



October 10, 2012

New York Office
Office of Civil Rights
U.S. Department of Education
32 Old Slip, 26th Floor
New York, NY 10005
Sent Via Fax and U.S. Mail

***Asian American Amicus in Support of Administrative Complaint by the
NAACP Legal Defense and Educational Fund***

Dear New York Civil Rights Office:

The National Asian American Coalition (“NAAC”) is a Pan Asian American empowerment and advocacy group that has a regulatory and congressional liaison office in Washington D.C. Although headquartered in California, the NAAC works with Asian American community groups in New York City and virtually every other state with significant Asian American populations.¹

It is presently investigating concerns by Chinese American students that the San Mateo high school district discriminates against Chinese Americans through the misuse of testing scores.

It files this informal “amicus” brief in support of the NAACP Legal Defense and Educational Fund, the Latino Justice PRLDEF and the Center for Law and Social Justice at Medgar Evers College.²

Eighteen million (18.5 million) Asian Americans in the nation are affected by the arbitrary New York City Department of Education policies at Stuyvesant High School, Bronx High School of Science and Brooklyn Technical High School. These arbitrary policies at these

¹ Our board of directors includes Chinese Americans, Japanese Americans, Korean Americans, Filipino Americans, Blacks and Latinos, and we work with six major Asian American sub-ethnic groups and also with smaller groups, such as Cambodians, Laotians, Hmong, Burmese and Samoans. We also work closely with and file many actions in coordination with major Black and Latino groups since we believe that in a successful multicultural society, we all gain by the inclusion of a broad range of perspectives.

² We file this in consultation with our civil rights general counsel, Robert Gnaizda, of the class of 1953 at Stuyvesant High. Mr. Gnaizda, a graduate of Columbia College (class of 1957) and Yale Law School (class of 1960), is a co-founder of three public interest firms, California Rural Legal Assistance (1966), Public Advocates (1971) and the Greenlining Institute (1984), as a result of attending Stuyvesant High School.

three elite high schools, which ignore all factors relating to leadership and future academic, business, professional and political success, create harm to the very large Asian American student bodies at these three schools. These arbitrary policies deprive Asian American students of an opportunity to meet, work with, learn about, socialize with and understand other diverse cultures that clearly influence America's present and even more so its future political, business, cultural and economic progress.

When Asian American students graduate from Stuyvesant or other elite New York City public high schools, they are likely, as they attempt to move up the ladders of success, to compete in environments with large numbers of Blacks or Latinos.

We offer the following statistics in support:

1. Many Asian American students will be admitted to elite colleges, such as Harvard, Yale and Columbia (up to 10% may be Stuyvesant graduates); they will have to compete with large numbers of Blacks and Latinos due to a distinguished leadership admissions policies that properly consider the most important factors in success. For example, Harvard's class of 2016 includes 10% Blacks and 11% Latino, and Columbia includes 12% Blacks and 13% Latinos.
2. Many will work in corporations where large numbers of Blacks and Latinos occupy high positions. For example, over 10% of the 5,600 board members of the Fortune 500 corporations are Black or Latino.
3. They will work in government. The Obama Administration Cabinet, for example, includes two Latinos and three Blacks, including Attorney General Eric Holder, a distinguished graduate of Stuyvesant, the Bush cabinet included three Latinos and three Blacks, such as Condoleezza Rice and Colin Powell.
4. In the Western Hemisphere, the majority of the population and virtually all leaders are Latino. And in Africa, the vast majority of nations and the leadership are Black.

Harvard and Columbia, as well as most other elite universities, choose their undergraduates based on more than test scores. They include excellence in specialized fields of interest, including athletics, and examine leadership potential, as well as ability to succeed academically and professionally.

We are aware that since the 1970s, New York state law has mandated the present arbitrary and ineffective admissions process for the city's most elite schools, Stuyvesant, Bronx Science and Brooklyn Tech.

We are also aware that the well-respected bipartisan mayor of New York City has recently declared his unequivocal support for this arbitrary requirement for admissions. However, schools such as Stuyvesant, which graduates the highest number of national merit scholars and leading government figures, such as present Attorney General Eric Holder, should on their own, through their principal, faculty and alumni, intervene in this case as amici to discuss their concerns about elite schools failing to fully educate the future leaders from the

Black and Latino communities despite the majority of students eligible for these schools being either Black or Latino.

The present failures are particularly disturbing since more than two-thirds (68.3%) of New York City public school students are Black and Latino, and Blacks and Latinos comprise 45% of those who took the elite public high school SHSAT examination for admissions.

As Stuyvesant, for example, will acknowledge, only 1% of its enrolled students are Black and only 3% are Latino. Further, only 2% of newly admitted students will be Black and only 3% will be Latino. Equally significant, three decades ago, Black student enrollment at Stuyvesant was more than ten times higher (13%). The present failures clearly and unequivocally demonstrate that the problem is not lack of qualified Black and Latino students. The problem is an arbitrary admissions policy that has no relationship to future success.

The National Asian American Coalition is prepared, in coordination with the Black and Latino organizations that have filed this administrative complaint, to conduct a predictive validity study that will demonstrate that the SHSAT exam in existence does not predict success even at Stuyvesant, much less at Columbia or Harvard, and certainly not in the professional, business, political and cultural worlds.³

We are also prepared to do a predictive study demonstrating that Asian American students do better both academically and in terms of future success when they are part of fully integrated and diverse student bodies, such as exists at Harvard.⁴

Our organization concurs with the NAACP Legal Defense and Educational Fund that the best practice in order to ensure a diverse and representative population at an elite public high school is to adopt a multiple measure -approach used by most elite high schools outside New York City and by every elite private college. It should also be noted that this multiple measure -approach is one that has been used by every American president in his appointments.

The elite New York City Hunter Science High School, for example, uses this multiple measure -approach. Its student body ranges 19% to 22% Blacks and 39% to 41% Latino.

We also support the position taken by the University of Texas in its pending case before the U.S. Supreme Court [*Fisher v. University of Texas*] that allocates a portion of admission slots to top performing students at each of the public schools in the state.

³ We also note with interest the NAACP Legal Defense and Educational Fund's comments beginning at page 23 of their complaint that the SHSAT is not even scored in a predictive fashion. That is, it awards disproportionate points for a student who is extremely skilled verbally but is inadequate in math or vice versa. This has the potential to produce brilliant but relatively illiterate scientists who cannot communicate to the rest of the world or even their employers.

⁴ In order not to distract from the importance of this case as it affects Blacks and Latinos, we do not at this time raise other discriminatory issues relating to the absence of sub-ethnic Asian American groups that are barely, if at all represented at Stuyvesant, Bronx Science and Brooklyn Tech. This includes Cambodians, Laotians and the Hmong.

Conclusion

Based on the importance of this case to the future of all Asian Americans' political and business success nationally and internationally⁵ we have asked our entire diverse board to sign this amicus proceeding. Our board is one of the most diverse nonprofit boards in America, including leadership from the Chinese American, Korean American, Japanese American, Filipino American, Black and Latino communities.

Respectfully submitted,

/s/ Faith Bautista
Faith Bautista
President and CEO

/s/ Cora Oriel
Cora Oriel
Chairman of the Board

/s/ Jason Akira Hobson
Jason Akira Hobson
Board Member

/s/ Amado Hernandez
Amado Hernandez
Board Member

/s/ Joon Han
Joon Han
Board Member

/s/ Ben Su
Ben Su
Board Member

/s/ Richard Li
Richard Li
Board Member

/s/ Leon Cook
Leon Cook
Board Member

⁵ See the Pew Research Center study, *The Rise of Asian Americans*.