI and, therefore, OCR had jurisdiction to conduct this review.

Prior to the conclusion of OCR's investigation, the District expressed an interest in voluntarily resolving this case and entered into a Resolution Agreement (the Agreement), which commits the District to specific actions to address the issues under review. This letter summarizes the applicable legal standards, the information gathered during the review, and how the review was resolved.

Applicable Legal Standards

The applicable standards for determining compliance are set forth in the regulation implementing Title VI, at 34 C.F.R. § 100.3(a), (b)(1) and (2). Title VI, at 34 C.F.R. § 100.3(a), provides that no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program operated by a recipient. The regulation implementing Title VI, at 34 C.F.R. § 100.3(b)(1), prohibits a recipient, on the ground of race, color, or national origin, from denying an individual a service or benefit of a program; providing different services or benefits; subjecting an individual to segregation in any matter related to the receipt of a service or benefit; restricting an individual in any way in receiving a service or benefit; treating an individual differently in determining whether the individual satisfies any admission or eligibility requirement for provision of a service or benefit; and, denying an individual an opportunity to participate in a program or affording an opportunity to do so which is different from that afforded to others. The regulation implementing Title VI, at 34 C.F.R. § 100.3(b)(2), prohibits a recipient from utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin.

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

Overview of the District

The School District of South Orange & Maplewood is a regional public school district serving students from two suburban communities in Essex County, New Jersey: South Orange and neighboring Maplewood. According to data the District provided, as of June 2013, the District had a total of 6,622 students, 2493 (37.65%) of whom were African American and 3255 (49.15%) were white.

The District has a total of nine schools: one high school (Columbia High School); two middle schools (South Orange Middle School and Maplewood Middle School); and six elementary schools (Clinton Elementary School, Jefferson Elementary School, Seth Boyden Elementary Demonstration School, Marshall Elementary School, Tuscan Elementary School and South Mountain Elementary School).¹ Students are typically assigned to the District's elementary and middle schools based on where they live within the District's boundaries. All high school students attend Columbia High School.

¹ Marshall Elementary is a Pre-K through 2 school; Jefferson Elementary serves grades Pre-K through-5; Clinton Elementary serves grades Pre-K through 5; and South Mountain Elementary is divided into two schools, one of which (South Mountain) serves grades K-5, and the other of which (South Mountain Annex) serves grades K-1. The other two elementary schools serve grades K-5. For purposes of its analysis, OCR considered South Mountain and South Mountain Annex to be one school (South Mountain Elementary).

Summary of Review

OCR collected information from the District for the 2012-2013 and 2013-2014 school years, including information about the District's Transformation Plan (described below). OCR reviewed information the District provided concerning its elementary and middle school level curricula, including programs and courses offered at those levels that could potentially affect enrollment in high school higher level learning opportunities, including the District's new International Baccalaureate (IB) Middle Years Program at its two middle schools. In addition, OCR reviewed information regarding the District's high school higher level learning opportunities, which consist of honors courses, AP courses, career-ready programs, and dual enrollment programs (where students enroll in courses at local universities and community colleges). OCR interviewed District staff responsible for implementing the Transformation Plan, the IB Middle Years Program, the high school AP and honors courses, and the elementary and middle school programs. OCR also analyzed student enrollment data and obtained parent input concerning the District's course and program offerings. OCR reviewed publicly available information, such as the District's placement policy² and OCR's 2011 Civil Rights Data Collection (CRDC) data for the District, the most recent available.³

- **District's Transformation Plan**

In March 2013, the District's Board of Education voted to implement a Transformation Plan (the Plan).⁴ The purposes of the Plan are to provide enhanced instruction and curricula, and targeted professional development and resource allocation for effective and equitable implementation of: the Common Core Curriculum Standards (CCCS); the IB Middle-Years Program,⁵ with its emphasis on developing the effectiveness of teachers and leaders⁶, providing a rigorous, inquiry-based curriculum, and de-leveling of courses; and the Partnership of Assessments for Readiness of College and Careers (PARCC).⁷ The Plan further provides that the District will offer students a diverse portfolio of

² <http://www.somds.k12.nj.us/cms/lib7/NJ01001050/Centricity/Domain/148/r2314.pdf>.

