

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

COALITION FOR TJ,

Plaintiff,

v.

FAIRFAX COUNTY SCHOOL BOARD,

Defendant.

No. 1:21-cv-00296-CMH-JFA

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**PLAINTIFF'S MEMORANDUM**  
**IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

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## STATEMENT OF UNDISPUTED MATERIAL FACTS

### A. Background and Parties

1. Thomas Jefferson High School for Science & Technology (TJ) is a high school in Fairfax County, Virginia. It is designated an academic-year Governor's School. ECF No. 95 (Stipulated Facts ¶ 1). It is the nation's best public high school according to US News & World Report. Answer ¶ 22. In 2020-21, the racial makeup of TJ's student body was 71.97% Asian American, 18.34% white, 3.05% Hispanic, and 1.77% Black. Wilcox Dec.<sup>1</sup> Ex. 57.<sup>2</sup>

2. TJ is part of Fairfax County Public Schools (FCPS). FCPS is operated by the Fairfax County School Board (Board), a public body comprised of twelve elected members. According to FCPS, the racial makeup of FCPS students is: 36.8% white, 27.1% Hispanic, 19.8% Asian American, and 10% Black. Ex. 58.

3. Throughout 2020, Board members were: Ricardy Anderson, Karen Keys-Gamarra, Karen Corbett Sanders, Megan McLaughlin, Melanie K. Meren, Karl Frisch, Elaine Tholen, Stella Petarsky, Tamara Derenak Kaufax, Abrar Omeish, Rachna Sizemore Heizer, and Laura Jane Cohen. Stipulated Facts ¶¶ 2, 4. FCPS' superintendent was Scott Brabrand, TJ's admissions director was Jeremy Shughart, and TJ's principal was Ann Bonitatibus. Ex. 43 (Brabrand Dep. 9:4-9); Ex. 44 (Shughart Dep. 9:11-13); Ex. 45 (Bonitatibus Dep. 8:13-18).

4. The Coalition for TJ has more than 200 members, including 17 members of its core team and ten members of its leadership team. Nomani Dec. ¶¶ 6, 8, 12, 13.

5. The Coalition was founded in August 2020 to oppose changes to admissions at TJ.

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<sup>1</sup> Non-confidential exhibits are attached to the declaration of Erin Wilcox and labeled by number. For the remainder of the brief, they will be cited simply by their Exhibit number.

<sup>2</sup>The Court may take judicial notice of data contained on government websites, as well as FCPS press releases, Board meeting minutes and other public documents. *United States v. Garcia*, 855 F.3d 615, 621 (4th Cir. 2017); *Jones v. Shooshan*, 855 F. Supp. 2d 594, 604 (E.D. Va. 2012).

*Id.* ¶ 5. The Coalition was concerned that the admissions changes would discriminate against Asian-American students. *Id.* The leadership and core teams decided to pursue this case by unanimous consensus. *Id.* ¶ 47.

6. Coalition members include Asian-American parents with children who have applied to TJ or plan to do so in the near future. Among these are Dipika Gupta (whose son, A.G., is in eighth grade at Carson Middle School and has applied to TJ) and Ying McCaskill (whose daughter, S.M., is in seventh grade at Carson and plans to apply to TJ). Gupta Dec. ¶¶ 3, 9, 11; McCaskill Dec. ¶¶ 3, 6, 8. Another member is Harry Jackson, whose daughter, V.J., an eighth grader at Carson, identifies as Black but is half Asian American. Jackson Dec. ¶¶ 3, 5–6, 8.

#### **B. Fall 2020 TJ Admissions Changes**

7. Students must apply to TJ in order to be admitted. Students residing in five participating school divisions are eligible to apply to TJ: Fairfax County, Loudoun County, Prince William County, Arlington County, and Falls Church City. Stipulated Facts ¶¶ 5–6.

8. In the fall of 2020, the Board altered the TJ admissions process. *Id.* ¶¶ 9–14.

##### **1. Admissions process before the fall 2020 changes**

9. Before the Board’s fall 2020 changes, applicants to TJ were required to (a) reside in one of the five participating school divisions; (b) be enrolled in 8th grade; (c) have a minimum core 3.0 grade point average (GPA); (d) have completed or be enrolled in Algebra I; and (e) pay a \$100 application fee, which could be waived based on financial need. *Id.* ¶ 9.

10. Applicants who satisfied those criteria were administered three standardized tests—the Quant-Q, the ACT Inspire Reading, and the ACT Inspire Science. Those applicants who achieved certain minimum scores on the tests advanced to a “semifinalist” round. Students were selected for admission from the semifinalist pool based on a holistic review that considered GPA,

test scores, teacher recommendations, and responses to three writing prompts and a problem-solving essay. *Id.*

## 2. Admissions process after the fall 2020 changes

11. The Board’s fall 2020 changes to admission at TJ removed the exam requirement and altered the minimum requirements to apply. *Id.* ¶ 13. Following those changes, to be eligible for TJ, students must: (a) maintain a 3.5 GPA; (b) be enrolled in a full-year honors Algebra I course or higher; (c) be enrolled in an honors science course; and (d) be enrolled in at least one other honors course or the Young Scholars program. *Id.*

12. The Board also changed the evaluation process, moving from a multi-stage process to a one-round holistic evaluation that considers GPA, a Student Portrait Sheet, a Problem Solving Essay, and certain “Experience Factors,” which include an applicant’s (a) attendance at a middle school deemed historically underrepresented at TJ; (b) eligibility for free and reduced price meals; (c) status as an English language learner; and (d) status as a special education student. Ex. 56.

13. Applicants are scored using a rubric that assigns points for each part of the application: (a) up to 300 points for GPA; (b) up to 300 points for the Student Portrait Sheet; (c) up to 300 points for the Problem Solving Essay; and (d) additional points for each Experience Factor—90 points for free and reduced price lunch eligibility, 45 for attendance at an underrepresented middle school, 45 for status as an English language learner, and 45 for status as a special education student. Ex. N<sup>3</sup> (Shughart Dep. 162:1–165:15).

14. In addition to the changes to the eligibility criteria and the evaluation criteria, the new process guarantees seats for students at each public middle school in a participating school

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<sup>3</sup> Exhibits designated confidential by Defendant—and filed along with the motion to seal—are labeled by letter. For the remainder of the brief they are referenced by their letter label.

division equivalent to 1.5% of the school's eighth grade class size, with seats offered in the first instance to the highest-evaluated applicants from each school. Stipulated Facts ¶ 14.

15. After the guaranteed seats are filled, about 100 unallocated seats remain for students who do not obtain an allocated seat. *Id.* The highest-evaluated remaining students are offered admission. *Id.* Private school and home school students may compete only for these unallocated seats. Ex N. (Shughart Dep. 177:10–178:19).

### **C. Impact of Admissions Changes**

16. For the Class of 2025—the first year under the new system—the admitted class size increased by 64 students. Nevertheless, TJ admitted 56 fewer Asian-American students than it had the prior year. Exs. 50 & 51.

17. For the previous five years, Asian-American students never made up less than 65% of the admitted class. Exs. 51–55. For the Class of 2024, Asian-American students earned about 73% of the seats. Ex. 51. Following the admissions changes, the proportion of Asian-American students admitted for the Class of 2025 fell to about 54%. Ex. 50.

18. For the Class of 2025, 48.59% of eligible applicants to TJ were Asian American. Stipulated Facts ¶ 20. But among FCPS middle schools designated as “underrepresented”—Glasgow, Holmes, Hughes, Key, Poe, Sandburg, South County, Stone, Twain, and Whitman, *see* Ex. 56—23.9% of the eligible applicants who did not withdraw their applications were Asian American. Ex. A.<sup>4</sup>

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<sup>4</sup> After the parties agreed to a protective order, the Board produced five years' worth of individual data on TJ admissions including the Class of 2025 (application year 2020-21) and Class of 2024 (application year 2019-20), which is attached as Exhibit A to the motion to seal. The data presented here on applicants from FCPS underrepresented schools comes from the “20-21” individual data in this exhibit. Data is limited to FCPS schools because the individual data produced does not include attending middle school for non-FCPS applicants.

19. For the past five years, six FCPS middle schools have sent the most Asian-American students to TJ—Carson, Cooper, Frost, Kilmer, Longfellow, and Rocky Run. Ex. N. (Shughart Dep. 170:13–171:10, 181:1–182:8, & Dep. Ex. 16). For the Class of 2025, 66.3% of the eligible TJ applicants from those six schools who did not withdraw their application were Asian American. Ex. A.<sup>5</sup> Under the new admissions system, guaranteed admissions from these schools are capped at 1.5% of the class. Stipulated Facts ¶ 14. None of these schools are designated as underrepresented. Ex. 56. Asian-American students from these six schools received 102 offers for the Class of 2025, compared to 204 for the Class of 2024. Ex. A; Ex. N. (Dep. Ex. 16).<sup>6</sup>

#### **D. Facts Surrounding Admissions Changes**

20. In March 2020, the Virginia General Assembly enacted a requirement that Governor’s Schools develop diversity goals and submit a report to the Governor by October 1, 2020. 2020 Va. Acts ch. 1289, item 145.C.27(i).<sup>7</sup> The report must include the status of the school’s diversity goals, including a description of “admission processes in place or under consideration that promote access for historically underserved students; and outreach and communication efforts deployed to recruit historically underserved students.” *Id.*

21. On May 25, 2020, George Floyd was murdered by a police officer in Minneapolis. Nationwide protests followed, including in Fairfax County and the greater metropolitan Washington D.C. area.<sup>8</sup>

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<sup>5</sup> The data was compiled from the “20-21” school year individual data in this exhibit.

<sup>6</sup> The Class of 2024 data here was compiled from Ex. N (Dep. Ex. 16). The Class of 2025 data comes from the “20-21” individual data in Exhibit A.

<sup>7</sup> The entire bill is available here: <https://budget.lis.virginia.gov/get/budget/4186/HB30/>. The relevant provision is located on page 183.

<sup>8</sup> Both national and local media documented the aftermath of the George Floyd murder. The Washington Post documented protests here: <https://www.washingtonpost.com/dc-md-va/2020/06/06/dc-protests-saturday-george-floyd/> (last visited Dec. 2, 2021). Local media noted

22. On June 1, 2020, the Class of 2024 TJ admissions statistics were made public, showing that the number of Black students admitted was too small to report. Ex. 51.

23. A few days later, Bonitatibus wrote in a June 7 message to the TJ community that “recent events in our nation with black citizens facing death and continued injustices remind us that we each have a responsibility to our community to speak up and take actions that counter racism and discrimination in our society.” Ex. 45 (Bonitatibus Dep. 40:2–12 & Dep. Ex. 2 at 1). She went on to comment that the TJ community did “not reflect the racial composition in FCPS” and that if TJ did reflect FCPS’s racial demographics, it “would enroll 180 black and 460 Hispanic students, filling nearly 22 classrooms.” *Id.* (Dep. Ex. 2 at 2).

24. In June emails, Corbett Sanders called the admissions results “unacceptable” and promised “intentful action.” Ex. O at 2; Ex. 32 at 1.<sup>9</sup> In an email to Brabrand, Corbett Sanders wrote that the Board and FCPS “needed to be explicit in how we are going to address the underrepresentation” of Black and Hispanic students. Ex. 36 at 3–4. And at a June 18 Board meeting, Keys-Gamarra said “in looking at what has happened to George Floyd, we now know that our shortcomings are far too great . . . so we must recognize the unacceptable numbers of such things as the unacceptable numbers of African Americans that have been accepted to T.J.” Ex. 5 at 6.

25. In the summer of 2020, Keys-Gamarra, Brabrand, Bonitatibus, and Shughart all attended at least one meeting of a state-level task force on diversity, equity, and inclusion at

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protests in Fairfax County. See <https://patch.com/virginia/reston/hundreds-gather-outside-fairfax-police-hq-peaceful-protest> (last visited Dec. 2, 2021).

<sup>9</sup> This brief cites many communications between Board members, Board members and FCPS staff, and FCPS staff among themselves. Most of these are not offered for the truth of the matters asserted, but to show the intent or state of mind of relevant individuals. See Fed. R. Evid. 801(c)(2). In any event, communications of Board members and FCPS officials acting in their capacity as employees are not hearsay under Federal Rule of Evidence 801(d)(2)(D). See *Kitzmilller v. Dover Area Sch. Dist.*, No. 04CV2688, 2005 WL 4147867, at \*2 (M.D. Pa. Sept. 22, 2005).



Governor's Schools. Answer ¶ 39; Ex. 44 (Shughart Dep. 68:3–15). The task force discussed “solutions” for admissions to Virginia's Governor's Schools. Ex. 19 at 1. Among the solutions discussed was a potential state plan to require each school's diversity to be within 5% of the system it represents within four years. *Id.*

26. Brabrand testified that he “perceived that there was State-level dynamics, one, reflected by the October 1 report, and, two, by the Secretary of Education's task force that simple status quo, a report with just, we're just doing the same thing we've always done was not going to be received well.” Ex. 43 (Brabrand Dep. 55:6–56:9). Corbett Sanders and Omeish stressed the reporting deadline in emails. Ex. 16 at 1; Ex. 26 at 1.

27. FCPS staff developed a proposal for a “Merit Lottery” for TJ admissions, which they presented to the Board on September 15. Ex. 7. The proposal stated that TJ “should reflect the diversity of FCPS, the community and Northern Virginia.” *Id.* at 3.

28. The proposal discussed the use of “regional pathways” that would cap the number of offers each region in FCPS (and the other participating jurisdictions) could receive. *Id.* at 12–16. It included the results of Shughart's modeling, Ex. 44 (Shughart Dep. 109:5–21), which showed the projected racial effect of applying the lottery with regional pathways to three previous TJ classes, Ex. 7 at 18–20. Each of the three classes would have admitted far fewer Asian-American students under the proposed lottery system. *Id.*

29. At an October 6 Board work session, FCPS staff proposed using a holistic review to admit the top 100 applicants, but otherwise retain the lottery and regional pathways. Ex. 46 at 11–12. The presentation introduced consideration of “Experience Factors,” and the presentation noted as an “advantage” of the proposal that it “statistically should provide some increase in admittance for underrepresented groups.” *Id.* at 9, 12, 14.

30. The Board also took several votes, which it typically does not do during work sessions. Answer ¶ 33. One vote unanimously directed Brabrand to eliminate the TJ admissions examination. Another required that the diversity plan submitted to the state “shall state that the goal is to have TJ’s demographics represent the NOVA region.” Ex. 3 at 3. The public description of the work session did not provide notice that votes would be taken, Ex. 48, and no public comment was permitted before either vote. Answer ¶ 33.

31. During closed session on October 6, staff presented to the Board the details of the revised merit lottery proposal. This included a points system, with points for: GPA, a Student Portrait Sheet, a Problem Solving Essay, and various “Experience Factors,” including attendance at an “underrepresented” middle school. Ex. N (Shughart Dep. 150:4–152:12 & Dep. Ex. 12).

32. After the work session, Brabrand emailed Shughart stating that Board members sought modeling to determine whether points for experience factors would “change who got in.” *Id.* (Shughart Dep. at 156:1–17 & Dep. Ex. 13). FCPS staff thereafter discussed tweaks to the scoring system—particularly the weighting of the Experience Factors. Shughart sought a review of the weighting to determine whether it “would be enough to level the playing field for our historically underrepresented groups.” Asian-Americans are not among this group, while Black and Hispanic students are. Ex. N (Shughart Dep. 138:2–20; 146:2–5).

33. In response to Shughart, Lidi Hruda—director of FCPS’ Office of Research and Strategic Improvement, *see* Ex. N (Shughart Dep. 137:1–18)—wrote that certain parts of the application process had “historically favored White and Asian applicants,” so “only the Experience Factors” can “bring more diversity into play and acceptance of historically underrepresented students.” *Id.* (Shughart Dep. 136:11–137:9 & Dep. Ex. 11 at 6).

34. At the October 8 regular Board meeting, by a 6-6 vote, the Board rejected a motion

that would have directed Brabrand to “engage stakeholders regarding changes to TJ admissions for the 2021 freshman class prior to bringing the updated plan to the Board in December” and “allow for more thorough community input and dialogue on TJ admissions.” Ex. 4 at 4–5.

35. Consistent with this vote, multiple Board members expressed concern with the speed of the process and the adequacy of public engagement. Tholen wrote in her October newsletter to constituents that “the outreach to date has been one-sided and did not solicit input from all of our communities.” Ex. 29 at 7. Meren wrote in an October 6 email that she was “not okay with the rushed situation we are in.” Ex. 41 at 1. And Sizemore Heizer wrote on October 4 that “personally I think we need to wait to implement anything til [sic] next school year.” Ex. 28

36. Beginning in November, FCPS staff presented an entirely holistic plan for the Board to consider alongside the revised merit lottery. Exs. 2 & 6.

37. Board discussion of the new holistic plan was originally scheduled for November 17, but Corbett Sanders and Derenak Kaufax complained to Brabrand via email that they had only received the white paper containing analysis and modeling the night before. Ex. 25; Ex. 20 at 1. Accordingly, the discussion was postponed until December 7, when staff presented it to the Board alongside the revised merit lottery. Exs. 2 & 6. The holistic plan retained the use of regional pathways, which capped the number of offers from each region. Ex. 6 at 12–14.

38. Following the December 7 work session, Board members exchanged several draft motions in anticipation of the December 17 regular meeting. *See* Ex. 17 at 1, Exs. 12, 18. However, on December 16, Keys-Gamarra emailed Brabrand to express concern that there were “no posted motions for us to vote on.” Ex. 21. McLaughlin wrote that “it is unacceptable that no motions/amendments/follow-ons were posted (nor provided to the full Board) until 4:30pm, which

was 30 minutes before the Board went into Closed Session.”<sup>10</sup> Ex. 24.

39. At the December 17 meeting, the Board voted down the revised merit lottery proposal, 4-8. Ex. 1 at 4. The Board ultimately voted 10-1-1 (with McLaughlin abstaining and Anderson, who had supported the lottery, voting no) for a version of the proposed holistic plan. *Id.* at 4–5. The Board’s enacted plan rejected the proposed regional pathways in favor of guaranteed admission for 1.5% of each eighth grade class. *Id.* Because it was a variation on staff’s proposed holistic plan, the public did not see the 1.5% plan until motions were posted just before the Board meeting.

40. Board member communications show a consensus that, in their view, the racial makeup of TJ was problematic and should be changed. Ex. O at 2 & Ex. 32 at 1 (Corbett Sanders); Ex. 5 at 6 (Keys-Gamarra); Ex. 40 at 1 (Cohen); Ex. 49 at 1. Ex. 61 at 1 (Anderson); Ex. 30 at 6 (Tholen); Exs. 13 & 36 (Omeish); Ex. 37 (Sizemore Heizer); Ex. 15 (Petarsky); Ex. 30 (McLaughlin).

41. Board member text messages show that some members perceived anti-Asian American sentiment in the process to change admission. Exs. J & L. Some Board member communications expressly acknowledge that the admissions changes would discriminate against Asian-American students. Ex. J.

42. Some Board members also expressed the belief that the process of revising TJ admissions had been shoddy and rushed along—with McLaughlin writing in emails that “this is not how the Board should conduct its business” and “[i]n my 9 years, I cannot recall a messier execution of Board-level work.” Exs. 22 & 24. In an email after the final vote, she said she had

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<sup>10</sup> McLaughlin said much the same thing in the December 17 meeting. *See* [https://www.youtube.com/watch?v=1EjeA3EUzoY&ab\\_channel=FairfaxCountyPublicSchools](https://www.youtube.com/watch?v=1EjeA3EUzoY&ab_channel=FairfaxCountyPublicSchools) (at 2:17:02) (last visited Dec. 2, 2021).

abstained largely because of the substandard process. Ex. 24.

43. After the vote, several Board members were not sure whether the 1.5% guarantee would be based on the school a student actually attended or the one she was zoned to attend. Exs. 8, 9, 11. Brabrand insisted that the Board had voted for attending school, which produced the “geographic distribution the Board wanted.” Ex. 9 at 1.

### **SUMMARY JUDGMENT STANDARD**

Summary judgment “is appropriate ‘if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.’” *ACLU v. Mote*, 423 F.3d 438, 442 (4th Cir. 2005) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247 (1986)). “A genuine issue of material fact is one ‘that might affect the outcome of the suit under the governing law.’” *Metric/Kvaerner Fayetteville v. Fed. Ins. Co.*, 403 F.3d 188, 197 (4th Cir. 2005) (quoting *Anderson*, 477 U.S. at 248).

### **ARGUMENT**

#### **I. The Coalition Has Standing To Represent Its Members**

An association may sue on behalf of its members when “(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.” *Hunt v. Wash. State Apple Advert. Comm’n*, 432 U.S. 333, 343 (1977); *see also Md. Highways Contractors Ass’n, Inc. v. Maryland*, 933 F.2d 1246, 1251 (4th Cir. 1991). The Coalition satisfies these requirements.

The Coalition is a membership organization with more than 200 members. Nomani Dec. ¶¶ 6, 13. Its leadership and core teams chose to pursue this case by unanimous consensus. *Id.* ¶¶ 47. It

has members with children in seventh and eighth grade who have applied, or plan to apply, to TJ. Gupta Dec. ¶¶ 3, 9, 11; McCaskill Dec. ¶¶ 3, 6, 8; Jackson Dec. ¶¶ 3, 5–6, 8. These members would have standing to sue in their own right because the challenged policy renders their children unable to compete on a level playing field for a racial purpose. *See infra* Part I.B.1.; *see Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 719 (2007); *Boyapati v. Loudoun Cty. Sch. Bd.*, No. 1:20-cv-01075, 2021 WL 943112, at \*6 (E.D. Va. Feb. 19, 2021).

The remaining *Hunt* factors are also not in dispute. The Coalition was formed precisely to oppose the Board’s effort to change admissions at TJ. Nomani Dec. ¶ 5. And because the Coalition seeks only prospective injunctive relief, individual participation of members as parties is not necessary. *United Food and Com. Workers Union Local 751 v. Brown Grp., Inc.*, 517 U.S. 544, 546 (1996); *see also Students for Fair Admissions, Inc. v. Univ. of N.C.*, No. 1:14-CV-954, 2018 WL 4688388, at \*5–6 (M.D.N.C. Sept. 29, 2018). In short, there is no dispute of material fact on the Coalition’s standing to bring this action on behalf of its members.

