

Key Findings of Related External Investigation

Update on National Merit Commended Student Notifications

Beginning around December 21, 2022, media reports raised concerns about the timing of notifications to Fairfax County Public Schools (“FCPS”) high school students that they had been recognized as Commended Students by the National Merit Scholarship Corporation (“NMSC”). These reports made unverified claims that in 2022 FCPS staff intentionally withheld notification to Commended Students because of supposed FCPS policies that purportedly seek equal outcomes for every student and in order to avoid hurting the feelings of students who did not receive any form of NMSC recognition.

FCPS Superintendent Dr. Michelle Reid and the Fairfax County School Board took swift action to probe the issues raised and determine the facts. An initial internal review by FCPS revealed that there was no validity to these claims. However, the Superintendent took the further step, in late December 2022, of calling for an external inquiry and, in early January 2023, retaining the law firm Sands Anderson and directing the firm to conduct its own thorough investigation. That investigation has now been completed and found no evidence to support the claims published in late 2022 suggesting that some FCPS high schools intentionally refrained from notifying Commended Students of their National Merit recognitions, and no evidence that the process or timing for student notifications were impacted in any way by racial considerations or any effort to minimize or fail to celebrate students’ achievements.

During the course of their investigation, Sands Anderson conducted 29 witness interviews including with FCPS principals, Directors of Student Services, administrative staff, central office leadership, and information technology leaders, as well as with parents. Sands Anderson also had open access to FCPS documents and records and reviewed a large volume of such materials. FCPS did not object to any witness interview or information request by Sands Anderson. Sands Anderson’s access to

information and witnesses was unconstrained by FCPS. No witness refused to answer questions and FCPS responded completely and substantively to all of Sands Anderson's information requests.

After completing this extensive investigation, Sands Anderson found that all 23 FCPS high schools with NMSC Commended Students provided notice to these students of their recognitions. Fifteen FCPS high schools notified students of their recognitions prior to November 1, 2022. A combination of factors led to 8 high schools not notifying the Commended Students by November 1. However, Sands Anderson found no evidence that this was intentional or reflected any policy decision by FCPS or any of the 8 schools.

In fact, one of the contributing factors was the lack of any uniform, division-wide policy, process, or deadline for providing such notice. This was compounded by the fact that NMSC does not provide direct notice to Commended Students and also provides no specific guidance regarding how or when students should be notified. There were also other logistical issues, which varied from school to school, that contributed to the process and timing for providing notifications to Commended Students at these 8 schools. Five FCPS schools did not have any Commended Students in 2022. The investigation did not find evidence suggesting that any later-than-usual notification impaired students' academic, professional, or financial interests, including college admissions or scholarships.

It is unfortunate that a media report erroneously attributing these issues to intentional conduct triggered this unnecessary controversy. Among other things, this has necessitated that FCPS expend significant division funds on legal counsel to investigate the assertions made, but that is only the beginning. After FCPS retained Sands Anderson to conduct its external investigation, the Virginia Attorney General publicly announced its own investigation into these issues. FCPS has been required to retain separate legal counsel to respond to that investigation, imposing significant additional legal costs on the division.

But the greatest cost of this unfortunate episode has been borne by FCPS staff. The controversy surrounding these issues, fueled by additional press reports and by the Attorney General's public statements and press releases, has led to FCPS staff members being individually harassed and threatened, including through targeted phone calls and emails using hate-filled and threatening language. The emotional toll on our staff has been substantial, and, in addition, staff have been required to divert significant time and attention away from their education-focused roles to respond to these inquiries. All of this has harmed and undermined our core educational mission, and we do hope that the factual findings of this external investigation can put this entire issue, and the erroneous claims that sparked this controversy, to rest.

Key factual findings from the Sands Anderson investigation are summarized below.

National Merit Scholarship Competition

NMSC conducts an annual scholarship contest, which begins with students taking the PSAT test in their junior year of high school.

Top scorers on the PSAT become NMSC Semifinalists in the NMSC scholarship contest. These Semifinalists are invited to continue in the NMSC scholarship contest by applying to become Finalists. NMSC notifies Semifinalists directly of their award status. NMSC also notifies high schools of their Semifinalists.