³ <http://ocrdata.ed.gov/Page?t=d&eid=33155&syk=6&pid=736>

⁴ The Transformation Plan is published on the District's website at:

http://www.somds.k12.nj.us/cms/lib7/NJ01001050/Centricity/Domain/60/SOMSD_middle_school_transformation.pdf

⁵ An IB program is a comprehensive curriculum designed to prepare students for liberal arts education at the college level. The IB Middle Years Program is for students aged 11 to 16. Information about the District's IB program is available on the District's website at:

http://www.somds.k12.nj.us/cms/lib7/NJ01001050/Centricity/Domain/8/IB_FAQ_dec_2012.pdf

⁶ The District reallocated professional development funds to specifically target training for implementation of the IB curriculum. Accordingly, the District scheduled staff development days, in-service training, and individual off-site professional development to target sixth grade teachers in the year prior to implementation of the Plan for sixth grade (2012-2013); seventh grade teachers in the year prior to the implementation of the Plan for seventh grade (2013-2014); and eighth grade teachers in the year prior to the implementation of the Plan for eighth grade (2014-2015).

⁷ According to its website, <http://parconline.org/>, PARCC is a group of states working together to develop a set of assessments in Mathematics and English Language Arts/Literacy that are aligned with the CCCS and measure whether students are on track to be successful in college and their careers. It also provides parents and teachers with timely information to identify students who may be falling behind and need extra help.

program choices; focus on college and career readiness; expand and create middle year opportunities, and dual enrollment opportunities with higher education institutions; and ensure that high quality options are available. The Plan also provides that the District will enhance communications to foster transparency and community engagement with respect to the development and implementation of District goals.

The implementation of the Plan is set to occur in three phases: in school years 2013-2014 for grade 6; in 2014-2015 for grade 7; and in 2015-2016 for grade 8. District administrators advised OCR that by the end of school year 2014-2015, the District will evaluate the implementation of the Transformation Plan in sixth to eighth grades to determine whether to expand the IB program to the ninth and tenth grades.

- **Elementary School Years**

The District does not offer a gifted and talented (GATE) program at the elementary school level. Rather, OCR determined that for school years 2011-2012, 2012-2013 and 2013-2014, the District offered fourth and fifth grade students at each of its elementary schools an “Enrichment Program” in English, Language and Arts (ELA) and mathematics. The ELA Enrichment Program has no selection criteria and is provided to all fourth and fifth grade students. The District’s ELA Enrichment Program is afforded to all fourth and fifth grade students and thus does not place any limitations on participation by any students.

The mathematics Enrichment Program provides pull-out instruction to students who meet certain eligibility criteria at four of the District’s six elementary schools (Clinton, Jefferson, Seth Boyden and Tuscan).⁸ All schools use the same identification and selection process for the mathematics Enrichment Program, which, for school years 2012-2013 and 2013-2014, consisted of minimum scores on the New Jersey Assessment of Skills and Knowledge (NJASK); and a minimum grade point average (GPA). District officials stated that students who do not meet the selection criteria may still be eligible to participate in the mathematics Enrichment Program if they score high enough on the District’s “pre-test” administered to fourth and fifth grade students. The pre-test includes complex word math problems and higher-level challenges and problems. For fourth grade, select students are pulled out of class to receive special units of instruction on topology, logic, and the stock market. For fifth grade, select students are pulled out of class to receive special units of instruction on subjects like number bases, advanced logic and ancient number systems.

