



THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NY 10007

ZACHARY W. CARTER  
Corporation Counsel

Marilyn Richter  
Tel. (212) 356-2083

February 8, 2019

The Honorable Edgardo Ramos  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, N.Y. 10007

Re: *Christa McAuliffe Intermediate School PTO, Inc. v. Bill De Blasio*,  
18cv11657 (ER)(OTW)

Dear Judge Ramos:

I am one of the lawyers who represent Defendants in the above-subject action. By order dated February 4, 2019 (dkt. no. 60), Your Honor directed Plaintiffs to provide by today, additional evidence concerning the standing of the organization Plaintiffs.

In the section on standing in Plaintiffs' Reply in Support of Motion for Preliminary Injunction) dated January 24, 2019 (dkt. no. 55) ("Reply MOL"), p. 5, n. 5, Plaintiffs acknowledge that two of the three individual Plaintiffs "will not suffer immediate harm this cycle," and thus implicitly acknowledge that they do not have standing to seek the requested preliminary injunction.<sup>1</sup> As to the third individual Plaintiff, it is asserted that, "As to Mr. Wong, the admissions cutoffs have yet to be released so Plaintiffs maintain he still may be injured and that his claim is not moot." Reply MOL, p. 5, n. 5.

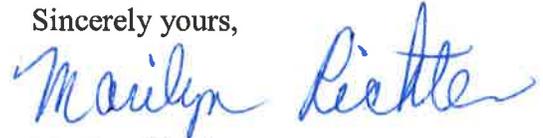
Defendants respectfully request that Your Honor consider the additional evidence in the accompanying Supplemental Declaration of Nadiya Chadha, dated February 7, 2019, which contains the cut-off scores for the SHSAT examination. In her Declaration dated January 17, 2019 (dkt. no. 49), Ms. Chadha stated that the cut-off scores had not then been calculated. Since that date, as part of the process of determining and providing offers to the Specialized High

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<sup>1</sup> As set forth in Defendants' opposition papers, it is Defendants' position that these two individual Plaintiffs not only lack standing to seek the requested preliminary injunction, but do not have standing to maintain the lawsuit.

Schools, the cut-off scores have been calculated for both possible outcomes: whether the preliminary injunction is denied or is granted. As the Supplemental Declaration demonstrates, given these cut-off scores, and the SHSAT score of Plaintiff Wong's daughter (which score we provided to Plaintiffs' counsel by letter dated January 18, 2019, but have not put on the record due to its sensitive nature), Plaintiff Wong does not have standing.

Sincerely yours,



Marilyn Richter

Assistant Corporation Counsel

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CHRISTA McAULIFFE INTERMEDIATE SCHOOL  
PTO, Inc. et al,

**SUPPLEMENTAL  
DECLARATION**  
18 CV 11657 (ER)(OTW)

Plaintiffs,

-against-

BILL DE BLASIO, in his official capacity as Mayor of  
New York, et ano,

Defendants.

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NADIYA CHADHA declares, under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am the Director of Research and Policy in the Office of Student Enrollment of the New York City Department of Education (the "DOE"). My responsibilities include conducting research and data analysis to support and inform the policymaking process as it relates to enrollment and admissions in DOE schools and supporting the overall admissions process for 3K, Pre-K, Kindergarten, middle school and high school through analysis, reporting, and policymaking. I have held this position since July 2015. I have a Bachelor of Arts degree in Economics from Boston College and Master of Public Administration degree from Columbia University.

2. I submit this Declaration in further support of Defendants' opposition to Plaintiffs' motion for a preliminary injunction and specifically to provide the Court with additional information concerning A.W., the daughter of the Plaintiff Phillip Yan Hing Wong. I have obtained this information since January 17, 2019 (when my initial declaration was filed), and I am

informed that the information relates to the issue of Mr. Wong's standing as a Plaintiff in this action.

3. The content of this Declaration is based on my personal knowledge, the books and records of DOE, and discussions with other DOE employees.

4. At paragraphs 37 and 38 of my initial declaration, I stated that given A.W.'s score on the SHSAT exam, she is "very likely not affected by the Discovery Program," and I stated that "DOE is still in the process of determining the cut-off scores for each Specialized High School."

5. I am informed that by letter dated January 18, 2019, Defendants' counsel told Plaintiffs' counsel what A.W.'s score was on the SHSAT.

6. Since then, DOE has determined the cut-off scores for the Specialized High Schools for students to be admitted in September 2019 exclusively based upon their SHSAT scores and school choices, under the two possible alternative scenarios, so that DOE is prepared to act expeditiously once the motion for a preliminary injunction is decided: 1) if the relief requested in the preliminary injunction motion is denied, and the current plan is implemented; and 2) if the relief requested in the preliminary injunction motion is granted and last year's plan is reinstated and implemented for the class entering in September 2019.

Admission Based on SHSAT Scores and School Choices

7. Under the current plan, there would be approximately 528 seats in the Specialized High Schools assigned through the Discovery Program. In that case, the SHSAT cut-off score will be 486. Students with that score or higher will be eligible to receive an offer of

admission to a Specialized High School based solely on their scores and school choices.<sup>1</sup> Students with a score lower than this cut-off will not be eligible to receive an offer based solely on their score and school choices.