## **II. The Board’s Undisputed Actions Violated the Equal Protection Clause**

Throughout this process, Board members and high-level FCPS officials were remarkably honest about their desire to remake TJ admissions because they were dissatisfied with the racial composition of the school. The only way to accomplish their goal to achieve racial balance was to decrease enrollment of the only racial group “overrepresented” at TJ—Asian Americans. Rather than using an explicit racial quota, the Board employed proxies that disproportionately burden Asian-American students. It is no surprise that Asian Americans received far fewer offers to TJ after the Board’s overhaul.

A case like this is the reason strict scrutiny applies to government actions “not just when they contain express racial classifications, but also when, though race neutral on their face, they

are motivated by a racial purpose or object.” *Miller v. Johnson*, 515 U.S. 900, 913 (1995). The record leaves no doubt the Board harbored such a purpose. Strict scrutiny therefore applies, and the Board cannot show that its actions meet this most demanding standard of judicial scrutiny. Therefore, the Coalition is entitled to summary judgment on its equal protection claim.

#### **A. Standard of Decision**

Determining racial purpose “demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available.” *Vill. of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 266 (1977). Relevant factors include: (1) the “impact of the official action;” (2) the “historical background of the decision;” (3) the “specific sequence of events leading up to the challenged decision;” and (4) the “legislative or administrative history . . . especially where there are contemporary statements by members of the decisionmaking body, minutes of its meetings, or reports.” *Id.* at 266–68. Impermissible racial intent need only be a “motivating factor”—it need not be “the ‘dominant’ or ‘primary’ one.” *Id.* at 265–66. And the Board members need not harbor racial animus to act with discriminatory intent. *See N.C. State Conference of NAACP v. McCrory*, 831 F.3d 204, 233 (4th Cir. 2016). To trigger strict scrutiny, the Board need only pursue a policy “at least in part ‘because of,’ not merely ‘in spite of,’ [the policy’s] adverse effects upon an identifiable group.” *Pers. Adm’r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979).

Once strict scrutiny applies, the burden shifts to the Board to prove that the changes are narrowly tailored to further a compelling government interest. *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200, 227 (1995). “This most exacting standard ‘has proven automatically fatal’ in almost every case.” *Fisher v. Univ. of Tex. at Austin*, 570 U.S. 297, 316 (2013) (Scalia, J., concurring) (quoting *Missouri v. Jenkins*, 515 U.S. 70, 121 (1995) (Thomas, J., concurring)).

**B. The Board’s Admissions Changes Were Motivated by a Racial Purpose**

Here, no dispute of material fact exists regarding any of the *Arlington Heights* factors—nor as to the ultimate question that the Board acted with discriminatory intent.

**1. The Board’s actions have had—and will have—a significant disparate impact on Asian-American applicants to TJ**

Under *Arlington Heights*, disparate impact is the starting point for determining whether the Board acted with discriminatory intent. By any measure, the Board’s overhaul of TJ admissions has had, and will have, a substantial disparate impact on Asian-American applicants to TJ.

**a. A before-and-after admissions data comparison demonstrates a clear impact against Asian-American students**

A simple comparison of publicly available data for the Class of 2025 with earlier classes tells much of the story. As depicted in the table below,<sup>11</sup> the number and proportion of Asian-American students offered admission to TJ plummeted following the challenged changes.

| Class | Offers to Asian-American students | Asian American proportion of offers (rounded) |
|-------|-----------------------------------|---|
| 2025  | 299                               | 54%   |
| 2024  | 355                               | 73%   |
| 2023  | 360                               | 73%   |
| 2022  | 316                               | 65%   |
| 2021  | 367                               | 75%   |
| 2020  | 335                               | 69%   |

This is more than sufficient for the Court to weigh the first *Arlington Heights* factor in favor of finding of discriminatory intent. The proper method for determining the “impact of the official action,” 429 U.S. at 266, is a simple before-and-after comparison. *See McCrory*, 831 F.3d at 231

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<sup>11</sup> Source: Exs. 50–55.



(finding impact sufficient to support an inference of discriminatory intent where “African Americans disproportionately used each of the removed mechanisms” to vote); *see also Boyapati*, 2021 WL 943112, at \*8; *Ass’n for Educ. Fairness v. Montgomery Cty. Bd. of Educ.*, No. 8:20-02540-PX, 2021 WL 4197458, at \*16 (D. Md. Sept. 15, 2021).

**b. The 1.5% middle school allocation disparately harms Asian-American students**

But there is much more evidence of disparate impact here. The undisputed evidence demonstrates precisely how the Board’s actions *caused*—and will continue to cause—such a substantial racial impact. Namely, the Board instituted a system that does not treat all applicants to TJ equally. *Cf. Ass’n for Educ. Fairness*, 2021 WL 4197458, at \*16–17 (noting that MCPS’ alleged use of “peer grouping” and “local norming” in magnet program admission disparately impacted higher-scoring Asian-American students).

As explained above, the new process sets aside seats for students at each middle school amounting to 1.5% of the school’s eighth-grade class. The highest-evaluated students at each school—so long as they meet the minimum admissions requirements—gain admission to TJ. Stipulated Facts ¶¶ 13–14. Those applicants who do not attain one of the allocated seats at their school are relegated to compete for about 100 total unallocated seats. Stipulated Facts ¶ 14. The set-aside plainly harms students who attend schools with proportionately more students interested in and eligible for TJ admissions. Ex. N (Shughart Dep. 170:13–176:17) (admitting that applicants from Carson, which had 400 eligible students and 286 TJ applicants (231 of whom were Asian American) for the Class of 2024, would have faced stiffer competition for the school’s allocated seats under the challenged plan than Whitman’s 19 applicants for its allocated seats). Not coincidentally, those schools are the ones disproportionately responsible for sending Asian-American students to TJ.

The 1.5% set-aside effectively targets students at the six schools previously most likely to send Asian-American students to TJ. *See supra* Undisputed Facts ¶ 19. Five of these six schools (all but Frost) had the highest proportions of students eligible to apply among FCPS middle schools. Ex. N (Shughart Dep. 173:21–174:10 & Dep. Ex. 17). The racial effect of the seat guarantee is clear—as the tables in the following section show, for both the Classes of 2024 and 2025, far more applicants from these schools were Asian American than the proportion of Asian Americans in the applicant pool. The set-aside disproportionately forces Asian-American students to compete against more eligible and interested applicants (often each other) for the allocated seats at their middle schools.

**c. The holistic review system for the final unallocated seats exacerbates the disparate impact to Asian-American students**

Yet the set-aside is only part of the equation. When applicants outside the top 1.5% are thrown into the unallocated pool, students are again treated unequally. This became publicly known when FCPS announced consideration of Experience Factors in the holistic evaluation. One of these factors is whether a student attends a middle school deemed historically underrepresented at TJ. Unsurprisingly, none of the six major FCPS feeder schools qualify, so students at these schools are placed at a significant disadvantage in the unallocated pool compared to their peers at underrepresented schools.

Moreover, the Experience Factors are not merely ephemeral tiebreakers, but have discrete point values assigned as part of the holistic evaluation. *Compare Grutter v. Bollinger*, 539 U.S. 306, 337 (2003), with *Gratz v. Bollinger*, 539 U.S. 244, 271 (2003) (noting the difference between a holistic review involving “individualized consideration to applicants of all races” and one that awarded points based on a “single characteristic” that “ensured a specific and identifiable contribution to a university’s diversity”). As Shughart testified, a student’s GPA is worth 300

points in the evaluation, with each GPA point being a quarter of that total. Ex. N (Shughart Dep. 162:1–163:6, 164:10–165:15).<sup>12</sup> Applicants may then earn a maximum of 300 points each for the Student Portrait Sheet and the Problem-Solving Essay, accounting for 600 additional base points. *Id.* (Shughart Dep. 162:11–163:20). The “Experience Factors” allow an applicant to earn up to 225 additional points—90 for a student who qualified for free or reduced-price lunch in the past three years, 45 for receiving English Language Learner services, 45 for special education students, and 45 for attending an underrepresented middle school. *Id.* (Shughart Dep. 163:7–164:6).<sup>13</sup> Thus, an otherwise similarly situated student with a 3.5 GPA who attends a school designated as “underrepresented” would actually receive more points than a student at a different middle school with a 4.0 GPA—all else being equal.<sup>14</sup> And as Shughart testified, each point makes a difference in a student’s chances for admission. Ex. N. (Shughart Dep. 159:5–11, 159:18–160:8).

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<sup>12</sup> Shughart’s testimony indicates that each GPA point is worth one quarter of the total points available. That is consistent with a version of the rubric Shughart considered in November, which explicitly noted that each GPA point was worth 50 admissions points. Ex. N (Dep. Ex. 14). Thus, under the 300-point maximum actually implemented, a student with a 4.0 GPA would receive 300 out of a possible 300 points, a student with a 3.0 GPA would—if he were eligible to apply—receive 225 points, and so on.

<sup>13</sup> The Board produced the scoring rubric Shughart testified to, but it appears to have been attached to a privileged document that was withheld. *See* Ex. B. Shughart confirmed the correct point weightings at his deposition, as noted above.

<sup>14</sup> The student with the 3.5 GPA would receive 37.5 fewer GPA points than the student with the 4.0 (263.5 versus 300), but would receive 45 “Experience Factor” points for attending an underrepresented school, resulting in 8.5 more total points.

The tables below<sup>15</sup> show the extent of the adverse impact on Asian-American students.

| Class | Total offers extended | Asian-American offers from top six feeder schools | Total offers from top six feeder schools | Asian-American offers from underrepresented schools (FCPS only) | Total offers from underrepresented schools (FCPS only) |
|-------|-----------------------|---|--|---|--|
| 2025  | 550                   | 102   | 132                                      | 29  | 80   |
| 2024  | 486                   | 204   | 243                                      | 5   | 18   |

| Class | Total applicants <sup>16</sup> from top six feeder schools | Asian-American applicants from top six feeder schools | Proportion of applicants from top six feeder schools who were Asian American | Proportion of all applicants who were Asian American |
|-------|--|---|--|--|
| 2025  | 912 (829)  | 596 (550)   | 65.4% (66.3%)  | 50.6% (48.6%)  |
| 2024  | 829 (808)  | 601 (594)   | 72.5% (73.5%)  | 56.0% (57.7%)  |

| Class | Total applicants from underrepresented schools (FCPS only) | Asian-American applicants from underrepresented schools (FCPS only) | Proportion of applicants from underrepresented schools who were Asian American (FCPS only) | Proportion of all applicants who were Asian American |
|-------|--|---|--|--|
| 2025  | 572 (473)  | 128 (113)   | 22.4% (23.9%)  | 50.6% (48.6%)  |
| 2024  | 388 (366)  | 111 (108)   | 28.6% (29.5%)  | 56.0% (57.7%)  |

The first table shows that students from the six feeder schools received only *half* as many offers for the Class of 2025 as they had for the Class of 2024. And while slightly more Asian-American students from underrepresented FCPS middle schools received offers the latter year, the increase

<sup>15</sup> Sources: Individual data (Ex. A), Ex. N (Shughart Dep. Exs. 15 & 16), & Exs. 50 & 51.

<sup>16</sup> The numbers not in parentheses count all applicants, regardless of eligibility or later decision to withdraw. Those in parentheses count only the applicants who did not withdraw their application, and, for the Class of 2025, only those who were eligible to apply.

did not even put a dent in the drastic impact on the six feeder schools. The second and third tables show that applicants from the six feeder schools were disproportionately Asian American in both years, but Asian Americans were disproportionately *underrepresented* among applicants from FCPS middle schools receiving the 45-point underrepresented school bonus.

Any way one slices the admissions data, it is clear that Asian-American students are disproportionately harmed by the Board's decision to overhaul TJ admissions. And in the future, Asian-American applicants will be disproportionately deprived of a level playing field in competing for both allocated and unallocated seats. The first *Arlington Heights* factor weighs heavily in favor of a finding of discriminatory intent.

**2. The historical background leading up to the Board's decision shows the changes were motivated by an impermissible racial purpose**

Placing the Board's actions in historical context leaves little doubt that its decision to overhaul the TJ admissions process was racially motivated. In a November 2020 white paper presented to the Board, staff noted "over the past ten years, the admissions process has undergone a series of changes that were intended to impact issues of diversity and inclusion" but "these changes have not made a significant impact on the diversity of the applicants or admitted students." Ex. 42 at 4.<sup>17</sup> The supposed ineffectiveness of this decade-long tinkering provides the scaffolding for understanding how 2020 events jumpstarted the Board's drastic admissions changes.

There were two specific triggering events that accelerated the Board's process and timeline. *First*, the Virginia General Assembly passed a budget bill in March that required Governor's Schools to submit a report to the Governor on the existence of and progress towards diversity goals, including a description of "admission processes in place or under consideration that promote

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<sup>17</sup> Not all of these changes were made by the Board. Ex. 44 (Shughart Dep. 32:11–35:12); Ex. 42 at 4–5.

access for historically underserved students; and outreach and communication efforts deployed to recruit historically underserved students.” *See supra* Undisputed Facts ¶ 20. And *second*, the murder of George Floyd in Minneapolis on May 25, 2020, was shortly followed by the release of the Class of 2024 admissions data on June 1, showing that the number of Black students admitted was too small to be reported. *See* Ex. 51.

The Board and FCPS reacted by jumpstarting TJ admissions changes. On June 7, Bonitatibus sent a statement to the TJ community that referenced the George Floyd murder and lamented that TJ does “not reflect the racial composition in FCPS,” specifically noting the number of Black and Hispanic students TJ would have if it so reflected. Ex. 45 (Dep. Ex. 2). Around the same time, Corbett Sanders in a series of emails stated that she was “angry and disappointed” about the TJ admissions results and expected “intentful action forthcoming,” Ex. 32 at 1, because “in seeing the numbers when they were released, we know that the current approach is unacceptable,” Ex. O at 2. She relayed a similar message to Brabrand, writing that the Board and FCPS “needed to be explicit in how we are going to address the under-representation” of Black and Hispanic students. Ex. 36 at 3–4. Cohen told a constituent that the number of Black students admitted was “completely unacceptable” and that the Board was “committed to examining and bettering” the admissions process. Ex. 40 at 1. And later that month, Keys-Gamarra said at a Board meeting “in looking at what has happened to George Floyd, we now know that our shortcomings are far too great . . . so we must recognize the unacceptable numbers of such things as the unacceptable numbers of African Americans that have been accepted to T.J.” Ex. 5 at 6.

Over the summer of 2020, Keys-Gamarra, Brabrand, and Shughart participated in state-level task force meetings on admissions to Governor’s Schools, Complaint ¶ 39; Answer ¶ 39; Ex. 44 (Shughart Dep. 68:3–15), after which Brabrand told the Board there was talk about the state

creating a four-year timeline for diversity Governor’s schools to be within 5% of diversity in their local districts. Ex. 19 at 1. The looming specter of a Richmond takeover pushed the Board to act quickly to change TJ admissions with an explicit eye towards its racial composition. As Brabrand testified, he “believed this October 1 requirement to submit a report meant we needed to look at our admissions process at TJ.” Ex. 43 (Brabrand Dep. 46:10–15); *see also id.* (Brabrand Dep. 53:17–54:4) (there was no specific timeline to address TJ admissions before the reporting requirement). In August, he told Corbett Sanders via email that “whatever the board decides to do or not do in September will ultimately influence what the Governor and the Secretary of Education decide in January.” *Id.* (Dep. Ex. 3). By this, Brabrand meant potential state legislative or administrative action in 2021 if the Board failed to make adequate changes. *See id.* (Brabrand Dep. 55:6–56:9) (“State-level dynamics” meant that the “status quo . . . was not going to be received well”). Omeish summed it up best in a September email, writing that she had “come to understand that the Virginia Department of Education plans to intervene if we do not.” Ex. 26 at 1.

In short, the impetus to overhaul TJ admissions came from several sources, *all* of which confirm that the Board and high-level FCPS actors “set out to increase and (by necessity) decrease the representation of certain racial groups [at TJ] to align with districtwide enrollment data.” *Ass’n for Educ. Fairness*, 2021 WL 4197458, at \*17. Board members promised action on TJ admissions that would specifically address the school’s racial makeup. After the summer state task force, FCPS officials scrambled to meet a perceived deadline from Richmond to overhaul admissions with race in mind. The background of the decision weighs strongly in favor of a finding of a discriminatory motive.

**3. The sequence of events leading up to the Board’s decisions and its departure from typical procedure show the Board was acting for an explicit racial purpose**

*Arlington Heights* requires consideration of “the ‘specific sequence of events leading up to

the challenged decision.” *McCrory*, 831 F.3d at 227 (quoting *Arlington Heights*, 429 U.S. at 267). “In doing so, a court must consider ‘[d]epartures from the normal procedural sequence,’ which may demonstrate ‘that improper purposes are playing a role.’” *Id.* (quoting *Arlington Heights*, 429 U.S. at 267). Here, there are several indications that (1) the process for changing TJ admissions was unreasonably hurried and (2) there was a noticeable lack of public engagement and transparency—even among Board members. While the Board does not appear to have broken any procedural rules as such, the evidence shows that, for such a significant set of actions, the procedure was remarkably rushed and shoddy. All this suggests that the Board sought to move quickly because, as Board member Omeish put it in a November email, the Board was “currently incurring reputational/political risks” meaning that “now is better timing.” Ex. 14 at 3.

After they participated in the state task force, Brabrand, Shughart, and other staff developed a “Merit Lottery” proposal for TJ admissions. Brabrand presented the proposal at a Board work session on September 15, 2020. Ex. 7. The presentation detailed a proposal to select TJ students via a lottery with “regional pathways” for five separate FCPS regions and the remaining jurisdictions that TJ serves. *Id.* at 12–16. The presentation focused on the projected racial effect, presenting the results of modeling Shughart had run, *see* Ex. 44 (Shughart Dep. 109:5–21), to demonstrate the effect of applying the lottery to three previous TJ classes—namely, a drastic drop in Asian-American students at TJ, Ex. 7 at 18–20. Brabrand’s PowerPoint indicated that a final decision on implementing the lottery could be made as early as the October 8, 2020, regular Board meeting. *Id.* at 22.

The Board threw a wrench in these plans. Three days after the September 15 work session, Corbett Sanders told Brabrand in an email that “the plan released on Monday has caused confusion in the community because of the over-reliance on the term lottery vs. merit.” Ex. 16 at 2. The



confusion wasn't limited to the public—McLaughlin reported that even *she* did not receive the proposal until two hours before the work session and there was no prior stakeholder input. Exs. E, F, G. Once it became clear that most of the Board members were opposed to a lottery for various reasons, Brabrand told the Board on September 27 that staff would prepare and present an alternative admissions proposal. Ex. 16 at 7. Corbett Sanders expressed hope that, unlike with the first proposal, “[i]deally we will be able to look at the plan in advance of the meeting.” *Id.*

There was also the issue of the October state reporting deadline. Corbett Sanders emailed Brabrand on September 19 that “it is not the timing of the work session that is energizing the community. It is the timing of looking at TJ.” *Id.* at 1. She suggested that “we make it clear that we are responding to a statutory mandate.” *Id.* And in an earlier email to Brabrand, she suggested that he “[c]larify that we have a statutory requirement to submit a plan to the state by 9 October.”<sup>18</sup> Ex. 16 at 2. Yet other Board members questioned whether the Board had to overhaul admissions in such a short timeframe—McLaughlin told a constituent that “Brabrand has created a false urgency that FCPS must drastically overhaul the TJ Admissions process within a three week decision-making window.” Ex. 23 at 2; *see also* Ex. 27 (Tholen forwarded to Board colleague Pekarsky an email from a member of the community who said she had talked to the Virginia Department of Education and was told that the plan submitted to the state could be “aspirational” and “general” and there was “no mandate for Governor’s Schools to produce a more diverse population”); Ex. C (October 8 text from McLaughlin to Board member Rachna Sizemore Heizer said that Brabrand “incorrectly told the Board (and the public) that we needed to make a rushed/unvetted decision by October 12th”).

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<sup>18</sup> Brabrand wrote in an email that he sought and received from the Virginia Secretary of Education an extension of this deadline until October 9. Ex. 39 at 1.

Nevertheless, the Board pressed on. At an October 6 work session, the Board viewed a presentation from Brabrand that proposed a revised merit lottery—it would have set aside seats for the 100 highest-evaluated applicants and selected the remaining seats via lottery among the students who met the minimum requirements after holistic review.<sup>19</sup> Ex. 46 at 11–12. Yet the Board also took several votes at the work session, something it has acknowledged it does not typically do. *See* Answer ¶ 33. Among these, it unanimously voted to remove the longstanding admissions exam without any public notice that such a vote would occur. Ex. 3 at 2; Ex. 48.<sup>20</sup> Then, while some Board members were expressing concern at a process that was moving too fast, Ex. 28, the Board at its regular meeting two days later rejected a motion that would have directed Brabrand to engage stakeholders and allow for more community input before presenting a final plan. Ex. 4 at 4–5. Tholen lamented to her constituents that the motion had failed and that “the outreach to date has been one-sided and did not solicit input from all of our communities.” Ex. 29 at 7.

After the October 6 work session, with support for any sort of lottery waning,<sup>21</sup> the Board sought an entirely holistic proposal. Ex. 42 at 41 (listing as a “next step” for staff<sup>22</sup> to “[b]ring to

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<sup>19</sup> The Board received the details of the holistic scoring method proposed along with this “Hybrid Merit Lottery” proposal in closed session, before the main presentation was presented in public view. Ex. N (Shughart Dep. 149:17–150:13 & Dep. Ex. 12). The proposal included 50 bonus points for attendance at an underrepresented middle school in a system with 1,100 base points.

<sup>20</sup> Notably, in response to Coalition leader Asra Nomani’s later concern that adoption of a new admissions process might be voted on at a work session too, Board member Tholen said that the Board was trying to “move away” from work session votes and that she hoped there wouldn’t be such a vote. Ex. 47.

<sup>21</sup> A text message between Board members McLaughlin and Sizemore Heizer indicates that there never was a majority on the Board in favor of a lottery at any time. Ex. H As the next subsection describes, Board members had varying reasons for rejecting both presented forms of lottery admissions.

