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Federal Appeals Court Allows NYC High School Admissions Case to Proceed; No Court Ruling Today on Substance of Alleged Racial Discrimination

NEW YORK - Today, a federal appeals court issued a decision in a lawsuit aiming to halt New York City's attempts to make admissions to its selective public high schools fairer and more inclusive for the city's diverse student population. The case, *Christa McAuliffe Intermediate School PTO v. Bill de Blasio*, began in 2019 and alleges that the expansion of the Discovery Program—designed to increase access and opportunity for all students—is discriminatory against Asian American students.

Previously, a district court found that the defendants had not shown that the policy had a discriminatory impact on Asian Americans and thus should not proceed. Today's decision did not examine the question of whether or not the Discovery Program expansion actually discriminated against Asian American students. Rather, the decision sends the case back to the trial court to proceed to discovery—a process through which both sides request and exchange documents and elicit testimony that may help the court to decide whether there was any discriminatory intent in the expansion of the Discovery Program.

A racially diverse group of students and families requested and was granted intervenor status in March 2020 to defend the expansion of the Discovery Program, including the Coalition for Asian American Children and Families, Desis Rising Up and Moving, Hispanic Federation, and Teens Take Charge. Together, the group has helped to defend the expansion of the Discovery Program as a modest, but important, step towards giving more students a fairer chance at competing for admission to NYC's selective admission public high schools. The group is represented by legal and civil rights organizations [Legal Defense Fund \(LDF\)](#), [ACLU](#), [LatinoJustice PRLDEF](#), [NYCLU](#), and [Brown Rudnick LLP](#).

Though the plaintiffs alleged that the City's policy change regarding the Discovery Program discriminates against Asian American students, data indicates that Asian American students fared better under the new challenged policy. In 2019 and 2020, Asian Americans were up to 6-7.5 times more likely than Black, Latinx, and white students to receive an offer of admission to a specialized high school. In 2020, Asian Americans were 12-13 times more likely than Black and Latinx students to receive an offer to attend Stuyvesant and 5-7 times more likely than Black and Latinx students to receive an offer to attend Bronx Science.

“The City's modest attempt to make the admissions process fairer for low-income students of color should be celebrated, not challenged in court,” **said Michael Turnage Young, Senior Counsel and Co-Manager of the Equal Protection Initiative at LDF.** “All of New York City's students should enjoy an equal opportunity to compete for admission to its most selective public high schools, which are funded with taxpayer dollars. Our work is far from over. We will remain unyielding in our pursuit of equal opportunity and justice for all New York City students.”

“An admissions system that routinely denies Black and Brown students access to schools is unjustifiable and unacceptable,” **said Stefanie Coyle, Deputy Director of the Education Policy Center at the New York Civil Liberties Union.** “The roots of New York City’s segregated school system run deep, and racially integrated schools are our best chance to break the endless cycle of purposeful discrimination and disadvantage. All students deserve access to a high-quality education — we will not stop defending the city’s effort to expand access to specialized high schools because diversity and equity must be at the forefront of all New York schools.”

“Admission to New York City’s specialized high schools, funded by all taxpayers irrespective of race, should not be considered a ‘zero-sum game,’ as the Second Circuit Court of Appeals expressed in its terribly disappointing decision,” **said Fran Fajana, Director of Racial Justice Strategy at LatinoJustice PRLDEF.** “Deeming admission to publicly funded institutions a ‘zero-sum game’ cements inequality. It also stymies the city Department of Education’s obligation to expand opportunity to Black and Latino students who make up two-thirds of the city’s public school population yet persistently comprise a mere ten percent of the student body at the specialized high schools that open so many doors for its graduates. We cannot lose sight of that shameful reality. We must redouble our resolve to fight for opportunity for all students.”

“New York City’s Discovery Program was designed to address longstanding disparities and increase access for economically disadvantaged students, regardless of race, to the City’s top public high schools. These modest steps do not discriminate against any racial or ethnic group, including Asian Americans, nor do they harm Asian American students as a group,” **said Sarah Hinger, Deputy Director of the ACLU’s Racial Justice Program.** “We welcome the opportunity to prove this and show that the Discovery Program has, in fact, benefited many students by expanding opportunities for those from underrepresented, low-income communities.”

For decades, NYCDOE has maintained an admissions process that results in the marked under-identification of qualified Black and Latinx students for admission to the City’s eight most prestigious public high schools, called the Specialized High Schools (SHS). Although two-thirds of NYC public school students are Black and Latinx, they represent only a small fraction of students enrolled in the SHS. The Discovery Program enables high-achieving students from low-income communities, who barely missed qualifying for admission based on standardized test scores, to earn admission to the SHS after completing a summer preparation session.