Parents are made aware of the District’s Enrichment Program through a brochure, and by a letter mailed at the end of each school year that sets forth the selection criteria for the

⁸ Marshall Elementary, which is a Pre-K-2 school, does not offer the mathematics Enrichment Program. In school year 2012-2013, South Mountain provided its mathematics Enrichment Program to all fourth and fifth grade students. Therefore, for purposes of its analysis, OCR did not include South Mountain as a school offering the mathematics Enrichment Program on a pull-out basis. However, South Mountain currently offers its mathematics Enrichment Program to select students on a pull-out basis.

mathematics Enrichment Program, and explains that the ELA Enrichment Program is provided to all fourth and fifth grade students.

For the math enrichment program, teachers' recommendations are not part of the selection criteria, and there is no formal mechanism for students and parents to provide input or apply. However, parents may appeal the District's eligibility determinations to the enrichment math supervisor.

For school year 2012-2013, African-American students represented 33.4% (148 out of 443) of the District's total enrollment in the four elementary schools offering pull-out math enrichment, but only 13.4% (23 out of 172) of the students enrolled in the District's fourth grade mathematics Enrichment Program. African-American students represented 36.3% (159 out of 438) of the District's total enrollment in grade 5 in the four elementary schools offering pull-out math enrichment, but only 9.0% (12 out of 133) of the students enrolled in the District's fifth grade mathematics Enrichment Program. In contrast, white students represented 51.7% (229 out of 443) of the District's total enrollment in grade 4 in the four elementary schools offering pull-out math enrichment, but 74.4% (128 out of 172) of students enrolled in the District's fourth grade mathematics Enrichment Program. Additionally, only 54% (236 out of 438) of the students enrolled in grade 5 in the four elementary schools offering pull-out math enrichment were white, but 82% (109 out of 133) of the students enrolled in the District's fifth grade mathematics Enrichment Program were white.

- **Middle School Years**

The District offers college preparatory, advanced honors, advanced and accelerated courses to middle school students who meet established criteria. In addition, students may need to take foundational courses in elementary and middle school in order to be prepared for the sequence of courses leading to enrollment in AP and other high school higher-level courses. The District began implementing the IB Middle Years Program in school year 2012-2013 for middle school students; all sixth grade students were enrolled in the IB program in school year 2013-2014. The IB Program was implemented for seventh grade students beginning in school year 2014-2015, and will be implemented for eighth grade students beginning in school year 2015-2016.

OCR determined that the Plan's implementation has resulted in the removal of the lowest level mathematics course, reducing mathematics to three levels for sixth and seventh grade (college preparatory, honors, and accelerated), during school year 2014-2015; and will reduce eighth grade mathematics to four levels (college preparatory, honors, advanced honors and accelerated) during school year 2015-2016. In addition, the implementation of the Plan has resulted in the removal of the lowest level course in three core subject areas, English Language Arts (ELA), science and social studies, with all instruction in those subjects thereafter being delivered at a single level (the former honors level), with additional support for some learners. Accordingly, beginning with school year 2015-2016, upon full implementation of the IB Program, all students attending

middle school will be enrolled in at least an honors ELA, science and social studies class and at least a college preparatory level mathematics class.

Criteria for Enrollment in Advanced Mathematics Courses

Students are assessed in fifth grade to determine the mathematics level placement for sixth grade, based on each student's performance on the following: (1) fifth grade Common Assessments; (2) a placement test given over the course of the fifth grade year; (3) a placement test given to all students in March; and (4) score on NJASK for grade 4 mathematics. The District also considers students' current academic performance and teachers' recommendations. There is no formal mechanism for students and parents to provide input or to apply to the college preparatory, honors, advanced honors and accelerated mathematics courses. However, parents may appeal the District's eligibility determinations to the math supervisor for the school if not satisfied.

Students who do not initially meet the enrollment criteria for a mathematics class in grades 6, 7 or 8 have a number of opportunities to qualify later, by participating in the "Step Up" program offered at the middle schools during the summer. Step-Up is a voluntary program, and has no entrance or selection criteria. This program offers help for incoming sixth and seventh graders to master requisite math skills and knowledge. Some students who complete the program are subsequently assigned to a higher-level course either during or at the end of the following school year, once their mastery becomes evident through their class performance.