<sup>22</sup> Shughart explained that “next steps” were “questions that board members proposed to staff to follow up on.” Ex. 44 (Shughart Dep. 97:17–98:5).

the board a holistic admissions approach that does not contain a lottery as an option for the board to consider as an alternative plan”). On November 16, FCPS staff released a white paper detailing a holistic option alongside the hybrid merit lottery. Ex. 42. The white paper included voluminous racial modeling and discussion of efforts to obtain racial diversity at TJ. *Id.* at 4–5, 25–31. These plans were initially to be discussed at a November 17 work session, but multiple Board members protested that the white paper was posted far too late for proper consideration. Ex. 25; Ex. 20 at 1.

The TJ discussion was ultimately postponed until December 7, when Brabrand presented the hybrid merit lottery and the new holistic plan at another work session. Exs. 2 & 6. The holistic method involved consideration of GPA, the Student Portrait Sheet, the Problem Solving Essay, and the Experience Factors, including attendance at an underrepresented middle school, with regional caps as in the Merit Lottery. Ex. 6 at 12–14. Thereafter, Board member confusion persisted—members were exchanging draft motions almost right up until the Board met to make a final decision on December 17. *See* Ex. 17 at 1, Exs. 12, 18. In the early morning of December 16, Keys-Gamarra emailed Brabrand and expressed concern that there were “no posted motions for us to vote on.” Ex. 21. McLaughlin chastised the Board both during the December 17 meeting and afterward, noting the failure to post any motions to the public or for the full Board until a half hour before the closed session began. Ex. 24.

At the December 17 meeting, the Board voted down the hybrid merit lottery proposal by a vote of 4-8. Ex. 1 at 4. Then it voted on a motion to direct Brabrand to implement the holistic proposal, except replacing the regional pathways with guaranteed admission to “the top 1.5% of the 8th grade class at each public middle school who meet the minimum standards.” *Id.* at 4–5. The 1.5% plan had not been presented publicly in any meeting before it was voted on. The vote passed by a margin of 10-1-1, with Anderson (who had voted for the lottery) voting no and

McLaughlin abstaining. *Id.* at 5. McLaughlin later wrote that she abstained at least in part because of the problematic process—she later wrote that “this is not how the Board should conduct its business” and that she could not “recall a messier execution of Board-level work” in her nine years on the Board. Exs. 22 & 24.

Even after the vote, Board members were not sure whether the top 1.5% was to be selected by a student’s *base school* or *attending school*—a question with significant ramifications because some FCPS schools have Advanced Academic Program (AAP) Level IV centers that draw in students from other middle school zones to attend them. *See* Ex. 10; Ex. 43 (Brabrand Dep. 134:8–135:5). Multiple Board members questioned staff on this topic after the Board voted to implement the holistic plan. Exs. 8, 9, 11. But Brabrand insisted that the Board had voted for *attending school*, which “represented the geographic distribution the Board wanted.” Ex. 9 at 1.<sup>23</sup> In the rush to overhaul admissions, some Board members were confused about what they had done.

All in all, the evidence shows the process was rushed, not transparent, and more concerned with simply doing *something* to alter the racial balance at TJ than with public engagement. In weighing this factor in favor of discriminatory intent, the Fourth Circuit in *McCrary* specifically noted the testimony of “legislators” who “expressed dismay at the rushed process.” 831 F.3d at 228. “This hurried pace, of course, strongly suggests an attempt to avoid in-depth scrutiny.” *Id.* The panel made sure to note that “unusual procedures” can weigh in favor of a finding of discriminatory intent even when the legislative body breaks no rules. *Id.* Here, the decision to vote on eliminating the TJ admissions examination at a work session without public notice was one

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<sup>23</sup> Brabrand noted that if base schools were used, “some base schools [sic] kids would never have any kids who physically attend the school get in.” Ex. 9 at 1. An email from Shughart demonstrated this point using AAP center school Carson and non-center school Franklin, which saw many of its zoned students attend the Center at Carson. Ex. 11 at 1–2.

such “unusual” procedure. And the same can be said for the lack of public engagement—the Board held full public meetings on renaming Mosby Woods Elementary School and Lee High School, *see* Exs. 59 & 60, but the public did not even see the proposed plan that the Board actually adopted for TJ admissions until 30 minutes before the final meeting. Such a process supports an inference of improper motive and tilts this factor in favor of a finding of discriminatory intent.

**4. The legislative and administrative history—particularly the comments of Board members and high-level FCPS employees--demonstrate the changes were motivated by a racial purpose**

Finally, “the legislative history leading to a challenged provision ‘may be highly relevant, especially where there are contemporaneous statements by members of the decisionmaking body, minutes of its meetings, or reports.’” *McCrory*, 831 F.3d at 229 (quoting *Arlington Heights*, 429 U.S. at 268). Here, emails and text messages between Board members and high-ranking FCPS officials leave no material dispute that—at least in part—the purpose of the Board’s overhaul of admissions was to change the racial makeup to TJ to the detriment of Asian-Americans.

Most obviously, the discussion of TJ admissions changes was infected with talk of racial balancing from its inception. This was apparent from the first proposal FCPS staff released after Brabrand attended the state task force and told the Board about a potential state plan to require demographic balance at Governor’s Schools. Ex. 19 at 1. The second slide of the initial merit lottery presentation, entitled “Leading with Equity at the Center,” declared that TJ “should reflect the diversity of FCPS, the community and Northern Virginia.” Ex. 7 at 3. The subsequent slides—comparing historical TJ admissions data by race with the racial makeup of FCPS and focusing on the racial effect of implementing a lottery—make clear that “diversity” primarily meant racial diversity. *Id.* at 4–5, 8–10, 18–20.<sup>24</sup>

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<sup>24</sup> *See also* Ex. 44 (Shughart Dep. 101:22–105:7) (acknowledging that “diversity” includes racial diversity and that TJ previously did not reflect the diversity of Northern Virginia).

While a majority of the Board did not support Brabrand's lottery proposal, the dissenters nonetheless *embraced* racial balancing. For example, McLaughlin, who vehemently opposed the lottery, proposed her own plan based on her experience as a university admissions officer. Ex. 30 at 1–3. Referencing that “[t]he Supreme Court has ruled that Diversity is a ‘compelling state interest,’” *id.* at 2, her proposal was designed to mimic those universities that use holistic admissions to “ensure their ACCEPTED Student Pools reflect both the demographic diversity and the high-achievement of their APPLICANT Pools.” *Id.* at 1. To “help the Acceptance Pool more closely reflect the Applicant Pool’s demographic diversity,” *id.* at 2–3, the proposal set aside seats for “[d]emographically diverse students.” *Id.* Tholen responded to McLaughlin’s plan with similar skepticism of a lottery, stating that a lottery “seems to leave too much to chance” and asking: “will chance give us the diversity we are after?” *Id.* at 6. In short, some Board members’ opposition to the lottery was at least in part due to a fear that a lottery *might not go far enough* to achieve racial balancing. *See* Ex. D. (McLaughlin text: “Using a lottery means random selection. How does that guarantee an increase in racial/SES diversity?”).

At the next work session on October 6, the Board adopted a resolution requiring that FCPS’ annual diversity report to the state “shall state that the goal is to have TJ’s demographics represent the NOVA region.” *Id.* It passed 11-0-1, with only Meren abstaining.<sup>25</sup> *Id.* This was more than an aspirational goal to be achieved by encouraging Black and Hispanic students to apply to TJ—Board members sought to use geography to obtain their desired racial outcome. Corbett Sanders

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<sup>25</sup> Brabrand’s public-facing email account responded to a parent email on October 8 saying that “[t]he Superintendent and the School Board believe that TJHSST should reflect the diversity of FCPS and our community. We recognize that the admissions process needs to be addressed in a comprehensive way.” Ex. 34 at 3. And although she had abstained from the vote, Meren favorably cited an email that said “[t]he merit lottery proposal is intended to make student body of TJHSST more representative of our county demographics.” Ex. 33.

advised Brabrand in late September that “it will be important to better communicate why a geographic distribution of students across the county will result in a change in demographics to include more students that are FRM [qualify for free or reduced-price meals], ELL [English language learners], black, Hispanic, or twice exceptional.” Ex. 30 at 4. The day before the work session, she emailed a constituent that she was “urging the superintendent to modify his plan to take into account geographic diversity as well as students on Free and Reduced Lunch which should result in greater diversity in the demographics.” Ex. 31 at 1; *see also* Ex. 15 (Corbett Sanders and Petarsky on October 6 saying all agree on the goal of diversity, and specifically that admissions should take into account “inclusion in under-represented populations”). And Sizemore Heizer wrote to Brabrand to suggest that he frame his plan as “increasing diversity through redefining merit.” Ex. 37. Omeish used more aggressive language, writing that she planned to “support the proposal towards greater *equity*, to be clearly distinguished from *equality*.” Ex. 38.<sup>26</sup>

The administrative history concurrent with the legislative history—here, the development of various proposals by FCPS staff—shows that staff did what the Board wanted, and that geographic diversity was understood to be a proxy for race. As early as May 27, 2020, staff sent the Board a proposal to revise TJ admissions to include three separate “pathways” with varying standards. Ex. N (Shughart Dep. 42:12–45:10 & Dep. Ex. 2). Pathway 1 would admit 350 students based on GPA and test scores, while Pathway 2 would admit 100 students based half on GPA and test scores and half on other factors, including the applicant’s zip code and whether he or she was eligible for free or reduced price meals. *Id.* at 6–7. Pathway 3 was designed to admit students

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<sup>26</sup> Omeish also agreed with an FCPS staff member that TJ did not “really have a pipeline issue because we have enough Black and Hispanic 8th grade Level 4 students (the most rigorous program we have in elementary and middle school) to fill an entire TJ class,” so “the best way to create more diversity is to change the admissions process and test specifically.” Ex. 13.

nominated from underrepresented middle schools who hadn't already gained admission. The proposal recommended evaluating these students under the metrics used to select Pathway 2 students because "[u]sing only Pathway 1 options would ensure regional diversity only and not racial/ethnic diversity." *Id.* at 9; *see also id.* (table noting that were three students selected from each underrepresented school using only the Pathway 1 statistics, 27 of those 30 students would have been white or Asian American).

Once the Board expressed dissatisfaction with the initial lottery plan, FCPS staff picked up where it had left off, developing a holistic proposal that uses "Experience Factors," including attendance at an underrepresented middle school. On September 27, Shughart asked Lidi Hruda to review the Experience Factors and "provide us a review of our current weighting and whether or not this would be enough to level the playing field for our historically underrepresented groups." *Id.* (Shughart Dep. 136:11–137:9 & Dep. Ex. 11 at 1). Hruda responded that "[i]t is hard to know what exactly will level the playing field but my gut says that you may need to double all the points (and the total) so the applicants can receive up to 200 points overall for these experience factors." *Id.* (Dep. Ex. 11 at 6).

They left no doubt that race was the primary factor. Hruda wrote that several portions of the TJ application had "historically favored White and Asian candidates," which leaves "only the Experience Factors to help shift the landscape and bring more diversity into play and acceptance of historically underrepresented students." *Id.* A scoring rubric including 200 points for Experience Factors—following Hruda's advice—was presented to the Board at the October 6 closed session before the vote to eliminate the admissions exam. *See id.* (Shughart Dep. 150:4–152:12 & Dep. Ex. 12). After that session, Brabrand emailed Shughart and FCPS Chief Operating Officer Marty



Smith asking “would 200 points change who got in – that is the modeling they<sup>27</sup> are asking about . . . [c]an we go back and look at points – would 200 points be a game changer[?]” *Id.* (Shughart Dep. at 156:1–17 & Dep. Ex. 13). Shughart said he would have to go back and look at old data, but noted that “200 points or 50 points would make a difference. I don’t know how that impacts our diversity.” *Id.* (Dep. Ex. 13 at 1). The undisputed evidence demonstrates that staff took the mandate from the Board and developed a procedure that was meant to disadvantage Asian-American students in service of racial balance.

Board member text messages reinforce the racial motive. In conversations with each other, Omeish and Petarsky recognized that Asian-Americans are “discriminated against in this process,” “there has been an anti [A]sian feel underlying some of this” and that Brabrand had “made it obvious” with “racist” and “demeaning” references to “pay to play,” referring to test prep for the TJ admissions exam. Exs. J & L; *see also* Ex. M (Brabrand “[c]ame right out of the gate blaming” Asian Americans); *Cf.* Complaint ¶ 50; Answer ¶ 50. Petarsky wrote that one of Brabrand’s proposals would “whiten our schools and kick our [sic] Asians. How is that achieving the goals of diversity?” Ex. J. Sizemore Heizer said in a text that Brabrand was “trying to be responsive to the times – BLM and a super progressive board.” Ex. I. Another Board member said in a text “the Asians hate us,” Ex. M, while two Board members acknowledged that Asian Americans are “discriminated against in this process,” Ex. J.

\* \* \*

All of this is far more than usually exists in an *Arlington Heights* record. The *McCrary*

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<sup>27</sup> Shughart “assume[d]” that “they” referred to the Board members. *Id.* (Shughart Dep. 159:7–160:17). That bolsters the obvious inference that the email referred to them, given that the email chain began at approximately 7:00 p.m. on October 6 and the closed session lasted from 5:00 p.m. until 7:15 p.m. *See* Ex. 3 at 1.

court did not consider *any* contemporary comments of legislators in determining whether North Carolina’s omnibus election bill was racially motivated. *See McCrory*, 831 F.3d at 229.<sup>28</sup> It weighed the fourth factor in favor of intent based solely on “the General Assembly’s requests for and use of race data in connection with” passing the law. *Id.* at 230. The Fourth Circuit reasoned that because the legislators sought racial data and then went ahead and enacted provisions that would disproportionately impact Black voters, but not those that would disproportionately impact white voters, the General Assembly acted with discriminatory intent. *See id.* Even aside from all the statements confirming that the Board’s goal was to bring about racial balance at TJ, the Board’s requests for and consideration of racial data would be enough to demonstrate discriminatory intent under *McCrory*. *See* Ex. N (Shughart Dep. Ex. 13 (Board members asking about modeling for holistic process); Ex. 42 at 25–31.

That does not mean “that any member of the [Board] harbored racial hatred or animosity toward [Asian Americans].” *McCrory*, 831 F.3d at 233. Discriminatory intent does not require racial animus. What matters is that the Board acted “at least in part ‘because of,’ not merely ‘in spite of,’ [the policy’s] adverse effects upon an identifiable group.” *Feeney*, 442 U.S. at 279. That’s the case here—the Board’s policy was designed to increase Black and Hispanic enrollment, which would “(by necessity) decrease the representation” of Asian-Americans at TJ. *Ass’n for Educ. Fairness*, 2021 WL 4197458, at \*17; *see also Doe ex rel. Doe v. Lower Merion Sch. Dist.*, 665 F.3d 524, 553 (3d Cir. 2011) (discriminatory intent exists when a facially neutral policy was “developed or selected because it would assign benefits or burdens on the basis of race”); *Lewis v. Ascension Parish Sch. Bd.*, 662 F.3d 343, 354 (5th Cir. 2011) (Jones, J., concurring) (“[t]o allow

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<sup>28</sup> In that case, the challengers were unable to obtain any communications between legislators or between legislators and staff due to legislative privilege. *N.C. State Conf. v. McCrory*, Nos. 1:13CV658, 1:13CV660, 1:13CV861, 2015 WL 12683665, at \*6 (M.D.N.C. Feb. 4, 2015).

a school district to use geography as a virtually admitted proxy for race, and then claim that strict scrutiny is inapplicable because” it is facially race-neutral “is inconsistent with the Supreme Court’s holdings”). Therefore, strict scrutiny applies.

### **C. The Board’s Actions Do Not Satisfy Strict Scrutiny**

The burden then shifts to the Board to demonstrate that actions were narrowly tailored to further a compelling interest. *Adarand*, 515 U.S. at 227. Strict scrutiny applies to facially neutral actions “motivated by a racial purpose or object” in the same manner as when they contain “express racial classifications.” *Miller*, 515 U.S. at 913. For good reason, the Board has not yet argued its actions would satisfy strict scrutiny. They would not.

#### **1. The Board lacks a compelling interest for its race-based decisions**

The Supreme Court has recognized only two interests as sufficiently compelling to justify race-based action—remediating past intentional discrimination and obtaining the benefits of diversity in higher education. *Parents Involved*, 551 U.S. at 720–23. No remedial interest exists here. And in *Parents Involved*, the Court refused to extend the diversity rationale to K-12 schools, writing instead that *Grutter* had “relied upon considerations unique to institutions of higher education,” and that lower courts that had applied it “to uphold race-based assignments in elementary and secondary schools” had “largely disregarded” *Grutter*’s limited holding. *Id.* at 724–25.

The Board’s main problem is its focus on the goal to have TJ reflect the demographics of the surrounding area—described primarily in racial terms. Far from a compelling interest, racial balancing for its own sake is “patently unconstitutional.” *Fisher*, 570 U.S. at 311 (quoting *Grutter*, 539 U.S. at 330). The Board cannot transform racial balancing into a compelling interest “simply by relabeling it ‘racial diversity.’” *Id.* (quoting *Parents Involved*, 551 U.S. at 732 (plurality opinion)). The school districts in *Parents Involved* tried “various verbal formulations” to deflect

from their intent to racially balance schools through race-based transfers. *See* 551 U.S. at 725, 732 (plurality opinion). The Board here did not even bother with such “verbal formulations.” Board members and high-level FCPS actors did not disguise their desire for TJ to represent the racial demographics of Fairfax County or Northern Virginia as a whole. Whether accomplished overtly or via proxies, racial balancing is not a compelling interest.<sup>29</sup>

## **2. The Board’s actions are not narrowly tailored to further any interest other than racial balancing**

Even if the Board could identify a compelling interest that might justify its racially discriminatory changes to the TJ admissions process, it still must prove that the changed admissions policy is “necessary” to accomplish that interest. *Fisher*, 570 U.S. at 312 (quoting *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 305 (1978)). The plan must be a “last resort” to accomplish the purportedly compelling interest. *Parents Involved*, 551 U.S. at 790 (Kennedy, J., concurring in part and concurring in the judgment). Yet even Board members thought that perhaps more could be done to encourage racial diversity at TJ short of a discriminatory admissions policy.

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<sup>29</sup> Justice Kennedy’s *Parents Involved* concurrence, which discussed a possible diversity interest for K-12 schools, is (1) not binding and (2) unhelpful to the Board. It is not binding because, “[u]nder *Marks v. United States*, ‘[w]hen a fragmented Court decides a case and no single rationale explaining the result enjoys the assent of five Justices, the holding of the Court may be viewed as that position taken by those Members who concurred in the judgments on the narrowest grounds.’” *Ass’n for Educ. Fairness*, 2021 WL 4197458, at \*18 (quoting *Marks*, 430 U.S. 188, 193 (1977)). “[C]learly the ‘narrowest grounds’ reached by the majority in *Parents Involved* were that the challenged policy had not been narrowly tailored to achieve its stated ends.” *Id.* So Justice Kennedy’s opinion on diversity as a compelling interest is not controlling. *See id.*

But even if it were, that opinion would not help the Board. Justice Kennedy’s opinion countenances generic race-conscious policies like “strategic site selection of new schools; drawing attendance zones with general recognition of the demographics of neighborhoods; allocating resources for special programs; recruiting students and faculty in a targeted fashion; and tracking enrollments, performance, and other statistics by race.” 551 U.S. at 789 (Kennedy J., concurring in part and concurring in the judgment). The Board’s use of a racial proxy to limit enrollment of one racial group at a competitive high school is different in kind. It veers from mere race consciousness or race awareness to the assignment of “benefits or burdens on the basis of race.” *Doe*, 665 F.3d at 553.

Texts between Board members Petarsky and Omeish show they believed that changing the process was secondary to improving outreach and awareness of TJ and implementing universal screening. Ex. K. Omeish said “[w]e could have even kept the tests,” while Petarsky lamented that “[w]e have an application problem. We haven’t bothered to ask why people don’t apply.” *Id.* These steps and others—like further increasing the size of TJ or providing free test prep—could have been implemented before the Board defaulted to a system that does not treat applicants equally in hopes of engineering a particular racial outcome. Since overhauling the process was not the “last resort” for the Board to accomplish its goals, the Board’s actions were not narrowly tailored.

### **III. The Proper Remedy Is Invalidation of the Board’s Actions**

The Fourth Circuit has repeated that “once a plaintiff has established the violation of a constitutional or statutory right in the civil rights area, . . . court[s] ha[ve] broad and flexible equitable powers to fashion a remedy that will fully correct past wrongs.” *McCrory*, 831 F.3d at 239 (quoting *Smith v. Town of Clarkton*, 682 F.2d 1055, 1068 (4th Cir. 1982)). More directly, “the proper remedy for a legal provision enacted with discriminatory intent is invalidation.” *Id.* In this case, that means the ultimate remedy must be an injunction prohibiting the Board and its agents from implementing the challenged actions—including the removal of the admissions exam and the overhaul of the process to include the 1.5% seat guarantee by middle school and consideration of Experience Factors in holistic review.

### **CONCLUSION**

For the reasons stated, the Coalition respectfully asks the Court to grant its motion for summary judgment, enter the declaratory and injunctive relief requested in the Complaint, and grant all other relief to which the Coalition may be entitled.

Dated: December 3, 2021.

Respectfully submitted,

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*Counsel for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on the day of December 22, 2021, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system. Counsel for Defendants are registered with the Court's CM/ECF system and will receive a notification of such filing via the Court's electronic filing system.