8. Under last year's plan, if reinstated, there would be approximately 252 seats assigned through the Discovery Program. In that case, the SHSAT cut-off score is expected to be 481. Students with that score or higher will be eligible to receive an offer of admission to a Specialized High School based solely on their score and school choices. Students with a score lower than this cut-off will not be eligible to receive an offer based solely on their score and school choices.

9. Accordingly, the only students whose admission to a Specialized High School, based solely on their SHSAT scores and school choices, that could be impacted by the proposed relief sought in the preliminary injunction are those who scored between these two cut-off scores of 486 and 481. A.W. did not score between these two cut-off scores.

Disadvantaged Students and Admission to a Specialized High School through the Discovery Program

10. For students who do not meet one of the individual requirements for categorization as disadvantaged, such as having a family income that makes the student eligible for free lunch, or a family income that makes the family eligible for public assistance, then under

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<sup>1</sup> Students indicate their school choices, in order of preference, when they take the SHSAT. Students may list anywhere between one and eight Specialized High School choices. The school choices made by the students affect whether they receive an offer. For example, if a student lists all eight schools, and scores two points above the overall cut-off, she would receive an offer to the school that had the lowest cut-off score, which is the same as the overall cut-off score. However, if that student has listed only two school choices, and both schools had school cut-off scores approximately 50 points above the overall cut-off score, she would not get an offer. Students do not receive offers to schools they have not designated as a school choice.

both last year's plan and the current plan, the students' only path to admission to the Specialized High School is via their SHSAT score and their school choices.

11. For students who do meet one of the individual requirements for categorization as disadvantaged, there may be another avenue to admission to a Specialized High School, the Discovery Program. Admission to the Discovery Program requires that a student has taken the SHSAT and scored below the cut-off, be categorized as disadvantaged and be willing to attend a summer school preparatory program prior to entry in a Specialized High School.

12. I am informed that Plaintiffs have not challenged the individual requirements for categorization as disadvantaged. I am also informed that Plaintiff Wong has not asserted that A.W. does, or does not, meet one of the individual requirements for categorization as disadvantaged. I am informed that neither Plaintiff Wong's declaration, nor the complaint, provide any information as to whether A.W. is disadvantaged.

13. If A.W. does not meet one of the individual requirements for categorization as disadvantaged, then she is ineligible for the Discovery Program, under both last year's plan and the current plan. The relief requested in the motion for a preliminary injunction, *inter alia*, would have the Court prohibit use of the additional requirement under the current plan that an individually disadvantaged student must also attend a school with an ENI of 60% or above. Thus, if A.W. does not meet one of the individual requirements for categorization as disadvantaged, then the relief requested in the motion for a preliminary injunction could have no impact on her.

14. However, if A.W. does meet one of the individual requirements for categorization as disadvantaged, then she would have a better chance of gaining admission to a Specialized High School under the current plan, which Plaintiffs are seeking to enjoin, than under last year's plan.

15. This is because A.W. attends an intermediate school that does have an ENI of 60% or above. Thus, if she meets an individual requirement for categorization as disadvantaged, she would be considered disadvantaged under both last year's plan and the current plan.

16. However, under the current plan there are more than twice as many seats (528 seats) reserved for students in the Discovery Program than under last year's plan (252 seats).

17. In addition, under the current plan, students who attend schools with an ENI of 60% or above are the only students categorized as disadvantaged, and thus potentially eligible for the Discovery Program. Under last year's plan, any student who met one of the individual requirements for categorization as disadvantaged was potentially eligible for the Discovery Program. Thus, under the current plan, a student who meets an individual requirement for categorization as disadvantaged and also attends a school with an ENI of 60% or above, is in a more advantageous position than under last year's plan, because as discussed below, the pool of disadvantaged students who are potentially eligible for the Discovery Program is defined more narrowly, and is therefore smaller under the current plan. This, together with the increased number of seats reserved for students in the Discovery Program, increases the possibility of these students gaining admission to a Specialized High School through the Discovery Program under the current plan.

18. I have reviewed the list of students in rank-order by their SHSAT scores. Of those students who attained scores below the two overall cut-off scores and above A.W.'s score, slightly less than one-half the students attend schools with an ENI of 60% or above. While we do not know at this point which of these students meet an individual requirement for categorization as disadvantaged and are thus potentially eligible for the Discovery Program, this does show that the pool of students from which the potentially eligible students will be drawn is much smaller

under the current plan than under last year's plan. Accordingly, if A.W. is disadvantaged, she has a better chance of attaining admission through the Discovery Program under the current plan. However, as noted above in paragraph 4, even under the current plan and assuming that A.W. is disadvantaged, given A.W.'s score on the SHSAT, she is very likely not affected by (i.e., likely will not obtain admission through) the Discovery Program.

19. In summary, the relief requested in the Plaintiffs' motion for a preliminary injunction can have no impact on A.W. in terms of her eligibility for admission to a Specialized High School based solely on her SHSAT score and school choices. If A.W. is not disadvantaged, then the relief requested in the motion for a preliminary injunction can have no impact on A.W., since she is ineligible for admission to a Specialized High School through the Discovery Program under either plan. If A.W. is disadvantaged, then the relief requested in the motion for a preliminary injunction would, if granted, *decrease* her chances of gaining admission to a Specialized High School through the Discovery Program.

Dated: February 7, 2019  
New York, New York



NADIYA CHADHA