



PHILADELPHIA
1315 Walnut Street, Suite 400
Philadelphia, PA 19107-4717
T 215-238-6970
F 215-772-3125

PITTSBURGH
429 Fourth Ave, Suite 702
Pittsburgh, PA 15219
T 412-258-2120
F 412-467-8940

October 11, 2018
Kristina Moon, Staff Attorney
Education Law Center-PA

Equity Concerns in the High School Selection Process

Testimony to the Student Achievement and Support Committee of the Board of Education of the School District of Philadelphia

I appreciate the Committee’s interest in ensuring the district’s high school selection process is equitable and provides meaningful access for all students.

The [Education Law Center-PA](http://www.ELC-PA.org) (“ELC”) is a nonprofit legal advocacy organization dedicated to ensuring that all children in Pennsylvania have access to quality public education. We advocate on behalf of educationally at-risk students including children of color, children living in poverty, children with disabilities, English learners, LBGTQ students, those in the foster care and juvenile justice systems, and children experiencing homelessness. ELC employs a broad range of strategies to accomplish our mission, including direct legal representation, impact litigation, educating parents and students about their legal rights, supporting community-based groups, and policy advocacy at the local, state, and federal levels. We are recognized across the state and nationally as experts in education law and a valuable resource to those who work on behalf of children.

ELC receives hundreds of calls from families through our Helpline, and also engages in conversations with advocates, community groups, teachers, administrators and other professionals regarding the needs of students with disabilities and English Learners (or “ELs”), immigrants and limited English proficient (“LEP”) parents. These diverse stakeholders have raised significant and similar concerns regarding barriers that prevent equitable access to the school district’s high school selection process.

In the last year, the school district has made a strong effort to broaden its information campaign and publicize the timeline and procedure for high school selection. Unfortunately, the process is still effectively inaccessible for many students, including 8th graders who simply do not have teachers that commit extra hours to help individual students with applications. Too many of our students living in the city’s poorest communities attend struggling neighborhood schools that do not provide these support services. Many students do not have perfect attendance or zero discipline records, which prevents smart and capable students in poorer neighborhoods from attending our city’s most sought-after public schools. Since poverty is often tied to race and ethnicity, these barriers also reinforce the segregation of our schools. The district should consider “integration strategies” adopted in other jurisdictions like NYC¹ which remove selective admissions criteria like high standardized test scores, perfect attendance and zero discipline incidents and instead use a lottery that gives extra weight to students who come from

¹ See Vega, Christine, *Brooklyn middle schools eliminate ‘screening’ as New York City expands integration efforts*, <https://chalkbeat.org/posts/ny/2018/09/20/brooklyn-middle-schools-eliminate-screening-as-new-york-city-expands-integration-efforts/>

low-income families, are learning English or are homeless. This could provide a real equitable opportunity for all students to enjoy the privilege of attending a challenging, quality high school. Research shows the importance of integrating students of different backgrounds and ability levels at the classroom and school level to decrease achievement gaps based on race, ethnicity and income levels. Magnet schools that effectively integrate all students at the classroom and school level provide opportunities for students from various backgrounds to learn together, breaks down socioeconomic barriers, diminishes preconceptions and stereotypes and allows students to benefit from one another.²

Students with disabilities must have an equal opportunity to participate in the high school programs that are made available to their nondisabled peers. The *LeGare* Consent Decree (E.D. Pa., 1994) arose out of a class action suit filed by ELC which sought to ensure that students with disabilities were not precluded from attending selective and highly desirable high schools due to disability-related characteristics and issues that prevent such students from meeting all of the admission criteria for such schools. *LeGare* established new policies and procedures for inclusion of students with disabilities in specialized and magnet high school programs which includes different application review process and waiver of certain testing on a case-by-case basis. By board resolution of the School Reform Commission, this process is also applicable to English Learners.

Although important modifications were made to the high school selection process under the consent decree, the promise of *LeGare* has never become a reality for students with disabilities or English Learners. While the agreed-upon target was to enroll 7 percent of these students in special admission schools, this has never occurred. In fact, these students are barely represented in special admission schools. For example, in 2017-18 when 11% of District students were ELs and 14% were students with disabilities:

- Central H.S. reported 0.04% ELs (9 students in a student body of 2,388) and the percentage of students with special education needs was 0.6%
- Masterman reported 0.2% ELs (2 students in a student body of 1,198) and 0.9% students with special education needs

We believe the waiver process must change to be effective. We have heard from advocates working with students with disabilities that **most are not informed of the opportunity and do not have the supports needed to apply**. There is no indication that all families are made aware of the *LeGare* process through IEP meetings when they are apprised of other important rights. Moreover, when a student does want to apply, the process fails to center valuable input from families, prioritizes standardized testing, and lacks transparency.