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*Counsel for Plaintiff*

## **Exhibit B**



## TJHSST Scoring Rubric

| Application Elements   |  |  |                |
|------------------------|--|--|----------------|
| Element                | Details  | Scoring  | Maximum Points |
| GPA                    | <p>Grade point average is calculated based on a student's core GPA using end of the year marks in 7<sup>th</sup> grade and the first quarter of 8<sup>th</sup> grade.</p> <p>Core GPA includes mathematics, science, English, history &amp; world language (only if taken for High School Credit)</p> <p>Grades are unweighted</p>   | Core GPA x 75  | 300            |
| Student Portrait Sheet | <p>Student demonstrates Portrait of a Graduate and 21<sup>st</sup> Century skills</p> <ul style="list-style-type: none"> <li>• Collaborator</li> <li>• Communicator</li> <li>• Creative &amp; Critical Thinker</li> <li>• Ethical/Global Citizen</li> <li>• Goal-Directed &amp; Resilient Individual</li> <li>• Innovator</li> <li>• Leader</li> <li>• Problem-Solver</li> </ul> <p>Two evaluators score on a rubric:</p> <p>5 – Exceptional<br/>4 – Above Average<br/>3 – Typical<br/>2 – Marginal<br/>1 – Inadequate</p> | <p>Average of Evaluator 1 (Score x 60) and Evaluator 2 (Score x 60)</p> <p>Score each question (4) on the Student Portrait Sheet and produce the average score for each evaluator.</p> | 300            |
| Problem-Solving Essay  | <p>Student answers a math or science question with multiple variables. The essay contains the answer (if found) and the method the student used to solve for the answer.</p> <p>Evaluation</p> <ul style="list-style-type: none"> <li>• Ability to solve problem</li> <li>• Description of solution</li> <li>• Essay Format</li> </ul> <p>Two evaluators score on a rubric:</p> <p>5 – Exceptional<br/>4 – Above Average<br/>3 – Typical<br/>2 – Marginal<br/>1 – Inadequate</p>   | Average of Evaluator 1 (Score x 60) and Evaluator 2 (Score x 60)   | 300            |
| Total                  |  |  | 900            |

## TJHSST Scoring Rubric

| Experience Factors (bonus points) |   |         |                |
|-----------------------------------|---|---------|----------------|
| Factor                            | Details   | Scoring | Maximum Points |
| Economically Disadvantaged        | Students who have qualified for free and reduced-price meals.   | 0 or 90 | 90             |
| English Language Learner          | Students receiving ELL services Level 1-6 will qualify.   | 0 or 45 | 45             |
| Special Education                 | Students with a current IEP will qualify.   | 0 or 45 | 45             |
| Underrepresented Schools          | <p>Schools considered underrepresented within each school division will be identified based on their having had fewer students admitted into TJHSST over the last five years than the maximum number within that division, minus three times the standard deviation within the division. For example, in FCPS the maximum number of students averaged across the five years was 44 students within a school, with a standard deviation across FCPS middle schools of 13. Therefore, schools with an average of 5 or fewer admitted students (<math>44 - (3 \times 13)</math>) across the last five years were identified as underrepresented, yielding 10 middle 17. This same approach will be applied to other sending school divisions to identify underrepresented schools in all participating jurisdictions (Falls Church City schools, with only one middle school, and private schools will not be identified as underrepresented). Underrepresented schools will be identified each year based on the last five years of admissions data.</p> <ul style="list-style-type: none"> <li>• <u>FCPS Schools</u></li> <li>• Glasgow</li> <li>• Holmes</li> <li>• Hughes</li> <li>• Key</li> <li>• Poe</li> <li>• Sandburg</li> <li>• South County</li> <li>• Stone</li> <li>• Twain</li> </ul> | 0 or 45 | 45             |

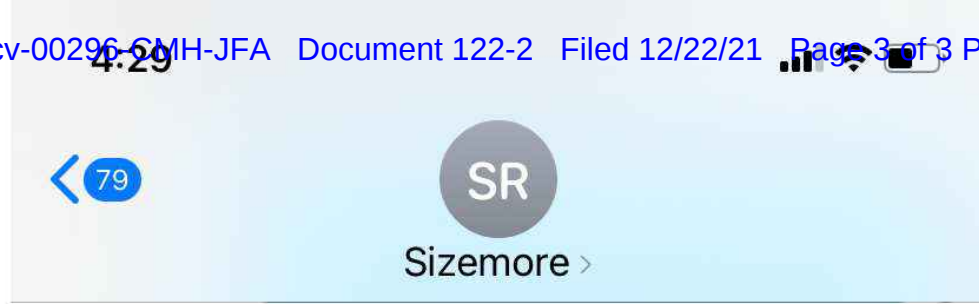
TJHSST Scoring Rubric

|                         |           |  |     |
|-------------------------|-----------|--|-----|
|                         | • Whitman |  |     |
| Experience Factor Total |           |  | 225 |

CONFIDENTIAL

## **Exhibit C**

**PRODUCED IN NATIVE FORMAT**

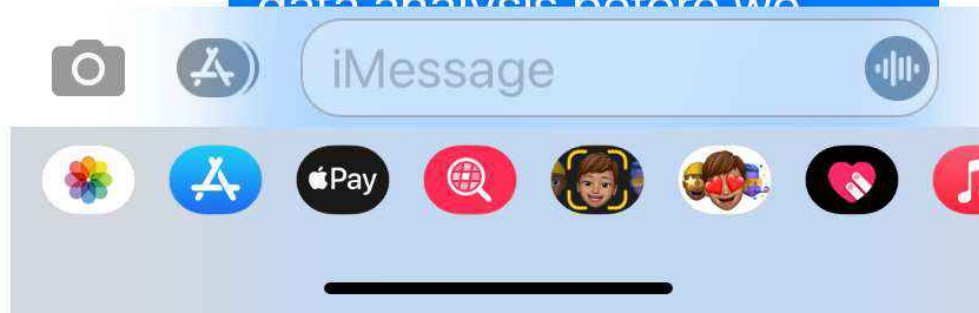


Oct 8, 2020, 9:46 PM

FYI: I sent this to Abrar. I may read parts of it tonight but w/o the publicly shaming remarks about staff:

"Sadly, Scott has personally created a highly divisive, harmful public debate that was absolutely avoidable.

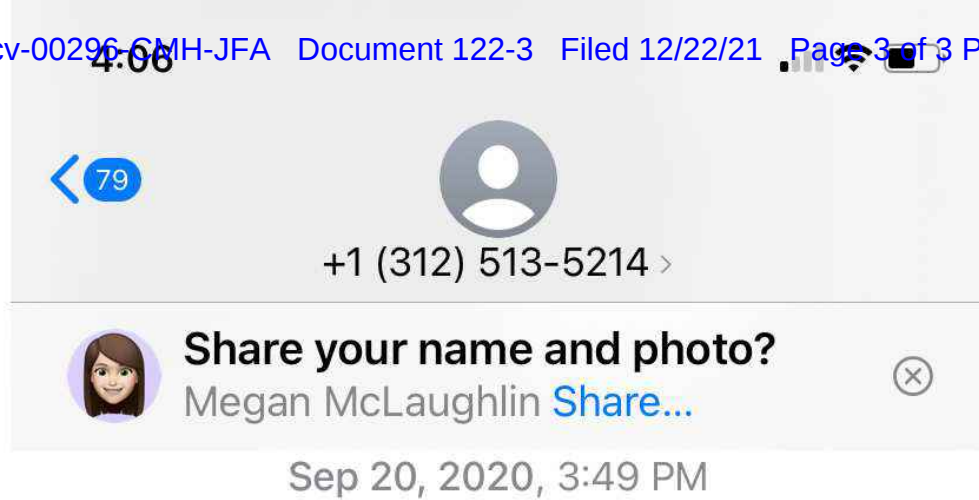
He incorrectly told this Board (and the public) that we needed to make a rushed/unvetted decision by Oct 12th. That's ineffective (if not shameful) leadership. I am proud of our Board for responsibly requesting important data + data analysis before we



## **Exhibit D**

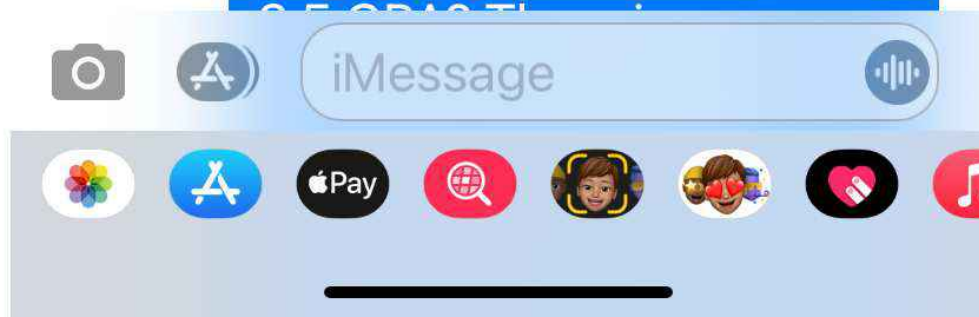
**PRODUCED IN NATIVE FORMAT**





Thank you! The Supt proposal provides limited data & analysis about HOW the regional lottery approach will improve the percentages of underrepresented students in the 2021 TJ Admissions class.

Using a lottery means random selection. How does that guarantee an increase in racial/SES diversity? His plan also doesn't provide enough information about how academic merit can be assessed via an undefined



## **Exhibit E**

**PRODUCED IN NATIVE FORMAT**



SR

Sizemore &gt;

believe transparency and authentic community engagement are paramount to ensuring public trust in government. Therefore, I am troubled that the School Board (and the public) only received Supt Brabrand's proposal a few hours before our September 15th work session. This prevented board members from carefully examining the merits & challenges of his proposal, prior to our public discussion and deliberation. Given the Board concluded its public meeting with over 20 "Next Step" questions, I do not support the adoption of his current proposed changes by October 8th. Contrary to Supt Brabrand's assertions, ECDS is only



iMessage



## **Exhibit F**

**PRODUCED IN NATIVE FORMAT**



< 79

SP

Stella G Pekarsky (School Board... >

They are both now falsely  
deflecting about HS  
educational opportunities. I  
imagine we have parents  
screaming right now. ARGH!

I know

In response to Jeremy:  
FEAR is seeing a flawed,  
rushed plan...not "fear of  
change". The standardized  
test isn't the only  
complaint....Scott is so  
myopic 🙄

Yes caller, the lottery is  
flawed!

Omg!! It is rushed when you  
cobble together a proposal  
w/only 3 weeks to review &  
NO prior stakeholder input  
to inform it!



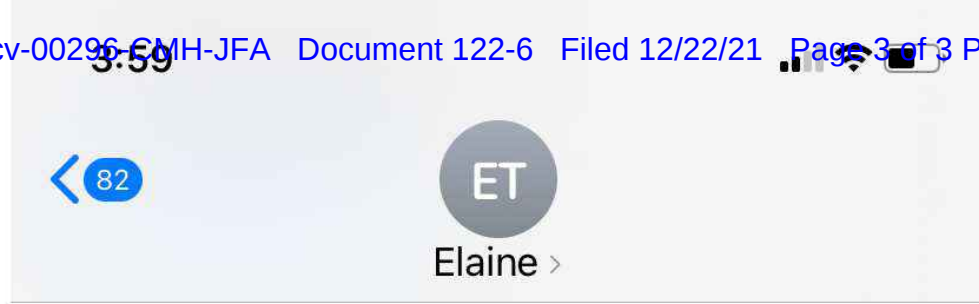
iMessage



## **Exhibit G**



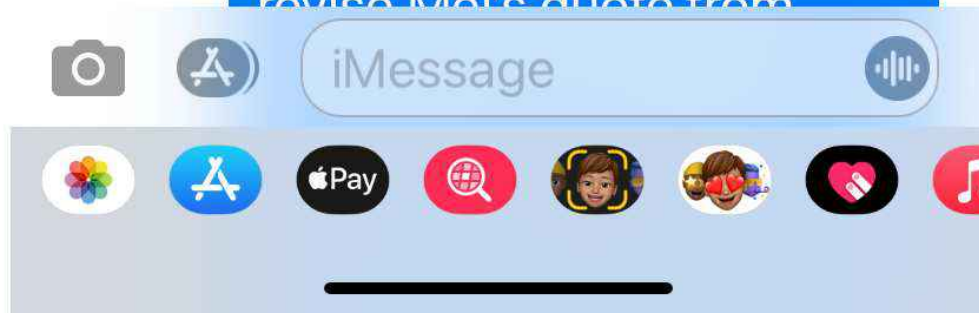
**PRODUCED IN NATIVE FORMAT**



Sep 17, 2020, 2:54 PM

This is what I sent Abrar yesterday about TJ Admissions:

"I see it differently. The state asked for a plan. We can comply with a plan of action & still refine the plan with careful Board deliberation on important details re: the new lottery (including Countywide, Regional or Pyramid) and including both GPA & Course Work details. I remain very concerned that while this new Goal to improve TJ is very good, the existing plan (that came out just 2hrs b4 our meeting) has substantive holes. To revise Mo's quote from



## **Exhibit H**

**PRODUCED IN NATIVE FORMAT**

4:29  
< 79

SR

Size more >

It is.

I don't know if what I said  
was okay or not ok but I  
tried to be clear

It was very diplomatic &  
appropriate 🙏

Thank you. I'm sure made  
people angry but after KKG  
implied we are racist I was  
upset

You did the right thing ❤️

6 of us don't want lottery

He doesn't have 7+ who  
want lottery

We just lost Melanie out of  
the meeting

Unread. I wonder if the

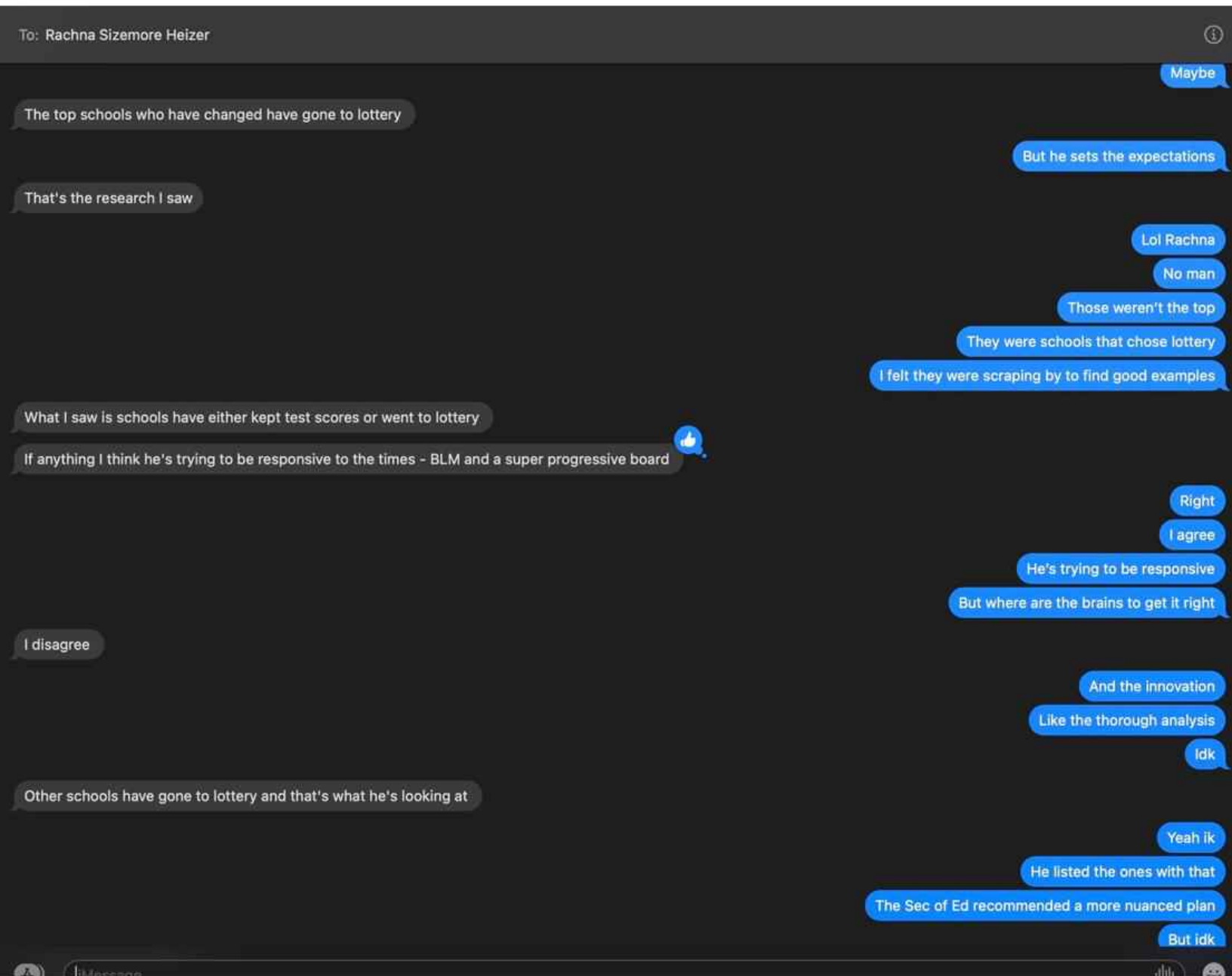


iMessage



## **Exhibit I**

**PRODUCED IN NATIVE FORMAT**





## **Exhibit J**

**PRODUCED IN NATIVE FORMAT**

To: Stella Pekarsky



I honestly don't think these plans are where the real problem is-- it's on the school level

It will whiten our schools and kick our Asians. How is that achieving the goals of diversity?



Like the tweaks are more impactful

That's fair

I mean there has been an anti asian feel underlying some of this, hate to say it lol

Of course it is. Which is why I always told people talking about TJ is a stupid waste of tome. It's about making a political point



They're discriminated against in this process too

I know, and Scott has made it obvious

Before he went down this path, I told him to stop it and never talk about "pay to play, etc". It's very demeaning.



And it's a cultural issue

He ignored me haha

Of course he did

I mean I get that-- and a lot of them can't afford it anyway

But they make choices

I remember one girl I worked with who was literally in public housing

But they also prioritize education. In fact, they make huge sacrifices



I guess they're just so few

Yes for sure

And we have to honor that. You go annoy make people feel like their kids will lose out because they work hard to prioritize education in their families



I don't think the others don't, but it may actually be a social issue of coming to recognize its importance



iMessage



## **Exhibit K**

**PRODUCED IN NATIVE FORMAT**

To: Stella Pekarsky



Okay so the problem we have is access, right? I don't think the actual process is how we fix it either way

We could have even kept the tests

The outreach/awareness thing matters so much more in my mind

Which is where the school-based thing comes in

And the universal screening thing comes in

Is it? We have an application problem. We haven't bothered to ask people why they don't apply

Right exactly

We have made lots of assumptions

Stella people have no clue

Yes that is very fair

We are building on assumptions built on assumptions

Correct

So in that case why not just leave it to families to decide? Lol

If their kids meet our criteria

Because why have a TJ?

Hahaha

I dare you to even bring that up

Jk jk

Haha

I shpuld

Hmm

Hahahah you should!

Lol there are a good number of people I've spoken with who have asked me that actually



iMessage



## **Exhibit L**

**PRODUCED IN NATIVE FORMAT**



Talking about pay to play and  
crap. So racist

I told him repeatedly he was  
pathetically off base with the  
cultural aspect he was  
missing

Not everything is black and  
white

The immigrant perspective  
isn't the American black one  
or the American white one

Totally

That's how we get Mae  
Jemison or bust lol

So I'm kind of tired of this  
division. Everything is about  
American black and white

Exactly

Even though, on the website,  
Patsy Mink got many more  
votes. Mae got 2, I think

Woah really??!!!!

I wish I knew that

Karl lied to me on that yet  
again

I didn't know where to look

That's crazy Stella he lied  
😞

Is should have known

## **Exhibit M**

**PRODUCED IN NATIVE FORMAT**

To: Stella Pokorsky

If you believe in this thing  
how can you cave all of a  
sudden

You need to have a  
thoughtful conclusion from  
thinking about all sides

And that makes it firm and  
defensive e

Me?

\*defensible

No lol

Staff

Or the proverbial you haha

Brabrand really

Yeah haha

Brabrand believes in getting  
attention. This is how he  
screwed up TJ and the  
Asians hate us

You think so?

You think it's deliberate?

Came right out of the gate  
blaming them

I thought he was just dumb  
and too white to bet it

\*get

## **Exhibit N**

1  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION  
-----x  
COALITION FOR TJ, :  
Plaintiff, :  
v. : Civil Action No.:  
FAIRFAX COUNTY SCHOOL : 1:21-cv-00296-CMH-JFA  
BOARD, :  
Defendant. :  
-----x

Deposition of JEREMY SHUGHART  
McLean, Virginia  
Thursday, October 14, 2021  
9:14 a.m.  
CONFIDENTIAL  
Job No.: 403754  
Pages: 1 - 209  
Reported by: Judith E. Bellinger, RPR, CRR

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1                   There wasn't a ranking process, and  
2                   that was the reason why the 486 or the 491, I  
3                   think, you know, it depended on the year, but that  
4                   was -- and then it was that proportionality that  
5                   was then red flagged.

6                   Q     Okay. I want to move, now, to the  
7                   2020. I'm going to show you --

8                   A     Should I give this back to you?

9                   Q     You can leave it over there because  
10                  we'll probably refer back to it.

11                  A     Okay.

12                         (Shughart Exhibit 2 marked for  
13                   identification and attached to the transcript.)

14                  Q     First, I want to ask you, before you  
15                  look at the document, when -- to the best of your  
16                  knowledge, in 2020, when was it first considered  
17                  that the admissions process at TJ might be  
18                  changed?

19                         MS. REWARI: Objection. Vague. Lack  
20                  of foundation.

21                         First question is by whom?

22                         MR. KIESER: To the best of his

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Transcript of Jeremy Shughart

Conducted on October 14, 2021

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1 knowledge, when was it first considered among --  
2 in FCPS in general. By the board, by the  
3 superintendent, by anyone in his office.

4 MS. REWARI: Okay. Calls for  
5 speculation.

6 Q To the best of your knowledge, you can  
7 answer.

8 A I honestly, I don't -- I don't know  
9 when the first was.

10 Q Okay. Can you take a moment to just  
11 review -- well, actually, you can -- the emails  
12 are just for context on the first three pages. So  
13 if you want to just quickly review that and then  
14 review the attachments.

15 A (The witness complies.)

16 Q Do you recognize the attachments?

17 A I do.

18 Q What are those documents? I don't  
19 believe you were on the email, so...

20 A I was cc'd on one of them.

21 This particular document was created  
22 and shared with the board in regards to an



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Transcript of Jeremy Shughart

Conducted on October 14, 2021

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1 alternative admissions process.

2 Q Actually, I believe the cover email  
3 says it was shared on a May 27th closed session.

4 Is that correct, as far as you know?

5 A That -- I don't know the exact date.  
6 Not off the top of my head.

7 Q But it was in 2020?

8 A Yes.

9 Q Were you involved in drafting any of  
10 these documents?

11 MS. REWARI: Objection. Vague.

12 Q Did you contribute to any of these  
13 documents?

14 MS. REWARI: Which document?

15 Q There's the -- there's the white paper  
16 itself, and then there's the executive summary at  
17 the bottom. So I guess there's only -- there's  
18 only one -- there's really only two documents;  
19 there's the pathway admissions process white paper  
20 and then the executive summary.