Other high achievers on the PSAT who do not score highly enough to become NMSC Semifinalists earn NMSC recognition as Commended Students. These Commended Students are not eligible to continue to participate in the NMSC scholarship competition. They are, instead, awarded a certificate recognizing their achievement.

NMSC does not notify Commended Students or their parents directly of their awards. Instead, NMSC sends certificates to the principals of

Commended Students' schools and asks the schools to distribute certificates "as soon as possible" to the Commended Students. Typically, NMSC sends Commended Student certificates to high schools on or about September 15 of each year. Neither NMSC nor FCPS prescribes a particular deadline (by November 1 or any other date) or process for notifying Commended Students of their achievement.

In 2022, NMSC sent FCPS high schools notification of Commended Student awards on or about September 15. All but one FCPS high school with Commended Students (Annandale) timely received the certificates from NMSC.

Notification Process

Fairfax County operates 28 high schools, with 60,246 high school students currently enrolled in the 2022-2023 school year.

In 2022, Fairfax County had at least 833 students who received NMSC Commended Student recognition. Of that number, 262 were students at Thomas Jefferson High School. Neither FCPS nor NMSC had in place at the time any policies, regulations or guidelines regarding the specific process or timing for notifying students of Commended Student status.

In addition to the 262 Commended Students at Thomas Jefferson High School, 132 students at that school were NMSC Semifinalist award recipients in the Fall of 2022. While some schools at FCPS had no NMSC Commended Student or Semifinalist award recipients, approximately 85.83% of the 2022-2023 senior class (total 459) at Thomas Jefferson High School received one of these awards.

All FCPS high schools that had Commended Students provided notice to those students of their NMSC recognition. Fifteen FCPS high schools notified NMSC Commended Students prior to November 1, 2022. Eight FCPS high schools did not notify NMSC Commended Students of their

recognition by November 1.^[1] Five FCPS schools did not have any Commended Students in 2022.

The investigation found that the timing for providing notification to Commended Students at those eight schools was impacted by logistical factors that varied from school to school but had nothing to do with race or any effort to downplay students' achievements. Despite the timing, all Commended Students were provided notification of their awards. The investigation found no evidence suggesting that any later-than-usual notification impaired students' academic, professional, or financial interests.

Key Findings at Thomas Jefferson

NMSC sent Commended Student certificates and a transmittal letter to the Principal at Thomas Jefferson High School ("TJ") on or about September 15, 2022. By late September 2022, the certificates, complete with the principal's signature stamp, were delivered to TJ's Director of Student Services for distribution. However, because he was not aware of any deadline for distribution and because he mistakenly believed, at the time, that NMSC directly notified Commended Students of their achievement (like the NMSC Semifinalists), he did not prioritize distributing the certificates.

Following an inquiry in mid-October from a parent regarding the status of Commended Student notification, the TJ Director of Student Services instructed an office assistant, who had been on authorized leave, to focus on the Commended Student notification effort. The office assistant then entered the information manually for each of the 262 Commended Students into the school's Student Information System ("SIS"). Once the data was entered into the SIS, the Director of Student Services instructed that the certificates be distributed during TJ's Advisory Class, which meets on Mondays. However, due to holidays and pre-existing agenda items, the majority of Commended Student certificates were not distributed until Monday, November 14, 2022. The remaining certificates were available on

or about November 30, 2022, for pickup by students who did not get them on November 14.

Several factors contributed to the timing of distributing the Commended Students certificates, including the incorrect belief that NMSC had directly notified Commended Students, efforts to assist NMSC Semifinalists in meeting the deadline for their applications, staff member authorized leave, the time-consuming manual efforts to update the SIS, and holidays and pre-existing agenda items during TJ's Advisory Class. Although media reports suggested that a TJ employee admitted to withholding Commended Student certificates out of the desire to be sensitive to the feelings of other students, the investigation determined that this was not the case and that such considerations had no effect on the timing for providing notification to Commended Students.

Because notification to Commended Students of their recognition came after the November 1, 2022, early admission deadline for some colleges and universities, FCPS officials wrote and telephoned the colleges and universities to which Commended Students had applied and advised those schools of the Commended Students' recognition.