For school year 2012-2013, African-American students represented 39.1% (201 out of 514) of the District's total enrollment in grade 7, but only 11.9% (10 out of 84) of students enrolled in honors, advanced honors and accelerated grade 7 mathematics courses. African-American students represented 47.4% (206 out of 435) of the District's total enrollment in grade 8, but only 11.6% (13 out of 112) of students enrolled in honors, advanced honors and accelerated grade 8 mathematics courses. In contrast, white students represented 50.9% (262 out of 514) of the District's total enrollment in grade 7, and 72.6% (61 out of 84) of students enrolled in honors, advanced honors and accelerated grade 7 mathematics courses. Additionally, white students represented 44.1% (192 out of 435) of the District's total enrollment in grade 8, and 73.2% (82 out of 112) of students enrolled in honors, advanced honors and accelerated grade 8 mathematics courses.

- **High School Years**

College and Career Preparatory, Honors and Advanced Honors Courses

The District offers college preparatory, honors, advanced honors, and AP courses in English, fine arts, mathematics, science, social studies and world languages at its high school. College preparatory courses are intended for students who are performing at grade level and are not in need of additional skill development to perform at grade level; honors and advanced honors courses are intended for students who are performing well academically in prerequisite courses. The District's college preparatory, honors and

advanced honors courses are sometimes combined into a single “multi-track class,” with students working at their individual designated level.

The District typically offers AP courses to students in the tenth, eleventh and twelfth grades. The District advised OCR that there is a sequence of courses in the AP related academic areas for students to take before enrolling in AP courses, and other than algebra, all necessary prerequisites for AP courses are offered in high school. The District informed OCR that algebra is the only prerequisite course that can be taken prior to high school (in the eighth grade); accordingly, ninth grade students may be eligible to enroll in AP math courses.

In school year 2012-2013, one or more of the following criteria was used to determine eligibility for the various AP courses: grade(s) in specific previous course(s) (e.g., B- or above in honors Pre-Calculus for AP Statistics, or A average in Biology and Physics for AP Chemistry); entrance examination; teacher recommendation(s); interview; portfolio; registration or concurrent enrollment in a specific course (e.g., registration in Pre-Calculus for AP Statistics); minimum PSAT score; rubric rating student on academic performance and participation; oral assessment (for language courses); and written essay. However, beginning in school year 2013-2014, the District lowered the selection criteria used to determine eligibility for certain AP courses. While selection criteria for 14 AP courses remained unchanged (AP Art History, AP Music Theory, AP Statistics, AP Calculus AB, AP Calculus BC, AP Computer Science, AP Chemistry, AP Physics, AP U.S. History I and II, AP European History, AP Comparative Government and Politics, AP U.S. Government and Politics and AP Psychology), the District reduced the requirements for admission into various AP courses (AP English Language & Composition, AP English Literature & Composition, AP Studio Art); eliminated the entrance examination requirement for AP Biology and AP Environmental Science; and eliminated the written essay requirement for the five AP language courses.

During school year 2012-2013, there were 791 AP opportunities in the District’s high school. OCR determined that for school year 2012-2013, African-American students represented 51.5% (946 out of 1838) of the District’s total high school enrollment, but only 18.7% (148 out of 791) of the District’s high school AP course takers. In contrast, white students represented 38.4% (706 out of 1838) of the District’s total high school enrollment, and 69.8% (552 out of 791) of the District’s high school AP course takers. Using a Chi Square test, OCR determined that African-American high school students were underrepresented in AP courses to an extremely statistically significant degree.⁹

The District holds an annual AP Forum Night, at which teachers and District staff try to encourage participation of all students in AP and other advanced, college ready courses. The District notifies parents of the forum by newsletter and on the District website. The District also uses brochures, newsletters, its website, and other media to notify parents