21 Were you involved with preparing either  
22 of these?

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 A Yes.

2 Q So it would be accurate to say that the  
3 document that is labeled "TJ Admissions Pathway  
4 Admissions Process," that describes the potential  
5 admissions process that the board was presented  
6 with?

7 A Say that one more time.

8 Q That describes the potential admissions  
9 process to TJ that the board was presented with?

10 A Yes.

11 Q Can you explain what the three pathways  
12 were, in general terms?

13 A So on -- these aren't numbered?

14 Q Yeah, the page numbers got cut off;  
15 sorry.

16 A That's okay. So, on the first  
17 document, Pathway 1, this admissions -- this  
18 particular admissions pathway, as it's proposed  
19 here on -- as it's proposed in this admissions  
20 process, was consistent of using applicants -- let  
21 me take a step back.

22 So Pathway 1 was using our current

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 developing any alternative plans?

2 A Yes.

3 (Shughart Exhibit 10 marked for  
4 identification and attached to the transcript.)

5 Q Take your time to review this.

6 THE WITNESS: Sorry. In your  
7 microphone coughing.

8 Q I believe I have cough drops.

9 A No. It's a tickle in my throat.

10 Eventually the water will hit the right spot.

11 MR. KIESER: Do you want Bates numbers  
12 for this?

13 MS. REWARI: I'll take it.

14 MR. KIESER: I'll figure it out. It is  
15 21736, is the first page.

16 MS. REWARI: Okay.

17 (Shughart Exhibit 11 marked for  
18 identification and attached to the transcript.)

19 A Okay.

20 Q Okay. Do you recognize the email on  
21 the first page of this document?

22 A Yes.

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1           Q     Who is the person that you sent this  
2     to?

3           A     I sent this to Lidi -- well, she goes  
4     by Lidi -- Lidi Hruda, as well as with a cc to  
5     Marty Smith.

6           Q     And who is Lidi?

7           A     Lidi is the director in the Office of  
8     Research and Strategic -- oh, shoot, I forget what  
9     the I is -- intervention.

10          Q     Is that the office that worked with you  
11     on the white paper?

12          A     Yes.

13          Q     The white paper?

14          A     Yes. Improvement. Strategic  
15     Improvement.

16          Q     Okay. So she's the director of that  
17     office, you said?

18          A     She is the director.

19          Q     And would I be correct to say that this  
20     is an email where you attached a draft of an  
21     alternative white paper proposal for TJ  
22     admissions?

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Transcript of Jeremy Shughart

Conducted on October 14, 2021

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1 A Yes, it appears to be.

2 Q Can you read the highlighted portion of  
3 the email, please.

4 A Sure. "Could you look specifically at  
5 the table for 'Experience Factors' and provide us  
6 a review of our current weighting and whether or  
7 not this would be enough to level the playing  
8 field for historically underrepresented groups."

9 Q By "historically underrepresented  
10 groups," did you mean racial groups that were  
11 underrepresented at TJHSST?

12 A Racial groups would have been included,  
13 but it would not have been limited to racial  
14 groups, it would have also included our -- my  
15 memory would be our ELL students, it would have  
16 been, potentially, special ed, certainly FRM.

17 Q Which racial groups, specifically, did  
18 you consider to be underrepresented?

19 A Our -- the students that were lower  
20 would have been Black and Hispanic students.

21 Q Did that include white students?

22 A No.

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 sit here, that would be my understanding of it.

2 Q Would your understanding, then, have  
3 been that White and Asian candidates are not  
4 historically underrepresented?

5 A Yes.

6 Q That bullet point 4, can you read the  
7 highlighted portion.

8 A Okay. "That leaves only the Experience  
9 Factors to help shift the landscape and bring more  
10 diversity into play and acceptance of historically  
11 underrepresented students. Since the Experience  
12 Factors include things that some more privileged  
13 students are likely to get points on, as well as  
14 factors that less privileged students are likely  
15 to get points on, I think we can assume that the  
16 potential advantage from the Experience Factors is  
17 likely to be, at most, 50 points and more likely  
18 only 25 points for most students, since they are  
19 not likely to get credit for all the Experience  
20 Factors."

21 Do you need me to read --

22 Q No --

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 Q Can you read the highlighted part?

2 A Sure. "I agree that we need to  
3 consider how this will be considered and whether  
4 there was enough weighting involved. The maximum  
5 amount of points you would receive would only be  
6 around 14%, so it isn't impacting at a high  
7 level."

8 Q When you say "impacting," did you mean  
9 in terms of the diversity of students who get out?

10 A No. I meant as an overall percent of  
11 the entire application process.

12 So it would have been looking at the  
13 experience factors, but it was also in  
14 consideration of, perhaps, information sheet and  
15 problem-solving essay. That was my -- from what I  
16 remember, that was my intent here.

17 Q I want to move on to this exhibit here.

18 (Shughart Exhibit 12 marked for  
19 identification and attached to the transcript.)

20 Q And now this --

21 MR. KIESER: I'll give you a Bates  
22 number. It is 21212, the first page.

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Transcript of Jeremy Shughart

Conducted on October 14, 2021

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1           Q     Take a while to familiarize yourself  
2 with that.

3           A     Okay.

4           Q     Do you recognize this document?

5           A     I think so, yes.

6           Q     Were you involved in preparing it?

7           A     I would say, yes.

8           Q     Was it presented to the board in a  
9 closed session on October 6th?

10          A     It appears to be, yes.

11          Q     And this -- am I correct to say that  
12 this is a proposal for a hybrid merit lottery?

13          A     It looks that way, yes.

14          Q     Can you read the highlighted portion of  
15 the first page, the first paragraph?

16          A     Sure. "This approach ensures that the  
17 students with the strongest applications are  
18 admitted into TJHSST, while allowing for the  
19 advantages of the Merit Lottery approach: a higher  
20 probability of traditionally disadvantaged  
21 students gaining admittance along with the  
22 concomitant increase in applications anticipated



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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 by this approach."

2 Q When it say "higher probability of  
3 traditional disadvantaged students gaining  
4 admittance," that includes based on race, correct?

5 MS. REWARI: Objection.

6 Q To the extent that he knows.

7 A It wouldn't have just been a racial.

8 Q But that's a component of it, correct?

9 A Well, sure, that is. But it's not  
10 limited to race.

11 Q Can we go -- flip down to the  
12 Evaluation Elements.

13 Is this a proposed scoring system for  
14 holistic review?

15 A That wouldn't have been just for the  
16 holistic review.

17 Q It would have also been applied to  
18 students who were put into the lottery pool?

19 A Correct. It would have been there  
20 for -- this was a proposed way to evaluate all the  
21 students. The top performing students, as  
22 suggested here, the top 100 students would have

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Transcript of Jeremy Shughart

Conducted on October 14, 2021

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1     been offered admissions, and then students that  
2     met the minimum would have been placed into a  
3     lottery to move forward.

4           Q     Okay. Under "Experience Factors" on  
5     the second page, could you read off which four --  
6     the four experience factors.

7           A     So the four experience factors listed  
8     here were English language learners, 0 or 50  
9     points; economically disadvantaged, 0 or 50  
10    points; special education, 0 or 50 points; and  
11    historically underrepresented school, 0 or 50  
12    points, FCPS only.

13          Q     So on the previous exhibit, we went  
14    through the experience factors. It looks like on  
15    this proposal, there's only four; whereas, on the  
16    previous exhibit, there were several others. And  
17    you -- and then this proposal had the historically  
18    underrepresented school that was not present on  
19    the other one; is that correct?

20          A     Historically underrepresented school is  
21    not represented here.

22          Q     And then on the October 6th

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 MR. KIESER: Back on the record.

2 (Shughart Exhibit 13 marked for  
3 identification and attached to the transcript.)

4 MR. KIESER: And the Bates number on  
5 this one is 21813.

6 BY MR. KIESER:

7 Q Let me start with, do you recognize  
8 this document?

9 A I do.

10 Q Is it an email exchange between you  
11 and, I believe, Superintendent Brabrand and Marty  
12 Smith and, I believe, John Foster is copied on  
13 that?

14 A Correct. It was an email that Scott --  
15 the superintendent sent to myself, Marty, and  
16 John, and then kind of short back-and-forth  
17 between the group.

18 Q Can you read the email that  
19 Superintendent Brabrand sent on the second page?  
20 You may have to undo the --

21 A The email -- do you want me to read it  
22 out loud?

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Transcript of Jeremy Shughart

Conducted on October 14, 2021

159

1           A     Sure. "I would need to look at old  
2 data files. 200 points or 50 points would make a  
3 difference. I don't know how that impacts our  
4 diversity."

5           Q     When you say "would make a difference,"  
6 are you referring to the composition -- in  
7 general, the composition of TJ's admitted class?

8           A     So from the points standpoint, what I'm  
9 referring to there is, is that the overall points,  
10 it would make a difference. One point would make  
11 a difference, no matter how you did it.

12                     This is talking about old data files.  
13 This is actually talking about years ago and  
14 previous -- prior to me even being there.

15           Q     So, at some point, there was a point  
16 system, but that predates you?

17           A     That predates me.

18           Q     So when you say "make a difference,"  
19 you just mean that -- you would just mean that  
20 someone who received the points would have a  
21 better chance of getting in?

22           A     And that could be any individual

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Transcript of Jeremy Shughart

Conducted on October 14, 2021

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1 student, regardless of how they classify  
2 themselves. That doesn't matter. A single point  
3 for one student would -- could. It might not, but  
4 it could make a difference for that. When you're  
5 talking about 3,000 applicants, if a student got  
6 one more point, that may have been the difference  
7 between receiving an offer, being placed in the  
8 wait pool, and not receiving an offer.

9 Q When you say "I don't know how that  
10 impacts our diversity," did you ever look at that?

11 A I did not.

12 Q Was there any way to look at that?

13 A So let me clarify that. I don't  
14 remember going back and pulling old data from  
15 years before I was even there.

16 Q And when you say "old data," you're  
17 referring to when there used to be a point system?

18 A Correct.

19 Q So did you ever model the racial impact  
20 of an entirely holistic system with points, as  
21 you're talking about here?

22 A From an old system?

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 MR. KIESER: This is Bates number --  
2 give me a second -- 20994.

3 A Okay.

4 Q Do you recognize the email chain on the  
5 first page?

6 A Yes.

7 Q It's a group of emails between you and,  
8 likes looks, Julie Fowler and Lidi.

9 A Yes.

10 Q What is the attachment?

11 A The attachment looks to be the TJHSST  
12 scoring rubric.

13 Q Is this the rubric that you used to  
14 evaluate students for the Class of 2025?

15 A No.

16 Q Is this similar to that one?

17 MS. REWARI: Objection. Vague.

18 A It's similar.

19 Q Are the points -- are the points  
20 assigned on this rubric the points used to  
21 evaluate students in 2025?

22 A No.

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 Q How are they different?

2 A The current -- the process that was  
3 used was that GPA, student portrait sheet, and  
4 problem-solving essay were 300 points.

5 Q 300 points each?

6 A Yeah.

7 Q And how many points were the experience  
8 factors each?

9 A My memory is, is that the economic  
10 disadvantage was 90, English language learner,  
11 special ed, and underrepresented schools was 45.

12 Q Okay.

13 A Each, not combined.

14 Q They were 45 each. So the total for  
15 the evaluation of the GPA student portrait sheet  
16 and problem-solving essay was 900 --

17 A Yes.

18 Q -- as opposed to a thousand on the  
19 year?

20 A Yes.

21 Q And the total experience factors would  
22 have been 225?

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 A Yes.

2 Q Okay. As opposed to the 250 on here?

3 A Yes.

4 Q Okay.

5 A I'm re-adding in my head just to be  
6 sure.

7 Q I believe there is a copy of that  
8 rubric in the production, as well, but I thought  
9 this was the one.

10 In any event, so if a -- if GPA is 300  
11 points, would I be correct to say that 1 GPA  
12 point, out of 4, would be worth 75 points?

13 MS. REWARI: Objection. Vague. And  
14 mischaracterizes the document.

15 Q Well, this current rubric says core GPA  
16 times 50 is 200.

17 So is that same framework used in the  
18 other?

19 A So the maximum would have been 300.

20 Q 300. And you just divide that by --  
21 you would divide that by 4 to get how much each  
22 GPA point is worth, correct?



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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1           A     Well, sort of. The minimum GPA was  
2     3.5. So we never went for a full scale from a 4  
3     to a 3. And we used four places beyond the  
4     decimal point to calculate what their GPA was.

5           Q     So under the rubric you applied in  
6     2025, if a student had a 3.5 GPA, what would their  
7     points be under the GPA?

8           A     If I had a calculator, I could  
9     calculate it out. I mean, a 4 would have been  
10    equivalent of 300 points. So 4 into 3, 300, is  
11    that 65?

12                   I would have to calculate it. I mean,  
13    physically, without having a calculator in front  
14    of me, I don't want to mischaracterize what it  
15    would be.

16           Q     Okay.

17           A     There's a formula, and all of the  
18    students in it would be down to that decimal  
19    point, I mean, to the point that it's four  
20    character places beyond the decimal, potentially.  
21    It's unweighted GPA. So meaning there's no  
22    students that can have above a 4.0.

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

170

1 So which are you referring to?

2 Q So the first process that was approved  
3 by the board, right, is the 1.5 percent allocation  
4 for each middle school.

5 A Uh-huh.

6 Q So is that -- am I correct to say that  
7 in that stage, the students only compete with the  
8 students from their own school?

9 A Correct. From a -- from a public  
10 school standpoint.

11 Q Yeah. So, actually, let me -- let me  
12 get to that too.

13 I'm going to show you two charts.  
14 Here's the first. And here's the second one.

15 MS. REWARI: Are those separate exhibit  
16 numbers?

17 MR. KIESER: Yes.

18 ( Exhibit  
19 # marked for identification and  
20 attached re  
21 tained}).)

22 MR. KIESER: And the Bates stamp for

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 the one that's got all the redactions is 21441. I  
2 believe the number is the other one.

3 MS. REWARI: Yes, it is.

4 Q Have you seen these before?

5 A Yes.

6 Q Can you tell me what the chart that  
7 doesn't have any redactions shows?

8 A What this looks to be is the number of  
9 students that were admitted by each middle school  
10 in Fairfax County.

11 Q Fairfax County?

12 A Along with the applicant and  
13 semifinalist students.

14 Q Okay. So this -- so when we're talking  
15 about the 1.5 percent plan, is it fair to say that  
16 the students that had significantly more people  
17 apply, it's more difficult for students from those  
18 schools to get the allocated seats from their  
19 school?

20 MS. REWARI: Objection. Vague.

21 A Yeah.

22 Q Compared to -- compared to a school

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 that has more people apply, would it be easier, or  
2 more difficult, for a student -- well, I'm sorry,  
3 strike that.

4 If a school has more applicants and  
5 more eligible students, in general, would that  
6 make it more difficult for any one of those  
7 students to earn one of the allocated seats?

8 A I'm not sure I would cat -- you know,  
9 say that, necessarily. That for an individual  
10 student, I mean, there's a lot of factors that  
11 would go into that.

12 To say that it would be more difficult  
13 for a single student, it may or may not be more  
14 difficult.

15 Q Would the admissions percentage for --  
16 just based on the allocated seats, would the --  
17 the percentage of students who can get an  
18 allocated seat would be fewer at the schools with  
19 more proportional applications, right?

20 MS. REWARI: Objection. Vague.

21 MR. KIESER: He can answer, at least,  
22 if he understands.

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Transcript of Jeremy Shughart

Conducted on October 14, 2021

173

1           A     I'm trying to understand what you're --  
2     I'm trying to understand what you're saying. So  
3     can you be more -- can you give me, like, either  
4     an example or be more specific?

5           Q     So, for instance, look at the top of  
6     the chart, Rachel Carson had 286 applicants in  
7     2024.

8           A     Yep.

9           Q     Compared to, say, a school like at the  
10    bottom, Whitman --

11          A     Okay.

12          Q     -- had 19 applicants.

13          A     Okay.

14          Q     Now under the 1.5 percent plan, I  
15    believe that -- well, actually, I'm also going to  
16    show you this exhibit, which -- because it might  
17    provide some content.

18                   (Shughart Exhibits 15 and 16 marked for  
19    identification and attached to the transcript.)

20          A     Okay.

21          Q     Do you recognize this document?

22          A     I do.

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Transcript of Jeremy Shughart

Conducted on October 14, 2021

174

1 Q And what is that chart on the second  
2 page?

3 A So my recollection of this chart on the  
4 second page is to identify the total number of  
5 students that were in eighth grade in FCPS  
6 schools, so that would be column B. Column C  
7 would be eligibility based upon GPA and enrolled  
8 in, minimally, in Algebra 1.

9 And then, the third column is the  
10 percent of each.

11 Q Okay. So what I was getting at here,  
12 is -- let's stick to the same two middle schools,  
13 Rachel Carson and Whitman.

14 A Okay.

15 Q So, Rachel Carson, on the exhibit I  
16 just showed you --

17 A This one?

18 Q -- what's the percentage of eligible  
19 students?

20 A So the percent of eligible students is  
21 55.6.

22 Q And the number of eligible students?

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 A 400.

2 Q And then, for Whitman, at the bottom,  
3 what's the percentage of eligible students?

4 A 9.5 percent.

5 Q And the number of eligible students?

6 A 43.

7 Q So just considering those two schools  
8 sort of at an extreme, to obtain the 1.5 percent  
9 allocated seats, would a student at Rachel Carson  
10 have to compete against more students to get one  
11 of those 1.5 percent seats than a student at  
12 Whitman?

13 MS. REWARI: Objection. Calls for a  
14 lay opinion. Calls for speculation.

15 MR. KIESER: He can answer.

16 A So it would be dependent on whether  
17 they applied or not.

18 This isn't -- this isn't application  
19 numbers.

20 Q Sure. And then we can reference  
21 compared to the Class of 2024. The application  
22 numbers in 2025 are different.

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 But in 2024, as you are looking another  
2 that --

3 A Okay.

4 Q -- how many students applied from  
5 Rachel Carson?

6 A For the Class of '24?

7 Q Yeah.

8 A 296.

9 Q And how many at Whitman?

10 A 19.

11 Q So those 19 students -- and I recognize  
12 the applications went up in 2025 -- they would be  
13 competing for -- hypothetically -- for those --  
14 for the allocated seats at Whitman; whereas, the  
15 286 students at Carson would be competing for  
16 Carson's allocated seats, correct?

17 A Correct. But the one piece is also  
18 about the unlocated seats.

19 So it wasn't a limiting factor -- it  
20 was -- the allocated seats provided seats for each  
21 of those schools. But then there was also  
22 unallocated seats that were made available to



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Conducted on October 14, 2021

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1 the -- for all other eligible students.

2 So using these numbers, you're just  
3 talking about the applications. That doesn't even  
4 make them -- may have meant that they were -- they  
5 didn't meet the eligibility requirements either,  
6 so.

7 But there is the additional factor of  
8 unallocated seats along with any open weight pool  
9 seats that become available as all.

10 Q Could the private school and homeschool  
11 students get the allocated seats?

12 A They were not available for allocated  
13 seats.

14 Q So the students who -- is it fair to  
15 say that the students who didn't receive an  
16 allocated seat from their FCPS middle school, then  
17 were -- had to compete for the remaining  
18 unallocated seats with private school and  
19 homeschool students?

20 A Say that one more time. So I'm clear  
21 with what you're saying.

22 Q The students who didn't receive an

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Conducted on October 14, 2021

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1 allocated seat under the 1.5 percent allocation,  
2 then they could compete for the unallocated seats,  
3 correct?

4 A Correct. So any student that met  
5 minimum -- kind of that minimal standing -- if  
6 they were a public school student and did not  
7 receive an allocated offering were also in  
8 consideration for unallocated seats.

9 Q And the same is true for private school  
10 and homeschool students --

11 A So --

12 Q -- they were in consideration for the  
13 unallocated seats?

14 A Only unallocated seats.

15 Q So those unallocated seats were  
16 between -- the students who compete for the FCPS  
17 unallocated seats are the FCPS public schools  
18 student who didn't get an allocated seat --

19 A Uh-huh.

20 Q -- and private school and homeschool  
21 students who live in Fairfax County?

22 MS. REWARI: Objection. Misstates the

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Transcript of Jeremy Shughart

Conducted on October 14, 2021

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1 Can you look at the redacted chart now?

2 A Okay.

3 Q Can you tell me what this represents?

4 A Again, this is similar to the  
5 unredacted charts, although the numbers are  
6 slightly different.

7 Q Look at the underattending school in  
8 the corner. Do you see its number of Asian  
9 students?

10 A Okay, I'm sorry. That's would explain  
11 why. That's why I was trying to figure out why  
12 they looked the same.

13 Q This is the number of Asian students?

14 A Who had applied for semifinalist and  
15 offered.

16 Q Can you read off the names of the six  
17 schools who had enough Asian -- well, first of  
18 all, the redaction policy is for any number less  
19 than ten, right?

20 A Ten and under.

21 Q Ten and under.

22 A So ten would have been redacted as

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Transcript of Jeremy Shughart  
Conducted on October 14, 2021

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1 well.

2 Q Can you read off the six schools that  
3 had enough Asian students admitted in the Class of  
4 2024 not to be redacted.

5 A You want me read them off?

6 Q Yeah.

7 A Carson, Cooper, Frost, Kilmer,  
8 Longfellow, Rocky Run.

9 Q Were any of those schools listed as  
10 underrepresented schools that would get the  
11 45-point bonus?

12 A From the ones you just read, I don't  
13 think so.

14 Was Kilmer one of the ones you read?

15 Q No.

16 A Okay.

17 MR. KIESER: Can we take, like, a  
18 five-minute break?

19 MS. REWARI: Do you know how much  
20 longer you have?

21 MR. KIESER: Not very much. Probably  
22 less than a half hour. Less than 20 minutes.

Message

**Sent:** 6/15/2020 2:47:32 PM  
**To:** Smith, Marty K. [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9b3c2c491ce64b00ae90e8b694fa324a-Smith, Mart]; Foster, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f6418d04f260417f9e7297654432577e-Foster, Joh]  
**Subject:** RE: middle schools / TJHSST  
**Attachments:** Admissions\_White\_Paper\_version8.pdf; Admissions\_White\_Paper\_Executive Summary.pdf

Marty,  
At the May 27 closed session, these two documents were shared.