TJ had, in previous years, distributed Commended Student certificates at an annual awards ceremony. Interest and attendance by students and parents waned over time, and the ceremony was discontinued. For several years following the discontinuation, students were notified by email sent through FCPS's Naviance system instructing them to pick up their certificates from the Department of Student Services. During COVID, students were notified through the Naviance system and actual certificates were distributed with graduation materials.

The investigation did not identify any TJ Commended Students or parents who believed a student's admission to their college or university of choice was adversely affected as a result of the notification process employed by TJ in 2022. Published reports indicate that most colleges and universities do not assign significant weight to Commended Student recognition in

their admission determinations. In addition, no scholarship award deadlines were impacted. There was no evidence that race played any role in the NMSC notification process at TJ. Nor did the investigation find that there was any effort to withhold recognition of student excellence or achievement. To the contrary, the investigation found evidence of TJ's ongoing commitment to recognizing students for various achievements.

Key Findings at Other FCPS Schools

Regarding Annandale High School, the investigation determined that NMSC failed to provide the Commended Student certificates to school administrators and staff, which resulted in no student notifications being provided until after November 1.

Regarding Thomas Edison High School, the investigation determined that the school's 11 Commended Students were notified at their fall awards ceremony held on November 30, 2022. This ceremony typically occurs by the end of October, but it was held later in 2022 due to scheduling conflicts. School staff reported their incorrect belief at that time that NMSC had already provided separate, direct notification to Commended Students.

Regarding Langley High School, the investigation determined that the school's 43 Commended Students did not receive notice with instructions to pick up their certificates prior to November 1, due to a clerical oversight.

Regarding Lewis High School, the investigation determined that the school's 3 Commended Students were notified and given their certificates by their individual counselor by November 15. However, instructions to school staff to provide notification to students in late September or early October were not followed due to staff's incorrect belief that NMSC had already provided separate, direct notification to Commended Students.

Regarding Marshall High School, the investigation determined that the school's 24 Commended Student certificates were not distributed before November 1 due to a staff member's unexpected but authorized leave and a staff oversight. Students received their Commended Student certificates in early January.

Regarding Westfield High School, the investigation determined that the school's 24 Commended Students were first notified on January 6 due to a lapse in communication during a key staff transition. Students subsequently received their certificates at an awards ceremony held on January 10.

Regarding West Potomac High School, the investigation determined that the school's 11 Commended Students were notified at the school's annual fall awards ceremony as usual. This ceremony has occurred in the past anywhere from September through December. In 2022, the ceremony took place on November 7, 2022. School staff reported having no understanding of any required deadline from FCPS or NMSC on the timing of such notification.

At no school was there any evidence that racial or other discriminatory considerations played any role whatsoever in the timing of notifying Commended Students, nor was there evidence of any effort to minimize recognition of student excellence or achievement. Staff at the impacted schools, other than TJ, reported that they had not received complaints from parents or the school community regarding the awards notification.

Next Steps

As explained in a letter sent today by FCPS Superintendent Dr. Michelle Reid to students, staff, and families, although the investigation found that that there was no division-wide policy, process, or deadline for providing notices to Commended Students at FCPS high schools, the absence of any such division-wide guidance may have been a contributing factor

explaining why in 2022 some FCPS high schools provided such notices later in the school year than was their historical practice.

Dr. Reid promptly directed staff to develop guidelines to ensure systemic consistency in the notification of both students and parents of Commended Student recognitions going forward. Staff has already drafted a regulation that will be implemented next month. As Dr. Reid has explained, this new regulation will be followed at each of our high schools to prevent this situation from happening again.

Dr. Reid also has written to NMSC and encouraged them to work with local school divisions and use modern and readily available technology, such as the internet and e-mail, to provide centralized electronic notice to all Commended Students by NMSC. Dr. Reid will continue to work with sister school divisions around the nation and with NMSC on the implementation of this centralized, technology-based approach.

We are confident that, once in place, these new protocols will ensure a clear, consistent, and timely award notification process.

[1] These schools were: Thomas Jefferson High School, Annandale High School, Thomas Edison High School, Langley High School, John R. Lewis High School, Marshall High School, West Potomac High School, and Westfield High School.