We suggest that all special education coordinators and teachers receive more robust, detailed training on how to initiate and document conversations about high school admission in 7th grade and 8th grade. This training must be extended to charter schools so their staff have the knowledge needed to assist students with disabilities interested in applying for a district special admission school. Many families are told

² Pootinath, Pornpat & Walsh, Nathan (2011, December 6). Desegregated Schools with Segregated Classrooms. The Cities, Suburbs & Schools Project. Retrieved from <http://commons.trincoll.edu/cssp/2011/12/06/pornpat-and-nathan-temporarytitle/>; Kahlenberg, Richard (2009). Turnaround Schools That Work: Moving Beyond Separate but Equal. Washington: The Century Foundation available at http://school-diversity.org/pdf/NCSD_SIG_Proposal_withcoverletter_10-31-14.pdf

they may have no involvement with the “*LeGare* packet” – that it is handled solely by the district staff who families struggle to connect with for support. But a student’s application would be stronger with input from the family and advocates that know them best. If a family decides not to pursue special admission schools, there should be documentation with an affirmative “non-participation statement” that the family has knowingly chosen not to avail itself of the *LeGare* process. Most students that do apply are rejected - and frequently the family does not receive particular reasons for the rejection.

Special admission schools must be encouraged to accept criteria waivers and enroll students with disabilities, and the district’s impartial review of rejections must provide meaningful scrutiny of those decisions. To that end, we recommend the school be required to provide a written decision with a full explanation regarding why the student was rejected, and the district should provide a written appeal process for families to provide further information (i.e. a student’s absences are due to a medical condition).

English Learner students and families who are limited English proficient face a similar lack of meaningful access to special admission schools in part because parents are unable to navigate the process, are not informed of available waivers for standardized tests, and have little support in the process.

The high school application process generally – which begins in 8th grade – is fundamentally unfair to high school aged ELs who have recently arrived and are provided no information or avenue to participate. Students with great academic potential, but limited English or no standardized test scores, are unlikely to be accepted to special-admission schools simply because they – through no fault of their own – do not have the standard evidence of grades, test scores or attendance to put forward in their application. Special admission schools and CTE programs must be encouraged to accept EL students and provide the appropriate ESOL support so students can thrive there.

Parents who are limited English proficient need more support to navigate the education system. The school district should engage more with community advocates and support organizations to help explain the system and how parents can play a role. Schools are not always providing effective translation and interpretation services to permit parents to engage in schools and ensure that their children are successful. We recommend that the District increase services, staffing and resources in all schools, **including an adequate number of Bilingual Counseling Assistants (BCAs) to serve the needs of students and families.**

Importantly, the high school selection process does not exist in a vacuum – for our EL students to meet their potential and be competitive, **the district needs to provide robust language instruction services to help close the gap in performance between ELs and their non EL peers.**³ We need to provide robust bilingual or English as a Second Language (ESOL) programming and adopt district-wide policies and standards to make sure they are effective. Currently there is wide variability among schools in programming for EL and immigrant students. For instance, in some schools, students get only 30 minutes of ESOL a day regardless of proficiency levels, and schools with only a few ELs may provide only tutoring or meeting with an itinerant teacher just once or twice a week. There are an insufficient

³ In the 2016-17 school year, 78% of ELs scored “below basic” in Biology compared to 42% of non-ELs, and 54% of ELs scored “below basic” in Algebra compared to only 26% of non-ELs.

number of ESOL/bilingual teachers and they are often pulled away to substitute in other classrooms. The District must increase and track the number of hours of ESOL instruction provided to students to meet state guidelines. In the absence of this intense support they will not make significant progress. And all regular education teachers should be trained to modify instruction so LEP students can access course content.

Finally, while *LeGare* does not extend to the district's charter schools, **federal civil rights laws do apply to our public charter schools and there is concerning evidence that the sector does not serve an equitable number of students with disabilities and English Learners.** ELC has published analysis of these enrollment disparities⁴ and represented individual cases of clear discrimination in the denial of enrollment for students with disabilities.⁵ We strongly urge the Board to consider whether a particular charter school is equitably serving all our students when reviewing applications for renewal and expansion and deny any applications where charter schools cannot satisfy these concerns.

Thank you to the Committee and Board for inquiring about this and for your support to ensure all our students have equitable access to the schools that will help them meet their greatest potential.

⁴ See, *Inequities in Pennsylvania's Charter Sector: Segregation by Disability*, 2017, <https://www.elc-pa.org/wp-content/uploads/2017/02/ELC-Analysis-Inequities-in-PA-Charter-Schools-Segregation-by-Disability.pdf>

⁵ See, e.g., *Demand Letter to Franklin Towne Charter High School*, 2018, <https://www.elc-pa.org/wp-content/uploads/2018/07/2018-06-26-ltr-to-FTCHS.pdf>