---

**From:** Skahen, Tracey  
**Sent:** Monday, June 15, 2020 10:19 AM  
**To:** Foster, John <jefoster@fcps.edu>; Muhlberg, Ilene <idmuhlberg@fcps.edu>  
**Subject:** FW: middle schools / TJHSST

Good morning, Dr. Anderson is asking for a list of middle schools who have students who were accepted into the THSST Class of 2024. Has this information been shared yet if not, do we have a date of when? We thought it might be shared in a JFBB or in a closed session.

Hope all is well.

Thanks!

---

**From:** Anderson, Ricardy J (School Board Member) <rjanderson@fcps.edu>  
**Sent:** Monday, June 15, 2020 10:11 AM  
**To:** Smith, Marty K. <mksmith@fcps.edu>  
**Subject:** RE: middle schools / TJHSST

Thank you.

**Ricardy Anderson, Ed.D.**  
Mason District Representative  
Fairfax County School Board

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Please be aware that correspondence with School Board members is subject to the Virginia Freedom of Information Act. This means that your correspondence may be made public if (1) it deals with FCPS business and (2) someone requests it—even if you have asked that your message be kept confidential. Only a few topics are exempt from the disclosure requirement, such as information about identifiable students, and personnel information about individual employees.

---

**From:** Smith, Marty K. <mksmith@fcps.edu>  
**Sent:** Friday, June 12, 2020 6:36 PM  
**To:** Anderson, Ricardy J (School Board Member) <rjanderson@fcps.edu>  
**Subject:** RE: middle schools / TJHSST

Hello!

I will check with John Foster and Ilene. The data may have already been posted to the secure part of Blackboard.

Marty

SHUGHART 2  
10-14-21  
J. BELLINGER  
RPR, CRR

---

**From:** Anderson, Ricardy J (School Board Member) <[rjanderson@fcps.edu](mailto:rjanderson@fcps.edu)>  
**Sent:** Friday, June 12, 2020 4:18 PM  
**To:** Smith, Marty K. <[mksmith@fcps.edu](mailto:mksmith@fcps.edu)>  
**Subject:** FW: middle schools / TJHSST

Marty,

Is there any way that I can be provided with date when this can be expected? Thanks.

**Ricardy Anderson, Ed.D.**  
Mason District Representative  
Fairfax County School Board

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Please be aware that correspondence with School Board members is subject to the Virginia Freedom of Information Act. This means that your correspondence may be made public if (1) it deals with FCPS business and (2) someone requests it- even if you have asked that your message be kept confidential. Only a few topics are exempt from the disclosure requirement, such as information about identifiable students, and personnel information about individual employees.

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**From:** Coffey, Cristy <[cmcoffey@fcps.edu](mailto:cmcoffey@fcps.edu)>  
**Sent:** Wednesday, June 10, 2020 2:20 PM  
**To:** Anderson, Ricardy J (School Board Member) <[rjanderson@fcps.edu](mailto:rjanderson@fcps.edu)>  
**Subject:** FW: middle schools / TJHSST

Please see Marty's response below.

Cristy

---

**From:** Smith, Marty K. <[mksmith@fcps.edu](mailto:mksmith@fcps.edu)>  
**Sent:** Wednesday, June 10, 2020 2:18 PM  
**To:** Coffey, Cristy <[cmcoffey@fcps.edu](mailto:cmcoffey@fcps.edu)>  
**Cc:** Skahen, Tracey <[tlskahen@fcps.edu](mailto:tlskahen@fcps.edu)>; Shughart, Jeremy A <[jshughart@fcps.edu](mailto:jshughart@fcps.edu)>  
**Subject:** Re: middle schools / TJHSST

Hi Christy,

We will share his information with the SB through the JFBB. I'm not sure about the date, but it usually happens after we select for the summer round.

Marty

Marty

Sent from my iPad

On Jun 10, 2020, at 2:15 PM, Coffey, Cristy <[cmcoffey@fcps.edu](mailto:cmcoffey@fcps.edu)> wrote:

Dear Marty,

Ricardy Anderson has asked me to track down "a list of middle schools who have students who were accepted into TJ for next year." Now that Francisco is gone, I'm not sure who to ask about this. Will you please direct me to the appropriate person to assist with her question?

Thank you,  
Cristy

*Cristy Coffey*

Executive Administrative Assistant to:

**Ricardy Anderson - Mason District**

**Megan McLaughlin - Braddock District**

Fairfax County School Board Office

Phone: 571-423-1064

Fax: 571-423-1067



**TJHSST Admissions: Pathway Admission Process**

**Statement of Purpose**

Since it was established in 1985, Thomas Jefferson High School for Science and Technology (TJHSST) has been a leader in providing science, technology, engineering, and mathematics (STEM) education. Fairfax County Public Schools (FCPS) is committed to providing a high-quality, specialized high school program for students with an interest in STEM who reside in Fairfax County and other school districts and cities served by TJHSST (i.e., Arlington, Loudoun, and Prince William counties, as well as the cities of Fairfax and Falls Church). Since its inception, business and industry leaders have provided vital support to TJHSST, and TJHSST alumni have become leaders in business and industry, among other fields. TJHSST is best able to serve its community and alumni when those alumni are prepared—through development of fundamental knowledge, leadership and interpersonal skills—to learn, work, and live in an ever-changing and increasingly diverse global society.

From time to time, FCPS leaders and TJHSST staff review the school's policies and procedures considering its Mission Statement and Beliefs. (See FCPS, [About TJHSST](#).) The goal of this exercise is to identify policies and procedures that may require clarification or updating to best serve the needs and goals of the TJHSST community. As a result of this process, in the past decade, TJHSST has at times revised in some ways various policies and procedures, including its approach to student admissions.

Following an extended period of analysis and careful consideration by district- and school-level leaders, FCPS proposes to adopt certain revisions to the process for admission to TJHSST effective for ninth grade in the 2022-2023 school year. The revised admissions process will:

- Continue to “provide students with a challenging learning environment focused on math, science, and technology”, consistent with the school’s mission. All students who attend TJHSST will continue to receive the same rigorous classroom instruction and the same opportunities to participate in varied and enriching extracurricular activities.
- Continue to be supported by evidence and best practice. The process will not eliminate the use of standardized tests to assess applicants’ performance in math, reading, and science. Rather, the process will utilize an applicant’s test scores as one of several components that inform evaluation of a student’s application.
- Continue to be fair and equitable, and to be administered consistent with applicable law. Admissions decisions will continue to be based on an individualized assessment of each applicant’s qualifications. No individual who is otherwise eligible based on residency and satisfaction of minimum academic requirements will be denied an opportunity to apply for admission to TJHSST based on a particular characteristic, nor will any individual be guaranteed admission. There will be no “quotas” or other limits on the number of individual students who share a particular characteristic who can be accepted under the revised process.
- Continue to promote diversity in many forms. FCPS believes that the learning environment at TJHSST will be enhanced by a student body that is increasingly diverse across a variety of attributes. TJHSST’s core beliefs emphasize the importance of critical thinking and problem-solving skills; global interdependence and understanding; creativity and curiosity; communication; and leadership and interpersonal skills—all of which are “vital to addressing the complex societal and ethical issues of our time.” Research shows that a diverse student



**TJHSST Admissions: Pathway Admission Process**

body provides additional opportunities for students to be exposed to widely diverse people, cultures, ideas, and viewpoints and to work collaboratively—in the classroom, in laboratories, on the stage, and on athletic fields—as they ask questions, develop ideas, and propose solutions to challenging problems. Research also shows that a diverse student body promotes understanding, helps to break down stereotypes, and promotes learning outcomes. And research shows that diversity in school better prepares students for their participation in an increasingly diverse workforce and society.

- Continue to select students for admission only if they demonstrate evidence of readiness for TJHSST's academic rigor and an ability to contribute to the learning environment at TJHSST. Every year, many more students who are interested in math and science and who could be successful at TJHSST apply for admission than can be accepted; the revised process would offer prospective students' admission through three different pathways.

The revised admissions process will allow TJHSST to identify students who are interested in math and science and who have demonstrated a pattern of achievement, while providing fair and equitable access to all students who have the potential to succeed at TJHSST. FCPS expects that as a result of the changes, the student population at TJHSST will reflect more closely the diverse population in the jurisdictions from which students are eligible to apply for admission. Talented students enrolled in each middle school have traits important to the mission and goals of TJHSST and could contribute to the school's learning environment. These changes more directly account for the fact that many students who want to enroll in a specialized school focused on math and science and who could be successful at TJHSST may have different academic, extracurricular, and personal experiences and differing arrays of strengths and interests. The revised admission process will provide all eligible students an opportunity to demonstrate their own interests and qualifications through individualized assessment of their academic accomplishments and other factors.

FCPS and TJHSST will continue to work with parents, students, and middle schools in participating jurisdictions to provide information on the admissions process and to ensure that all middle school students who have the potential to be successful at TJHSST and who are interested in math, science, and technology have the same opportunity to access the specialized program at TJHSST.

**TJHSST Admissions: Pathway Admission Process****Pathway 1 (approximately 350 students)**

TJHSST Admissions will select students using three different processes (Pathways). Pathway 1 is based on the top performing students on a combination of test scores and GPA. A point system will be used to identify the strongest amount of points available for students. The maximum amount of points available in this Pathway is 400 combined points. Below is the breakdown of Pathway 1. A student's GPA will consist of the core academic courses for 7<sup>th</sup> grade and the 1<sup>st</sup> and 2<sup>nd</sup> Quarter of 8<sup>th</sup> Grade. The Math, Reading & Science test results will be based on the national percentile rank.

- GPA - \*25 (100 max), Math - \*1 (100 max), Reading - \*1 (100 max), Science - \*1 (100 max)

**Results****2018-2019**

350 students

GPA – Range: 4.0-3.5905

Math – Range: 99-83

Reading – Range: 100-82

Science – Range: 100-90

- Race/Ethnicity
  - 264 Asian
  - 2 Black
  - 8 Hispanic
  - 9 Other (Two or More)
  - 67 White
- Gender
  - 234 Male
  - 116 Female
- Free/Reduced
  - 3 FRM
- Math Class
  - 7 Algebra I
  - 208 Geometry
  - 112 Algebra II/Trig
  - 7 Pre-Calc.
  - 16 Other
- County
  - 10 Arlington
  - 1 Falls Church City
  - 245 Fairfax County
  - 87 Loudoun
  - 7 Prince William

**2017-2018**

350 students

GPA – Range: 4.0-3.5048

Math – Range: 99-83

Reading – Range: 100-85

Science – Range: 100-90

- Race/Ethnicity
  - 257 Asian
  - 3 Black
  - 8 Hispanic
  - 15 Other (Two or more)
  - 67 White
- Gender
  - 220 Male
  - 130 Female
- Free/Reduced
  - 4 FRM
- Math Class
  - 13 Algebra I
  - 206 Geometry
  - 118 Algebra II/Trig
  - 8 Pre-Calc.
  - 1 Calculus
  - 4 Other
- County
  - 14 Arlington
  - 1 Falls Church City
  - 261 Fairfax
  - 59 Loudoun
  - 15 Prince William

**TJHSST Admissions: Pathway Admission Process****Pathway 2 (approximately 100 students)**

Application Evaluation process (still need minimum test scores/GPA). Points will be associated with each component below. The combination of GPA/test scores and points from components will determine students in this group.

To be considered for Pathway 2, student must meet;

- **50% of evaluation**
- Minimum GPA of 3.0 (core academic areas from 7<sup>th</sup> Grade Final Marks and 8<sup>th</sup> Grade 1<sup>st</sup> & 2<sup>nd</sup> Quarter)
- A minimum; (current semi-finalist minimums)
  - Math – 50%tile
  - Reading – 75%tile
  - Science – 75%tile

The Pathway is based on GPA/Test and score of Pathway 2 evaluations listed below.

- **50% of evaluation**

|                                 |        |  |   |                |
|---------------------------------|--------|--|---|----------------|
| <b>Socio-economic Factors</b>   | 0 or 7 |  | <b>School Leadership</b>  | 0 to 8         |
| Free/Reduced Meals              |        |  | "O" Factor* – CCTDI Assessment  |                |
| <b>Regional Data</b>            | 0 or 7 |  | <b>STEM Skills</b>  | 0 to 3         |
| Zip Code                        |        |  | Top 3 Awards/Projects/Skills  |                |
| <b>English Language Learner</b> | 0 or 7 |  | <b>Hardship</b>   | 0 to 5         |
| not including Dismissed         |        |  | Homelessness, economic responsibility, Extenuating Circumstances, family/personal crisis, 504, etc. |                |
| <b>Special Education</b>        | 0 or 7 |  |   |                |
| IEP                             |        |  |   |                |
| <b>Extracurricular</b>          | 0 or 3 |  |   |                |
| School Based                    |        |  |   |                |
| <b>Community Service</b>        | 0 or 3 |  |   |                |
|                                 |        |  | <b>Total</b>  | <b>0 to 50</b> |

Note: "O" Factor – refers to students with exceptional talents in organizing others, i.e.;

- Leading is influencing people to willfully attempt together, what they would not or could not as individuals.
- Leadership is the overall term for this social process.
- Leaders are those who lead, not just occupy a position or claim a title.

Certain categories will be loaded based on registration data. Other fields would be provided by the student through the application process. In some cases, the students will need to provide documentation to support the information provided in the field.

**TJHSST Admissions: Pathway Admission Process**

**Pathway 3 (approximately 50 students)**

**Nomination Process**

FCPS Public Schools that are underrepresented will have an opportunity to nominate students for admission to TJHSST. The school will nominate up to 10 students based on students meeting minimum criteria. A minimum of 3 students from each FCPS school will be offered throughout all the Pathway options. If no student from a school has been selected in the Pathway 1 or 2, that school will be guaranteed minimum student offers. So, all FCPS schools will have representation at TJHSST. Fairfax County private and homeschooled students are not included in this portion of the selection process.

- Schools – with 3 or less students offered over last 3 years (preliminary identification)
  - Franklin MS
  - Hayfield MS
  - Herndon MS
  - Holmes MS
  - Irving MS
  - Key MS
  - Lanier MS
  - Poe MS
  - Stone MS
  - Whitman MS

A nomination committee will review possible students. Committee members consist of Principal or Designee, Director of Student Services or Designee, Liaison Counselor, 8<sup>th</sup> Grade Math, and 8<sup>th</sup> Grade Science teacher. The committee would review the merits of each student nominee; teacher/school recommendations and possibly an in-person interview of student (video?). The TJHSST Admission office will assist in the process by identifying students who would be possible candidates; Math Subject, SOL Scores (7<sup>th</sup> Grade Math), CogAT/NNAT, Universal Screener Assessment, etc.

- Nominated students must sit for the admission exam and meet Pathway 2 requirements
  - This ensures the students will be able to handle the level of academic rigor at the school

**Selection Process**

Students nominated will apply to TJHSST through the same application process. These students will be eligible to be selected through Pathway 1 and Pathway 2. In the event the student is not selected in either Pathway 1 or 2, he/she will be evaluated in Pathway 3. Pathway 3 consists of the same process as Pathway 2 only for students remaining in the nomination pool. Evaluations will take place for these students and the strongest remaining students will be offered admission.

**TJHSST Admissions: Pathway Admission Process**

|          | Franklin | Hayfield | Herndon | Holmes | Irving | Key | Lanier | Poe | Stone | Whitman | Total |
|----------|----------|----------|---------|--------|--------|-----|--------|-----|-------|---------|-------|
| Asian    | 1        | 1        | 1       | 2      | 1      | 1   | 2      | 1   | 2     | 0       | 12    |
| Black    | 0        | 0        | 0       | 0      | 0      | 0   | 0      | 0   | 0     | 0       | 0     |
| Hispanic | 0        | 0        | 0       | 0      | 0      | 0   | 0      | 1   | 1     | 1       | 3     |
| White    | 2        | 2        | 2       | 1      | 2      | 2   | 1      | 1   | 0     | 2       | 15    |
| Other    | 0        | 0        | 0       | 0      | 0      | 0   | 0      | 0   | 0     | 0       | 0     |

Note: The students represented in the table are based on the 2017-2018 Applicant year and only using statistics from Pathway 1. Using only Pathway 1 options would ensure regional diversity only and not racial/ethnic diversity. The table further supports employing the Pathway 2 process for these students.

**Non –FCPS school divisions**

Participating school divisions will be encouraged to nominate students using a similar process. The number available per division will be based on the same formula used to create Caps per school division (as long as maximum offers would not have been filled through Pathways 1 & 2). The TJHSST Admissions office will coordinate efforts of identification with these divisions to provide high quality nominations.

Note: Participating school division caps are based on the Class of 2022 Admissions Cap (these numbers are for planning purposes only and would be calculated each year).

- Prince William County Cap – 12
- Loudoun County – 11
- Arlington County – 3
- Falls Church City - 1

**Conclusion**

There are a number of adjustments which could be made to this new process. This approach maintains a high level of rigor for the students to achieve in Pathway 1. This allows for a large group of students to demonstrate academic strength on a series of rigorous assessments. Pathway 2 provides for intentional diversity. Diversity could be described in a broad swath that encompasses more than just ethnic/racial diversity. Pathway 2 intentionally targets students with varied background and still maintains a strong level of academic strength. Pathway 3 takes a further step in identifying areas in our region that have been historically under represented at TJHSST. These nominees will be selected using the same criterion as the students in Pathway 2.

**TJHSST Admissions: Pathway Admission Process**

Possible Alternative Consideration – Historically low representation (consider non-center schools ONLY), diversity of school; racial/ethnic, ELL population, SES population, etc. Identification of schools will remain flexible each year to provide consistent representation of all schools and geographic regions in participating school divisions.



**TJHSST Admissions: Pathway Admission Process**

**Implementation Timeline (Expected for the 2022-2023 Application Year)**

This is an estimated timeline to implement the changes in the proposal above. Many factors would come into play as we look at each element and work on implementing the changes for a future admissions cycle. First, any changes would be implemented to begin with the Winter Freshman Round (this round begins in late August/early September) with the application window. The application system will need to be ready for delivery in July of the year of implementation.

**TJHSST Admissions Application Committee – December 2020-October 2021 (8 – 11 Months)**

Once the white paper is approved a working group would need to be established to decide on the final elements on each Pathway for the application process. The working group could be comprised of members of various interests groups, including but not limited too; Admissions personnel, TJHSST School Leadership & staff, Instructional Services personnel (Math, Science & Advanced Academics), Out-of-County Leadership (Arlington, Loudoun, Prince William Counties & the City of Falls Church), Fairfax County Association of the Gift (FCAG), Advanced Academics Programs (AAPAC), Minority Student Assessment Oversight Committee (MSAOC), etc. The working group's stated goal would be to evaluate the white paper and develop the final Pathway elements. This work would be estimated to take a few months to finalize the recommendations. Additionally, a school board closed session may be needed to provide high level information from the white paper in terms of the newly-proposed admissions process. **December 2020-April 2021 (4 – 5 months)**

# Attorney Client Privilege

**Application Development & Marketing of New Process – November 2021-July 2022 (6 – 8 months)**

Once the new process has been approved to move forward work with the application system will need to begin. The online application system will need to be redesigned to include the new information that now needs to be collected. The application system will need to be tested thoroughly to ensure it would be successfully implemented. Additionally, internal database systems will need to be updated to capture the new data being collected from the online application system. These two systems will need to be integrated. **November 2021-July 2022 (6 – 8 months)**

A campaign of public awareness for the new admissions process will need to be underway immediately following school board presentations. The presentations will provide information on the new process applicants will undergo for the selection process. This information will begin at the middle school level in FCPS and participating jurisdictions. Additional information will be provided to the Pathway 3 Schools identified. The presentations can happen concurrently with the application development. **January 2022-July 2022 (3 – 6 months)**

## **TJHSST Admissions: Pathway Admission Process**

### **Executive Summary**

FCPS leaders and TJHSST Admissions staff review TJHSST's admissions policies and procedures considering its Mission Statement and Beliefs. The goal of this exercise is to identify policies and procedures that may require clarification or updating to best serve the needs and goals of the TJHSST community. As a result of this process, in the past decade, TJHSST has at times revised in some ways various policies and procedures, including its approach to student admissions.

Following an extended period of analysis and careful consideration by district- and school-level leaders, FCPS proposes to adopt certain revisions to the process for admission to TJHSST effective for ninth grade in the 2022-2023 school year.

The revised admissions process will allow TJHSST to identify students who are interested in math and science and have demonstrated a pattern of achievement, while providing fair and equitable access to all students who have the potential to succeed at TJHSST. FCPS expects as a result of the changes, the student population at TJHSST will reflect more closely the diverse population in the jurisdictions from which students are eligible to apply for admission. Talented students enrolled in each middle school have traits important to the mission and goals of TJHSST and could contribute to the school's learning environment. These changes more directly account for the fact that many students who want to enroll in a specialized school focused on math and science and who could be successful at TJHSST may have different academic, extracurricular, and personal experiences and differing arrays of strengths and interests. The revised admission process will provide all eligible students an opportunity to demonstrate their own interests and qualifications through individualized assessment of their academic accomplishments and other factors.

### **Pathways to TJHSST**

The new admissions process will consist of 3 pathways for students to attend TJHSST. This process is a change from the current process but maintains key elements that are already in place. Pathway 1 will select the students who are top performers on a combination of test scores and GPA. This process is similar to the current semifinalist process and would select the top performing students for admissions. Pathway 2 will select students using elements from Pathway 1 (50%) and the remaining portion will be based on specific diversity factors. Pathway 3 will select students using the same process as pathway 2. However, Pathway 3 is for specifically identified under-represented schools. Additionally, under-represented schools will nominate students for admissions.

This approach maintains a high level of rigor for the students to achieve in Pathway 1. This allows for a large group of students to demonstrate academic strength on a series of rigorous assessments. Pathway 2 provides for intentional diversity. Diversity could be described in a broad swath that encompasses more than just ethnic/racial diversity. Pathway 2 intentionally targets students with varied background



### **TJHSST Admissions: Pathway Admission Process**

and still maintains a strong level of academic strength. Pathway 3 takes a further step in identifying areas in our region that have been historically under-represented at TJHSST.