⁹ OCR determined that in only one AP course did African-American student participation exceed the rate of African-American high school enrollment; namely, African-American students represented 63% of the enrollment in AP French Language and Culture (17 of 27). African-American student participation ranged from 4%-28% in all other AP courses.

and students about the AP offerings. In addition, the District notifies African American parents directly of the availability of AP courses for students through the National Minority Student Achievement Network (NMSAN).¹⁰

The District informed OCR that there is no particular curriculum offered to prepare students for entrance into the District’s high school honors and AP courses, although introductory courses in algebra and Spanish are offered at the middle schools and completion of these courses would provide additional preparation for the high school honors and AP courses. Additionally, certain after-school programs, such as the MAC (“Minority Action Coalition”) Scholars program (discussed in greater detail below) and the robotics program,¹¹ encourage participation by middle school students and to some extent elementary school students in higher-level programs.

Dual Enrollment

The District offers dual enrollment to 11th and 12th grade students, whereby students enroll in courses at local universities and community colleges, while still in high school. Students completing the District’s two AP Calculus courses may take a third semester of calculus at Essex Community College. Students also are offered the opportunity to enroll in courses at Essex Community College through an independent study program, without particular pre-requisites, including a dual credit program in TV and film production, through which students can earn college credit toward an associate’s degree while still in high school. The District also offers dual enrollment with Rutgers University for certain coursework.

Vocational/Career Ready Courses

The District offers high school students a variety of courses that are tailored to “career readiness.” The “media and technology” department offers a number of courses, such as journalism and television production; the industrial technology department offers courses such as architectural model building, computer aided design courses; and the career and technical education department offers word processing, business computer applications, and desktop publishing. The entrance courses in these departments have no prerequisite courses.

Online Technology Classes for 11th and 12th Grade Students

¹⁰ The NMSAN is a national coalition of multiracial, suburban-urban school districts working toward understanding and eliminating achievement/opportunity gaps that persist in their schools.

¹¹ The District offers the Robotics program at the high school; it is open to any high school student. In school year 2013-2014, the robotics team invited students at the elementary and middle school levels to participate in some of the club’s activities. The District has created partnerships with local colleges, including Seton Hall and New Jersey Institute of Technology, to participate in inter-scholastic competitions with other school districts in the construction of robots.

The District began offering a variety of online technology courses for eleventh and twelfth grade students during school year 2012-2013, in partnership with Educere.¹² Courses include Computer Fundamentals, Computer Literacy, Game Design, Programming I (Visual Basic), Programming II (Java Script), Web Design, 2Dimensional Design, Flash Animation, and Understanding computers. Each class is offered as an independent study and is taken in addition to the student's regular schedule.

MAC Scholars

The District sponsors the MAC Scholars program, whereby high school students of color who are high academic achievers tutor middle school students of color. Middle school students of color also “shadow” these high school students, who encourage good study practices and participation in academically challenging programs at the high school.

Conclusion

OCR's investigation revealed that the District offers numerous college and career ready opportunities to its high school students, including AP and honors courses, as well as dual enrollment courses. While the District has modified and, in some cases, eliminated selection criteria for its high school AP courses, and operated programs designed to encourage students of color to participate in high rigor coursework, OCR determined that there is a statistically significant underrepresentation of African American students in the District's high school AP courses. While African American students were 51.5% of high school enrollment, they were enrolled in only 18.7% (148 out of 791) of AP learning opportunities.

OCR also noted that the District offers other higher level learning opportunities to students in earlier grades, including the ELA and Mathematics Enrichment Programs at the elementary school level, and its new IB Middle Years Program at the middle school level. The District has increased participation in these opportunities by, for example, providing elementary ELA enrichment to all 4th and 5th grade students. The District has also taken steps to increase the academic rigor of its middle school curriculum with the introduction of the IB Middle Years Program, which the District hopes will ensure that all students have passed at least one college preparatory math class prior to high school enrollment and are thus academically prepared for college preparatory courses in high school. Still, OCR determined that African American student were underrepresented to a statistically significant extent in the District's advanced math courses at the District's middle schools, in which only 23 students (11.7%) were African American, while 407 (42.9%) out of 949 total students enrolled in seventh and eighth grade were African American. OCR also determined that African American students were underrepresented to a statistically significant degree, in fourth and fifth grade math enrichment programs offered at the District's four elementary schools, Clinton, Jefferson, Seth Boyden, and Tuscan.