### **Implementation Timeline (Expected for the 2022-2023 Application Year)**

There are many elements that will need to be completed to be able to effectively transition to a new application approach. It will take 8-11 months for a working group to finalize the elements of each pathway. This timeframe includes creating a working group to formalize the final product and make final recommendations to school leadership, legal counsel, and the school board. This will be followed by an additional 6-8 months of application redevelopment and marketing of the new process. The entire process must be finalized and completed in July 2022 to be implemented for the 2022-2023 application year. The application process starts in August/September each year. The entire approach will take 14-19 months to complete.

### **Next Steps**

The next step is to get an approval to move forward with this approach. For this admissions approach to be completed for the 2022-2023. Application year a decision will need to be made no later than December 2020. This will allow the Admissions Office to organize a working group to implement each of the phases and complete the process for a new application process.

### **Other Factors to Consider**

Cost - redevelopment of our current application system to meet the new process. This could be a process of modifying our current application system to meet the new demands.

OR

RFP Process – possibly need to consider a RFP for the application system.

**Experience Factors (100 points)**

- Weighting will be calculated for students in multiple diversity categories.

|                                       |         |  |   |                 |
|---------------------------------------|---------|--|---|-----------------|
| <b>Socio-economic Factors</b>         | 0 or 15 |  | <b>School Leadership</b>  | 0 to 12         |
| Free/Reduced Meals                    |         |  | Response to Leadership  |                 |
| <b>English Language Learner</b>       | 0 or 15 |  | <b>STEM Skills</b>  | 0 to 6          |
| Level 1-6                             |         |  | Top 3 Awards/Projects/Skills  |                 |
| <b>Special Education</b>              | 0 or 15 |  | <b>Hardship</b>   | 0 to 10         |
| IEP                                   |         |  | Homelessness, economic responsibility, Extenuating Circumstances, family/personal crisis, 504, etc. |                 |
| <b>Parental Education Level</b>       | 0 or 15 |  |   |                 |
| HS Diploma, College Diploma or Beyond |         |  |   |                 |
| <b>Extracurricular</b>                | 0 to 6  |  |   |                 |
| Listing of Experiences                |         |  | <b>Total</b>  | <b>0 to 100</b> |
| <b>Community Service</b>              | 0 to 6  |  |   |                 |
| Listing of Experiences                |         |  |   |                 |
|                                       |         |  |   |                 |
|                                       |         |  |   |                 |

**Pathway Selection**

- Each pathway will select students based on a composite score after a holistic review. Applicants with the highest composite score in each pathway will be offered admissions (up to maximum number of offers per pathway).
- Each applicant is subject to an audit review of diversity factors.
  - Academic Integrity is Critical.
  - Audit may contain the following but is not limited too.
    - Documentation of all claims of parental education level, extracurricular activities, community service, STEM skills, hardship, etc.
  - A student who is found to be dishonest and provided responses that are of a deceptive nature will be removed from the application process and will not be eligible for an offer of admission.
  - A student who has been offered admissions and is found to be dishonest will have the offer of admissions rescinded.
- Rolling Admissions
  - Students offered admissions
  - Students have designated timeframe to accept or reject their offer
  - Rolling admissions are established to keep a class of 500
  - Each pathway will maintain a list of students not selected
  - Openings will be filled by the next eligible applicant on the list
  - Should a non-FCPS pathway exhaust its list of students, the next eligible candidate with the high composite score off the FCPS list will be chosen.

- As needed, additional applicants will be offered on the 1<sup>st</sup> and 15<sup>th</sup> of every month through end of 1<sup>st</sup> Quarter in order to maintain a class of 500.
- Any student who declines the offer of admission will be removed from eligibility.

#### **Appeals Process**

- An Appeal form must be submitted within 10 business days of admissions decisions announcement. The Appeal form will ask the parent and/or guardian to provide a written explanation of the exceptional circumstance that the Appeals Committee is to consider.
- The Appeal form must be submitted to the TJHSST Admissions Office. The TJHSST Admissions Office will ensure all appeal documents are submitted to the Appeals Committee. The parent and/or guardian is not allowed to submit additional credentials, documents or letters of recommendation.
- The Appeals Committee will review the appeal.
- The decision of the Appeals Committee will be communicated to the parent and/or guardian in writing and the Appeals Committee decision shall be final.

Message

**From:** Shughart, Jeremy A [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=77ED93A9176E4058A2847967265E7289-SHUGHART, J]  
**Sent:** 9/28/2020 2:14:08 AM  
**To:** Hruda, Ludmila (Lidi) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=717d2cd6b4994ec7be716f560bdf6627-Hruda, Ludm]  
**CC:** Smith, Marty K. [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9b3c2c491ce64b00ae90e8b694fa324a-Smith, Mart]  
**Subject:** RE: TJ Admissions White Paper - Alternative

Lidi,

Thank you so much for the feedback. I agree that we need to consider how this will be considered and whether there was enough weighting involved. The maximum amount of points you would receive would only be around 14%, so it isn't impacting at a very high level. I wasn't sure if doubling the points would have been too much weight but your points are very valid in perspective that most students won't receive all points but a portion and for it to make an impact you would need to have an increased capacity.

Thanks again,  
Jeremy

**Jeremy Shughart, EDS.**

Director of Admissions  
Thomas Jefferson High School for Science and Technology  
Fairfax County Public Schools  
571-423-3770

**From:** Hruda, Ludmila (Lidi) <LZHruda@fcps.edu>  
**Sent:** Sunday, September 27, 2020 9:46 PM  
**To:** Shughart, Jeremy A <jshughart@fcps.edu>  
**Cc:** Smith, Marty K. <mksmith@fcps.edu>  
**Subject:** RE: TJ Admissions White Paper - Alternative

Jeremy,

Thank you for sharing this with me. Attached are some comments embedded within the document. Not stated in the document is the answer to the question you asked. It is hard to know exactly what will level the playing field but my gut says that you may need to double all the points (and the total) so that applicants can receive up to 200 points overall for these experience factors.

My logic is the following: There are already 650 points accounted for in the other areas – teacher recommendations, SIS, and essay.

- Prior research on TJ admissions shows that historically underrepresented candidates receive less positive teacher recommendations than White and Asian candidates. This is older work but there is nothing more recent to indicate this has changed. This is likely true for other challenges like living in poverty and special ed – though the numbers weren't big enough to really examine this.
- The other two pieces, SIS and essay have also historically favored White and Asian candidates, I believe, who had broader experiences upon which to draw and often coaching on how to approach each piece.
- Thus, I think we can expect these three pieces to yield similar results to what we have seen with the testing as a part of the process, rather than vastly different results. Maybe not identical but not too far from where we currently stand with admissions.
- That leaves only the Experience Factors to help shift the landscape and bring more diversity into play and acceptance of historically underrepresented students. Since the experience factors include things that some

more privileged students are likely to get points on, as well as factors that less privileged students are likely to get points on, I think we can assume that the potential advantage from the Experience Factors is likely to be at most 50 points and more likely only 25 points for most students since they are not likely to get credit for all the experience factors. Not meaning that they get 25-50 points but they get maybe 50-75 points, while more privileged students are getting 25, netting a 25-50 point bump for those less privileged.

- Whether 25 or 50 points, that means the gap coming out of the first three pieces would need to be in that range to balance things. I think you will find that the gap is broader than that and that the bump up from the Experience Factors will be insufficient to make up for the difference.

Maybe I am being too pessimistic and, undoubtedly, some might argue that providing students with a 50 to 100 point advantage from the Experience Factors is inappropriate. Nonetheless my gut says the 25 to 50 point advantage a non-privileged student might gain from the Experience Factors will not level the field given the three other parts of the process.

Happy to discuss further.

Lidi

**Lidi Hruda**  
Director  
Office of Research and Strategic Improvement  
Fairfax County Public Schools  
Office: 571-423-1435  
Mobile: 571-385-8165

**From:** Shughart, Jeremy A <jshughart@fcps.edu>  
**Sent:** Sunday, September 27, 2020 4:51 PM  
**To:** Hruda, Ludmila (Lidi) <LZHruda@fcps.edu>  
**Cc:** Smith, Marty K. <mksmith@fcps.edu>  
**Subject:** TJ Admissions White Paper - Alternative  
**Importance:** High

Lidi,

Good afternoon, I wanted to share a draft of our alternate white paper proposal for admissions. Could you look specifically at the table for "Experience Factors" and provide us a review of our current weighting and whether or not this would be enough to level the playing field for our historically underrepresented groups. **Attorney-Client Privilege**

**Attorney Client Privilege** Additionally, you can review the other weighting (similar to the old version of the points weighting of components).

The table is similar to the table we used with the previous white paper you reviewed this past spring. We are providing an alternative approach to the lottery proposal from a couple of weeks ago.

Note: I will be away from my computer for the next week hours. However, I will be back later this evening to answer any questions you may have. Please include Marty on the message as we have been working on this draft over the last few days and will be sharing with cabinet in the next day or so.

Thanks,  
Jeremy

**Jeremy Shughart, EDS.**  
Director of Admissions  
Thomas Jefferson High School for Science and Technology  
Fairfax County Public Schools  
571-423-3770



## Overview

The Hybrid Merit Lottery Approach for Thomas Jefferson High School for Science and Technology (TJHSST) admissions will identify the highest-evaluated 100 students in the application pool and automatically offer those students admission. The remaining students will be identified by random selection based on the available seats in a student's identified pathway.

This approach ensures that the students with the strongest applications are admitted into TJHSST while allowing for the advantages of the Merit Lottery approach: a higher probability of traditionally disadvantaged students gaining admittance along with the concomitant increase in applications anticipated by this approach.

## Eligibility Requirements

To be considered for acceptance, applicants must meet the following minimum requirements: 3.5 unweighted core grade point average (GPA) or higher, enrollment in Algebra I or a higher math, and residency in participating jurisdictions.

Unweighted grades are the most equitable measure of a student's school performance: not all jurisdictions weight GPA in the same manner and not all middle schools offer courses that qualify for a weighted GPA. The core GPA includes grades from mathematics, science, English, history, and world language (if taken for high school credit).

## Evaluation elements

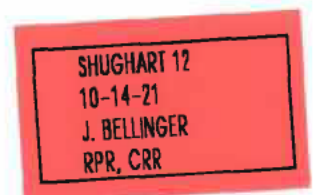
Each application will be reviewed by two evaluators. The two evaluator scores will be added together to determine the final points. Points will be assigned for each element with the highest possible score of 1100 points.

### ➤ Core GPA: 200 points

### ➤ Student Portrait Sheet (formerly Student Information Sheet): 400 points

The Student Portrait Sheet contains Likert-scale and short-answer questions that are designed to evaluate students' qualities as they relate to Portrait of a Graduate and 21<sup>st</sup> Century Skills:

- Collaborator
- Communicator
- Creative & Critical Thinker
- Ethical/Global Citizen
- Goal-Directed & Resilient Individual
- Innovator
- Leader
- Problem-Solver



Evaluators will holistically score the Student Portrait Sheet according to the following rubric:

- 5 – Exceptional
- 4 – Above Average
- 3 – Typical
- 2 – Marginal
- 1 – Inadequate

➤ **Problem-Solving Essay: 500 points**

The problem-solving essay is designed to allow applicants to demonstrate how they approach a multi-variable math or science problem. The problem is intended to be answerable with knowledge gained through the first/second quarter of Algebra I or 8th grade Science, aligned with qualification minimums.

Evaluators will holistically score the problem-solving essay according to the following rubric:

- 5 – Exceptional
- 4 – Above Average
- 3 – Typical
- 2 – Marginal
- 1 – Inadequate

➤ **Experience Factors: 200 points for FCPS/150 for participating jurisdictions**

Four experience factors will be considered and scored:

- English Language Learner: 0 or 50 points
- Economically Disadvantaged: 0 or 50 points
- Special Education: 0 or 50 points
- Historically underrepresented school: 0 or 50 points (FCPS ONLY)

Experience Factors will be considered bonus points in the evaluation process. To account for the difference between the FCPS and all other applicants, a ratio of points/points possible will calculate to the total points. This will be done so as not to penalize non-FCPS students in the evaluation process.

Historically underrepresented schools are school that admitted three or fewer students over the last three years. The preliminary list of historically underrepresented schools is:

- |               |              |
|---------------|--------------|
| • Franklin MS | • Key MS     |
| • Hayfield MS | • Liberty MS |
| • Herndon MS  | • Poe MS     |
| • Holmes MS   | • Stone MS   |
| • Irving MS   | • Whitman MS |

CONFIDENTIAL DOCUMENT

Hybrid Merit Lottery  
Closed School Board Work Session  
October 6, 2020**Scoring**

All applications will be evaluated using the Composite score: combined GPA, Student Profile Sheet, Problem Solving Essay and any Experience Factor (Bonus) points. The highest-evaluated 100 students will be offered admissions.

- GPA: 200 points
- SPS: 400 points
- Essay: 500 points
- Maximum Points: 1100
- Experience Factors: 200 total (Bonus)
  - English Language Learner: 50 points
  - Economically Disadvantaged: 50 points
  - Special Education: 50 points
  - Underrepresented Schools: 50 points

**Sample Scoring****Student A**Application Elements

GPA 4.0

Student Profile Sheet, Evaluator #1 3

Student Profile Sheet, Evaluator #2 2

Essay, Evaluator #1 2

Essay, Evaluator #2 3

**Subtotal: 650 points (not Lottery Student)**Bonus Elements

English Language Learner

Underrepresented School

**Total: 750 points (Lottery Student)****Student B**Application Elements

GPA 3.98

Student Profile Sheet, Evaluator #1 3

Student Profile Sheet, Evaluator #2 3

Essay, Evaluator #1 3

Essay, Evaluator #2 4

**Subtotal: 789 points (Lottery Student)**Bonus Elements

None

**Total: 789 points (Lottery Student)**



Message

**From:** Shughart, Jeremy A [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=77ED93A9176E4058A2847967265E7289-SHUGHART, J]  
**Sent:** 10/6/2020 11:06:28 PM  
**To:** Brabrand, Scott S [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f83e4830b34f424397d87919f381f30c-Brabrand, S]; Smith, Marty K. [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9b3c2c491ce64b00ae90e8b694fa324a-Smith, Mart]; Foster, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f6418d04f260417f9e7297654432577e-Foster, Joh]  
**Subject:** RE: Modeling and experience factors

I would need to look at old data files. 200 points or 50 points would make a difference. I don't know how that impacts our diversity.

Jeremy

**Jeremy Shughart, EDS.**  
Director of Admissions  
Thomas Jefferson High School for Science and Technology  
Fairfax County Public Schools  
571-423-3770

**From:** Brabrand, Scott S <ssbrabrand@fcps.edu>  
**Sent:** Tuesday, October 6, 2020 7:03 PM  
**To:** Shughart, Jeremy A <jshughart@fcps.edu>; Smith, Marty K. <mksmith@fcps.edu>; Foster, John <jefoster@fcps.edu>  
**Subject:** Re: Modeling and experience factors

How hard would that be to do?

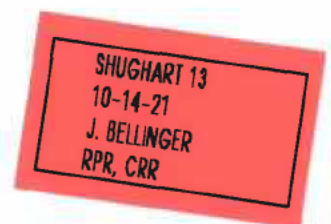
Sent from my iPhone

**From:** Shughart, Jeremy A <jshughart@fcps.edu>  
**Sent:** Tuesday, October 6, 2020 7:01:58 PM  
**To:** Brabrand, Scott S <ssbrabrand@fcps.edu>; Smith, Marty K. <mksmith@fcps.edu>; Foster, John <jefoster@fcps.edu>  
**Subject:** RE: Modeling and experience factors

We don't currently use any points in the process. I would have to go back to the previous process (over 8 years ago) to see how it would impact.

Jeremy

**Jeremy Shughart, EDS.**  
Director of Admissions  
Thomas Jefferson High School for Science and Technology  
Fairfax County Public Schools  
571-423-3770



**From:** Brabrand, Scott S <ssbrabrand@fcps.edu>  
**Sent:** Tuesday, October 6, 2020 7:00 PM  
**To:** Shughart, Jeremy A <jshughart@fcps.edu>; Smith, Marty K. <mksmith@fcps.edu>; Foster, John <jefoster@fcps.edu>  
**Subject:** Modeling and experience factors

Marty in old days with points - would 200 points change who got in- that is the modeling that they are asking about

Can we go back and look at points - would 200 points be a game changer

Sent from my iPhone

Message

**From:** Fowler, Julie P. [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DBA8F0FE44024C57B820F95BCF36B15A-FOWLER, JUL]  
**Sent:** 11/13/2020 3:56:00 PM  
**To:** Shughart, Jeremy A [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=77ed93a9176e4058a2847967265e7289-Shughart, J]; Hruda, Ludmila (Lidi) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=717d2cd6b4994ec7be716f560bdf6627-Hruda, Ludm]  
**Subject:** RE: Rubric  
**Attachments:** Scoring Rubric v2.docx

Can't say I understand the difference but how's this?

Julie Fowler  
Manager of Business Operations  
Chief Operating Office  
571-279-1264

**From:** Shughart, Jeremy A <jshughart@fcps.edu>  
**Sent:** Friday, November 13, 2020 10:18 AM  
**To:** Fowler, Julie P. <JPFowler1@fcps.edu>; Hruda, Ludmila (Lidi) <LZHruda@fcps.edu>  
**Subject:** RE: Rubric

Yes, but the total points will be 1,000 as the experience factors are treated as bonus.

Jeremy

**Jeremy Shughart, EDS.**  
Director of Admissions  
Thomas Jefferson High School for Science and Technology  
Fairfax County Public Schools  
571-423-3770

**From:** Fowler, Julie P. <JPFowler1@fcps.edu>  
**Sent:** Friday, November 13, 2020 10:17 AM  
**To:** Shughart, Jeremy A <jshughart@fcps.edu>; Hruda, Ludmila (Lidi) <LZHruda@fcps.edu>  
**Subject:** Rubric

Please see the attached. Work?

Julie Fowler  
Manager of Business Operations  
Chief Operating Office  
571-279-1264

SHUGHART 14  
10-14-21  
J. BELLINGER  
RPR, CRR

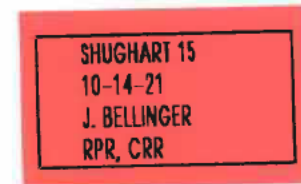
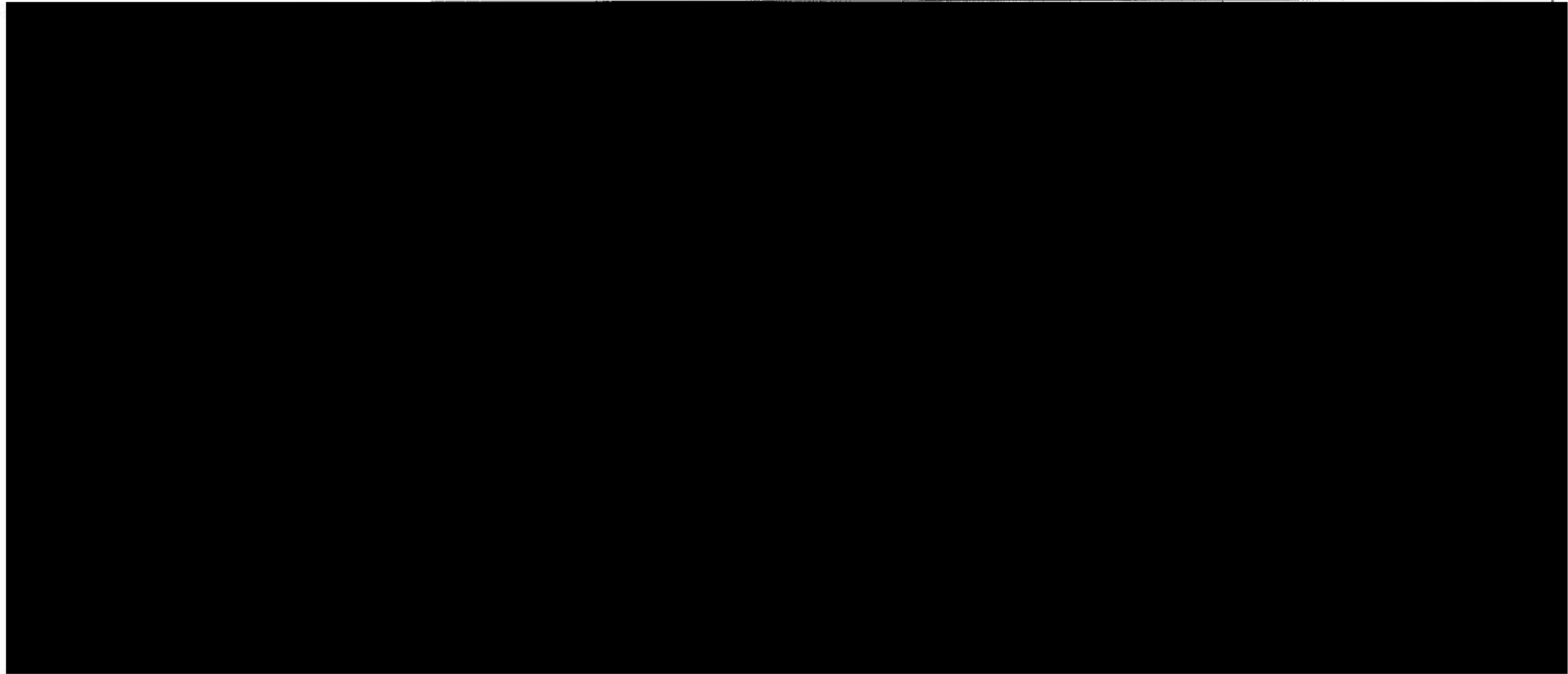
## TJHSST Scoring Rubric

| Application Elements   |  |  |                |
|------------------------|--|--|----------------|
| Element                | Details  | Scoring  | Maximum Points |
| GPA                    | <p>Grade point average is calculated based on a student's core GPA using end of the year marks in 7<sup>th</sup> grade and the first quarter of 8<sup>th</sup> grade.</p> <p>Core GPA includes mathematics, science, English, history &amp; world language (only if taken for High School Credit)</p> <p>Grades are unweighted</p>   | Core GPA x 50  | 200            |
| Student Portrait Sheet | <p>Student demonstrates Portrait of a Graduate and 21<sup>st</sup> Century skills</p> <ul style="list-style-type: none"> <li>• Collaborator</li> <li>• Communicator</li> <li>• Creative &amp; Critical Thinker</li> <li>• Ethical/Global Citizen</li> <li>• Goal-Directed &amp; Resilient Individual</li> <li>• Innovator</li> <li>• Leader</li> <li>• Problem-Solver</li> </ul> <p>Two evaluators score on a rubric:</p> <p>5 – Exceptional<br/>4 – Above Average<br/>3 – Typical<br/>2 – Marginal<br/>1 – Inadequate</p> | <p>(Evaluator 1 Score x 40) +<br/>(Evaluator 2 Score x 40)</p> | 400            |
| Problem-Solving Essay  | <p>Student answers a math or science question with multiple variables. The essay contains the answer (if found) and the method the student used to solve for the answer.</p> <p>Evaluation</p> <ul style="list-style-type: none"> <li>• Ability to solve problem</li> <li>• Description of solution</li> <li>• Essay Format</li> </ul> <p>Two evaluators score on a rubric:</p> <p>5 – Exceptional<br/>4 – Above Average<br/>3 – Typical<br/>2 – Marginal<br/>1 – Inadequate</p>   | <p>(Evaluator 1 Score x 40) +<br/>(Evaluator 2 Score x 40)</p> | 400            |
| Total                  |  |  | 1,000          |

## TJHSST Scoring Rubric

| Experience Factors (bonus points) |  |          |                |
|-----------------------------------|--|----------|----------------|
| Factor                            | Details  | Scoring  | Maximum Points |
| Economically Disadvantaged        | Students who have qualified for free and reduced price meals in any one of the last three years will qualify.  | 0 or 100 | 100            |
| English Language Learner          | Students receiving ELL services Level 1-6 will qualify.  | 0 or 50  | 50             |
| Special Education                 | Students with a current IEP will qualify.  | 0 or 50  | 50             |
| Underrepresented Schools          | <p>FCPS and sending jurisdictions will qualify under the following condition:<br/> Average maximum across the last five years (44) minus three times the average standard deviation over the last five years (<math>3 \times 13 = 39</math>), yielding 5 or fewer students admitted on average over the last five years.</p> <p>Will be calculated annually.</p> | 0 or 50  | 50             |
| Total                             |  |          | 250            |

## **TJ Admissions Statistics by FCPS Middle Schools Class of 2021 - 2024**



Test Change with Class of 2022

## Class of 2015 - 2024

| Attending School | Region | Class of 2024 |                      |                | Class of 2023 |                      |                | Class of 2022 |                      |                | Class of 2021 |                      |                | Class of 2020 |                      |                |
|------------------|--------|---------------|----------------------|----------------|---------------|----------------------|----------------|---------------|----------------------|----------------|---------------|----------------------|----------------|---------------|----------------------|----------------|
|                  |        | Applicants    | Total Semi-finalists | Total Admitted | Applicants    | Total Semi-finalists | Total Admitted | Applicants    | Total Semi-finalists | Total Admitted | Applicants    | Total Semi-finalists | Total Admitted | Applicants    | Total Semi-finalists | Total Admitted |
| Asian Students   |        |               |                      |                |               |                      |                |               |                      |                |               |                      |                |               |                      |                |
| Carson*          | 1      | 231           | 119                  | 73             | 216           | 104                  | 65             | 285           | 133                  | 65             | 228           | 178                  | 73             | 218           | 169                  | 91             |
| Cooper*          | 1      | 60            | 40                   | 25             | 60            | 45                   | 30             | 16            |                      |                | 14            |                      |                | 13            |                      |                |
| Franklin         | 5      | 28            |                      |                | 18            |                      |                | 24            |                      |                | 30            | 12                   |                | 30            |                      |                |
| Frost*           | 5      | 56            | 27                   | 14             | 51            | 25                   | 15             | 63            | 32                   | 16             | 50            | 39                   |                | 56            | 39                   | 14             |
| Glasgow*         | 2      | 18            |                      |                | 12            |                      |                | 29            |                      |                | 16            |                      |                | 16            |                      |                |
| Hayfield         | 3      |               |                      |                |               |                      |                | 12            |                      |                |               |                      |                |               |                      |                |
| Herndon          | 1      | 13            |                      |                |               |                      |                |               |                      |                |               |                      |                | 23            |                      |                |
| Holmes           | 2      |               |                      |                |               |                      |                |               |                      |                | 19            |                      |                |               |                      |                |
| Hughes*          | 1      | 14            |                      |                | 15            |                      |                | 18            |                      |                | 19            | 13                   |                | 17            |                      |                |
| Irving           | 4      | 17            |                      |                | 17            |                      |                | 20            |                      |                |               |                      |                | 18            |                      |                |
| Jackson*         | 2      | 36            | 12                   |                | 43            | 22                   | 14             | 51            | 25                   | 11             | 47            | 36                   | 11             | 50            | 21                   |                |
| Key              | 3      | 18            |                      |                | 15            |                      |                |               |                      |                | 18            |                      |                | 20            |                      |                |
| Kilmer*          | 2      | 35            | 20                   | 16             | 48            | 19                   |                | 63            | 37                   | 25             | 78            | 60                   | 28             | 77            | 52                   | 21             |
| Lake Braddock*   | 4      | 45            | 15                   |                | 42            | 15                   |                | 55            | 32                   | 11             | 46            | 31                   |                | 46            | 27                   |                |
| Lanier           | 5      |               |                      |                |               |                      |                | 18            |                      |                | 12            |                      |                | 25            |                      |                |
| Liberty          | 4      |               |                      |                |               |                      |                | 17            |                      |                | 28            | 11                   |                | 35            | 13                   |                |
| Longfellow*      | 2      | 96            | 69                   | 45             | 88            | 55                   | 36             | 134           | 93                   | 46             | 103           | 91                   | 52             | 94            | 76                   | 32             |
| Poe              | 2      |               |                      |                |               |                      |                |               |                      |                |               |                      |                | 12            |                      |                |
| Robinson         | 4      |               |                      |                |               |                      |                |               |                      |                |               |                      |                | 15            |                      |                |
| Rocky Run*       | 5      | 123           | 64                   | 31             | 130           | 68                   | 34             | 139           | 77                   | 32             | 143           | 122                  | 34             | 126           | 98                   | 34             |
| Sandburg*        | 3      |               |                      |                | 12            |                      |                |               |                      |                |               |                      |                |               |                      |                |
| South County*    | 4      | 13            |                      |                | 20            |                      |                | 15            |                      |                | 15            | 11                   |                | 21            |                      |                |
| Stone            | 5      |               |                      |                |               |                      |                |               |                      |                |               |                      |                | 12            |                      |                |
| Thoreau          | 1      | 22            |                      |                | 17            |                      |                | 16            |                      |                | 13            |                      |                | 13            |                      |                |
| Twain*           | 3      | 20            |                      |                | 24            |                      |                | 40            | 11                   |                | 24            | 14                   |                | 25            |                      |                |
| Whitman          | 3      |               |                      |                |               |                      |                |               |                      |                |               |                      |                |               |                      |                |

Note: Schools with asterisks indicates a Level IV Center.

SHUGHART 16  
10-14-21  
J. BELLINGER  
RPR, CRR

Message

**From:** Shughart, Jeremy A [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=77ED93A9176E4058A2847967265E7289-SHUGHART, J]  
**Sent:** 12/17/2020 8:42:25 PM  
**To:** Cohen, Laura Jane H (School Board Member) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8c7afd9475a741d880e2accf9e7edeec-Cohen, Laur]  
**CC:** Smith, Marty K. [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9b3c2c491ce64b00ae90e8b694fa324a-Smith, Mart]  
**Subject:** Student Enrollment  
**Attachments:** Eligible Students by school.xlsx

Laura Jane,

Good afternoon, I wanted share the eligible students from each school. Marty had asked for this information to be sent to you. Sorry for the delay.

Thanks,  
Jeremy

**Jeremy Shughart, EDS.**

Director of Admissions  
Thomas Jefferson High School for Science and Technology  
Fairfax County Public Schools  
571-423-3770

SHUGHART 17  
10-14-21  
J. BELLINGER  
RPR, CRR



|    | A                       | B                              | C                    | D             |
|----|-------------------------|--------------------------------|----------------------|---------------|
| 1  | Middle School           | Total 8th<br>Grade<br>Students | Eligible<br>Students | %<br>Eligible |
| 2  | ALC AT MONTROSE         | 3                              | 0                    | 0.0%          |
| 3  | BURKE SCHOOL MIDDLE     | 21                             | 0                    | 0.0%          |
| 4  | CARSON MIDDLE           | 720                            | 400                  | 55.6%         |
| 5  | COOPER MIDDLE           | 483                            | 190                  | 39.3%         |
| 6  | FRANKLIN MIDDLE         | 436                            | 127                  | 29.1%         |
| 7  | FROST MIDDLE            | 597                            | 220                  | 36.9%         |
| 8  | GLASGOW MIDDLE          | 636                            | 169                  | 26.6%         |
| 9  | HAYFIELD MIDDLE         | 489                            | 104                  | 21.3%         |
| 10 | HERNDON MIDDLE          | 582                            | 164                  | 28.2%         |
| 11 | HOLMES MIDDLE           | 341                            | 52                   | 15.2%         |
| 12 | HUGHES MIDDLE           | 527                            | 160                  | 30.4%         |
| 13 | INTERAGENCY ALTERNATIVE | 3                              | 0                    | 0.0%          |
| 14 | IRVING MIDDLE           | 556                            | 180                  | 32.4%         |
| 15 | JACKSON MIDDLE          | 528                            | 128                  | 24.2%         |
| 16 | KEY CENTER              | 2                              | 0                    | 0.0%          |
| 17 | KEY MIDDLE              | 416                            | 50                   | 12.0%         |
| 18 | KILMER CENTER           | 4                              | 0                    | 0.0%          |
| 19 | KILMER MIDDLE           | 560                            | 241                  | 43.0%         |
| 20 | LAKE BRADDOCK MIDDLE    | 770                            | 284                  | 36.9%         |
| 21 | LANIER MIDDLE           | 527                            | 192                  | 36.4%         |
| 22 | LIBERTY MIDDLE          | 557                            | 110                  | 19.7%         |
| 23 | LONGFELLOW MIDDLE       | 672                            | 283                  | 42.1%         |
| 24 | MULTI-AGENCY SERVICES   | 27                             | 0                    | 0.0%          |
| 25 | POE MIDDLE              | 353                            | 47                   | 13.3%         |
| 26 | PRIVATE SCHOOL SPECIAL  | 2                              | 0                    | 0.0%          |
| 27 | ROBINSON MIDDLE         | 559                            | 137                  | 24.5%         |
| 28 | ROCKY RUN MIDDLE        | 514                            | 243                  | 47.3%         |
| 29 | SANDBURG MIDDLE         | 761                            | 175                  | 23.0%         |
| 30 | SOUTH COUNTY MIDDLE     | 543                            | 137                  | 25.2%         |
| 31 | STONE MIDDLE            | 370                            | 74                   | 20.0%         |
| 32 | THOREAU MIDDLE          | 627                            | 239                  | 38.1%         |
| 33 | TWAIN MIDDLE            | 560                            | 208                  | 37.1%         |
| 34 | WHITMAN MIDDLE          | 452                            | 43                   | 9.5%          |
| 35 | <b>Grand Total</b>      | <b>14198</b>                   | <b>4357</b>          | <b>30.7%</b>  |

## **Exhibit O**

## Message

**From:** Corbett Sanders, Karen (School Board Member) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=471DCB5B040F4ABF87CF766D8C2E931F-CORBETT SAN]  
**Sent:** 6/15/2020 8:51:07 PM  
**To:** Torre, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=804a5252478c4f4e802c9a99db6a89e7-Torre, John]  
**Subject:** Re: [External] TJ Alumni Parent Question

Scott did

Sent from my iPhone

On Jun 15, 2020, at 4:39 PM, Torre, John <jjtorre@fcps.edu> wrote:

Karen, did you forward this message below to the full Board?

---

**From:** Torre, John  
**Sent:** Monday, June 08, 2020 12:30 PM  
**To:** Corbett Sanders, Karen (School Board Member) <klcorbettsan@fcps.edu>; Brabrand, Scott S <ssbrabrand@fcps.edu>  
**Cc:** Muhlberg, Ilene <idmuhlberg@fcps.edu>  
**Subject:** RE: [External] TJ Alumni Parent Question

Karen, The number is [REDACTED] Less than 10 we deem to be personally identifiable which is why the number is not disclosed in the release. 486 were offered admission. So, [REDACTED] would be [REDACTED] percent

---

**From:** Corbett Sanders, Karen (School Board Member)  
**Sent:** Monday, June 08, 2020 11:47 AM  
**To:** Brabrand, Scott S <ssbrabrand@fcps.edu>; Torre, John <jjtorre@fcps.edu>  
**Cc:** Muhlberg, Ilene <idmuhlberg@fcps.edu>  
**Subject:** FW: [External] TJ Alumni Parent Question

Can you please give me the percentage of black students, is it less than 1%

---

**From:** CD [mailto:ccdavis87@yahoo.com]  
**Sent:** Monday, June 08, 2020 11:37 AM  
**To:** Corbett Sanders, Karen (School Board Member) <klcorbettsan@fcps.edu>  
**Cc:** FCPS ClientCommunications <FCPSClientCommunications@fcps.edu>; Delegate Kathy Tran <kktran@outlook.com>  
**Subject:** Re: [External] TJ Alumni Parent Question

Good Morning,

Thank you for your response. However a quantifiable answer was not included. My son graduated in 2018 with less than 3% in his graduating class. I actively worked on the diversity committee and we saw little improvement. I would like to be an active voice in working with your office in improving this effort.

Please advise of the % for 2020-21.

Kind Regards,

Consondra Davis

Sent from my iPhone

On Jun 8, 2020, at 8:36 AM, Corbett Sanders, Karen (School Board Member)  
<[klcorbettsan@fcps.edu](mailto:klcorbettsan@fcps.edu)> wrote:

Dear Ms. Davis,

Thank you for reaching out to me about the TJ admissions for the class of 2020-2021. Although the School Board does not participate in the admissions process for TJ, a priority for the Board has been to ensure greater equity of access to TJ. It is for this reason that the Board approved the Superintendent's organizational realignment to include TJ admissions under the leadership of the Chief Equity Officer. We also asked for the process to be revised to ensure that opportunities for TJ were available to our African American, Hispanic and students with disabilities. Unfortunately, in seeing the numbers when they were released, we know that the current approach is unacceptable.

Please be assured that this Board will be taking action.

Karen

Karen Corbett Sanders  
Chair and Mt. Vernon District Representative  
Fairfax County School Board  
Tel.: 571-279-7923

*Please be aware that correspondence with School Board members is subject to the Virginia Freedom of Information Act. This means that your correspondence may be made public if (1) it deals with FCPS business and (2) someone requests it--even if you have asked that your message be kept confidential. Only a few topics are exempt from the disclosure requirement, such as information about identifiable students, and personnel information about individual employees.*

---

**From:** C Davis [<mailto:ccdavis87@yahoo.com>]

**Sent:** Sunday, June 07, 2020 10:56 PM

**To:** FCPS ClientCommunications <[FCPSClientCommunications@fcps.edu](mailto:FCPSClientCommunications@fcps.edu)>; Corbett Sanders, Karen (School Board Member) <[klcorbettsan@fcps.edu](mailto:klcorbettsan@fcps.edu)>

**Cc:** Delegate Kathy Tran <[kktran@outlook.com](mailto:kktran@outlook.com)>

**Subject:** [External] TJ Alumni Parent Question

## Kiren Mathews

---

**From:** cmecf@vaed.uscourts.gov  
**Sent:** Wednesday, December 22, 2021 12:04 PM  
**To:** Courtmail@vaed.uscourts.gov  
**Subject:** Activity in Case 1:21-cv-00296-CMH-JFAVAED Coalition for TJ v. Fairfax County School Board et al Memorandum in Support

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

### U.S. District Court

### Eastern District of Virginia -

### Notice of Electronic Filing

The following transaction was entered by Somin, Alison on 12/22/2021 at 3:04 PM EST and filed on 12/22/2021

**Case Name:** Coalition for TJ v. Fairfax County School Board et al  
**Case Number:** [1:21-cv-00296-CMH-JFA](#)  
**Filer:** Coalition for TJ  
**Document Number:** [122](#)

#### Docket Text:

**Memorandum in Support re [96] MOTION for Summary Judgment filed by Coalition for TJ. (Attachments: # (1) Exhibit B, # (2) Exhibit C, # (3) Exhibit D, # (4) Exhibit E, # (5) Exhibit F, # (6) Exhibit G, # (7) Exhibit H, # (8) Exhibit I, # (9) Exhibit J, # (10) Exhibit K, # (11) Exhibit L, # (12) Exhibit M, # (13) Exhibit N, # (14) Exhibit O)(Somin, Alison)**

#### 1:21-cv-00296-CMH-JFA Notice has been electronically mailed to:

Alison Elisabeth Somin asomin@pacificlegal.org, CKieser@pacificlegal.org, EWilcox@pacificlegal.org, GERoper@pacificlegal.org, incominglit@pacificlegal.org, tdyer@pacificlegal.org

Christine Jiwon Choi christine.choi@arnoldporter.com, edocketscalendaring@arnoldporter.com, maoedva@arnoldporter.com

Daniel Robert Stefany dstefany@hunton.com

Francisca Fajana ffajana@latinojustice.org

Kristen O. Riemenschneider kristen.riemenschneider@arnoldporter.com, ecf-79d1be285fb1@ecf.pacerpro.com, edocketscalendaring@arnoldporter.com, maoedva@arnoldporter.com

Megan Pieper meqan.pieper@arnoldporter.com

Michael Nicole Turnage Young mturnageyoung@naacpldf.org

Niyati Shah nshah@advancingjustice-aaic.org

Sona Rewari srewari@huntonak.com, cbarody@huntonak.com

Trevor Stephen Cox tcx@huntonak.com, galexander@huntonak.com, smeharg@huntonak.com

Winston Kirby Mayo kirbv.mavo@arnoldporter.com

**1:21-cv-00296-CMH-JFA Notice has been delivered by other means to:**

Arthur Luk  
Arnold & Porter LLP (DC-NA)  
601 Massachusetts Ave NW  
Washington, DC 20001  
\*\*NA\*\*

Elizabeth Denning  
Arnold & Porter LLP (DC-NA)  
601 Massachusetts Ave NW  
Washington, DC 20001  
\*\*NA\*\*

Eri Andriola  
Asian Americans Advancing Justice - AAJC (DC-NA)  
1620 L Street NW  
Suite 1050  
Washington, DC 20036  
\*\*NA\*\*

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144-0] [25223edf9e7f9c2296636aa3867cbb606c046190c63aeb09c88de8e209c6790e92cbe9e22125c712d5cb9d14bb45374c9f0eb131de5eac5139b613714889410e]]

**Document description:**Exhibit B

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144-1] [50b3699f014ef776cf2b34d6b915558ef241ef14d01ce849d7efdd4bb88e372e34825e1b8ccb28570c62f2e1bfc40b590a54be884330b2dd3e8ba9fc0ad27985]]

**Document description:**Exhibit C

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144-2] [93620f7d5d961abec96ac6fb4795c11001c7ea1c9a20b2394e8d230794ad365e58cd1079970e2543ab95b0ddc3233bd43864dad30a1c1051c0d5d98f79fa1906]]

**Document description:**Exhibit D

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144-3] [a646eb1189424bc7ae928c5d2e01b32796cd9ce83caf3e93c4983418ddaafb121e75e42d3ae3f9681859ff2fda4a85378e5eb31f9e2b144813c9b172fa0d047b]]

**Document description:**Exhibit E

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144-4] [774f6ffaaafead03d7e5b2c90db3224f14b0bbfbcd46ea27f36801cca1e20fcaa05bd63735f743187a164504a747c6ec38ecc4da9eb421524ecaa0b2623e1cbe]]

**Document description:**Exhibit F

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144-5] [22e20ea2a5701624f7d11453d037c9ddf28e093035a9c33d5480a2b9e77e07c77ba55609aa1ea05378860a6a3855d69f45155c6029a55feded8677041fe3fe9a]]

**Document description:**Exhibit G

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144-6] [307ce9036c3cb695d72e1c99d2751e53fafa6488508d8c41785755cf9e11e081b481285b811139e26a3c3c3e5a39ef8a816f1c53bc3056b6490324283abcc087]]

**Document description:**Exhibit H

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144-7] [8e7f62c796e86a8c8446a9a2fe263dde606cb9eab899992d1484bc669fea0fa2c9392fa093998eca9723c4195ccd6eecb7229aafb125ff6b1ecd32552c5c08d9]]

**Document description:**Exhibit I

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144-8] [b90ee40ab05f4faeff25ed6eaa783dd28dcb3f02eff762584d5e41310e2464d258ac71fb5fd7722110b3f0001e3aead081806a5054978758a33ddf2cc95f4cbd]]

**Document description:**Exhibit J

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144-9] [8ff90428391fc0aaeacfa617339a646371319384f7b807bdf0d4ee0e3cf5960b932f8e61a6b79bd7001bde9a2219e93898ffbbf4024eb94e2370799962c436e9]]

**Document description:**Exhibit K

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144

-10] [4076685feed0e3d10bc2f7b591eabd02916a05447807e5d3aa891458748f8844cfc8f6900c65f26c3f31541751feb00424fc9d7547b02fa392690e4a403b4860]]

**Document description:**Exhibit L

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144

-11] [5e3acc44cc3ce5b3d847aae57bd0a816b568d6217955cc84d3c768852950032dc6f6dba0b7867104c25e2b5d9de313e3f8c0c3930716d4456c604b4814407ef1]]

**Document description:**Exhibit M

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144

-12] [a71dcda811eec889322416442ecbfee84d81e56358f03a081373d7a45b40ae2a3a4e4d8bc214d1d1ae1815be22cd68c16a6b8865186c354376ed4d747dcc8bd3]]

**Document description:**Exhibit N

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091796605 [Date=12/22/2021] [FileNumber=10413144

-13] [553ab57bd9e1b51827d1b3a78e219f7135f2b3416d915afbb1302cb3c6bdf4904c663b8bbbefa3ac505d3ccfbb30af482f0483de5e273279601b876e1d5f96ef]]

**Document description:**Exhibit O

**Original filename:**n/a

**Electronic document Stamp:**

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-14] [2dcaae4f98c4ca4eba81a7e7137a345fed525aa22b620924a9664f0f3476f085db6f400ab387af320b90c2d7a5b18ebe56f973239ef8131ad82739ea919a5842]]