¹² According to its website, Educere offers virtual education opportunities to K-12 schools, students, and educators, through relationships with university, college, and other education providers.

Prior to the conclusion of OCR’s investigation, the District expressed interest in entering into an agreement with OCR to voluntarily resolve the issues raised in the compliance review. Therefore, on October 1, 2014, the District submitted the enclosed Agreement.

Pursuant to the Agreement, the District will take specific actions to ensure that it is providing an equal opportunity and equal access for all students, including African American students, to its higher level learning opportunities. The Agreement provides that the District will conduct a review and self-assessment of its current programs and courses offered at the elementary, middle, and high school levels, including its enrichment, advanced math, high school honors and AP courses, to identify any potential barriers, such as lack of course offerings or supports at the elementary and middle school level necessary to increase student preparedness and readiness for and increase their participation in college and career preparatory programs and courses in high school, and will take action to reform its programs consistent with the review and self-assessment. The District also will survey students, parents/guardians, and staff as part of its review and self-assessment, regarding their perceptions and understanding of the supports, curricula, and resources offered at the elementary and middle school level and the process for recruitment, selection, and participation in college and career preparatory programs and courses in high school. The Agreement also commits the District to improve its outreach to parents of African American students in the District; determine whether changes are needed to its academic counseling services at the middle and high school levels, and change its training plan to improve the understanding of school site administrators, counselors and teaching staff regarding the District’s higher level learning programs. In addition, the District will retain and work with a consultant¹³ with expertise in addressing the underrepresentation of African American students in college and career preparatory programs and course to analyze District data and practices, at all grade levels, and to make recommendations, as appropriate, for improving the District’s efforts to provide all students with equal access to and an equal opportunity to participate in such programs and courses. The District will consider this input in making changes and improving its efforts in this area; and will continue to maintain and analyze data regarding enrollment and participation in higher level learning opportunities.

Additionally, as referenced above, the District is implementing the Plan, which includes the District’s commitment to a rigorous IB curriculum at the middle school and extension of that curriculum to the high school. The District’s IB curriculum emphasizes developing the effectiveness of teachers and leaders, implementing comprehensive instructional reforms, and de-leveling of courses at the middle school level (i.e., providing all students with ELA, science and social studies instruction at a single level, which continues the de-leveling of courses at the elementary level, where all students are provided ELA enrichment) and at the high school level (i.e., modifying admissions criteria for some AP courses and considering extending the IB program into the high school and). OCR will consider information regarding the District’s implementation of the Transformation Plan in the course of its monitoring of the Agreement.

¹³ The consultant may be in-house or retained from the outside.

If the District fails to comply with the terms of the Agreement, OCR will take appropriate action to ensure the District's full compliance with Title VI and its implementing regulation.

This concludes OCR's investigation 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 compliance review. 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.

It is unlawful to harass, coerce, intimidate or discriminate against any individual who has filed a complaint, assisted in a compliance review, or participated in actions to secure protected rights.

Thank you for your cooperation during this compliance review. If you have any questions regarding this letter or during the monitoring of the District's implementation of the Agreement, please contact Diane Castro, Compliance Team Investigator, at (646) 428-3808 or diane.castro@ed.gov; or Anna Moretto Cramer, Compliance Team Attorney, at (646) 428-3826 or anna.moretto.cramer@ed.gov; or James Moser, Compliance Team Attorney, at (646) 428-3792 or james.moser@ed.gov.

Sincerely,

Timothy C.J. Blanchard

Encl.

cc: Philip E. Stern, Esq.