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Justice Catalyst Law

Sparking Collaborations for Justice

December 1, 2021

SENT VIA EMAIL AND U.S. MAIL

David Coleman, Chief Executive Officer
College Board National Office
250 Vesey Street
New York, NY 10281
dcoleman@collegeboard.org

Re: College Board National Recognition Program Inaccuracies Depriving Black, Hispanic, Latino and Indigenous Students Access to Scholarships

Dear Mr. Coleman,

We are writing you on behalf of our clients, S.B. on behalf of her minor son, D.B., and G.A. and C.A. on behalf of their minor daughter, M.A., who seek relief on behalf of the nationwide class of parents with children who are similarly situated, to demand that you take immediate action to cease impeding and effectively denying millions of dollars in scholarships and college recruitment to high-achieving Black, Latinx, Hispanic American, Indigenous students and

students from rural communities. These scholarships would be available, or would already have been awarded, to these students had you properly administered your National Recognition Programs to include the scores from the January 2021 PSAT exams and the Advanced Placement (“AP”) exams.

When used appropriately, the National Recognition Programs are explicitly intended to create a database of students from underrepresented populations with demonstrated high academic performance so that colleges can identify these students for purposes of early outreach, and make them aware of scholarships and other financial assistance to ensure they have access to higher education opportunities. The College Board Student Search Service is the mechanism used by more than 1,900 institutions to find students to award and recognize, and only those deemed eligible by College Board can be identified.

College Board plays a critical gatekeeper role in regard to access to higher education for millions of students each year. College Board steps into the shoes of public educators nationwide when it administers the PSAT to almost 4 million students every year. The PSAT is used by schools, districts, and states to track student progress over time, and these institutions trust College Board to provide students with access to hundreds of millions of dollars in scholarships and financial aid, as its materials represent. Students and parents trust College Board to connect them with the resources and opportunities they deserve. College Board is obligated to ensure that all students have equal access to the benefits of these tests and programs and that the tests and programs are administered as they are represented with full transparency.

This past year, due to the complications that the COVID-19 pandemic imposed on the administration of PSAT and AP exams and the disproportionate impact this had on schools serving predominantly Black and Brown youth, you failed to invite many eligible students to apply for your National Recognition Programs, resulting in those students now being excluded from the National Recognition Program and the attendant hundreds of millions of dollars of scholarship funds designed for their use. Specifically, for any eligible students who took the PSAT exam in January of 2021 -- an accommodation made due to adjust to the pandemic -- College Board appears to have ignored any qualifying test results when determining eligibility

(and thus sending out invitations last spring) for the National Recognition Programs. Likewise, College Board similarly ignored and excluded students who qualified for National Recognition Programs through their AP scores, failing to send out to these students as well an invitation to the National Recognition Programs. As a result, College Board has interfered with and impeded thousands of Black, Latinx, Hispanic, Indigenous and rural students nationwide who have historically faced barriers to higher education from accessing hundreds of millions in scholarship opportunities specifically designed to assist them.

College Board's failure to properly identify all students eligible for its National Recognition Program has also deprived colleges and scholarship organizations of the ability to identify and focus their outreach to these highly qualified students, such as by targeted invitations to apply or programs that facilitate college visits. The students these programs are designed to serve are historically unlikely to find these scholarships and colleges without these outreach opportunities.

College Board is depriving hard-earned opportunities to exceptional, high-achieving Black and Brown students who did nothing wrong, and in fact worked diligently and studied to obtain the requisite scores that otherwise would have earned them honors and scholarship funding. For example, the National Hispanic Scholars Program—one of your “strategic partners” in the National Recognition Programs—has already finished distributing the \$30 million of annual scholarship funding they offer to members of the class of 2022, despite only having been provided with only a partial list of eligible recipients. This has caused irreparable harm to the hundreds or thousands of Hispanic students who should have appeared on that list and been eligible for that money, but either took the PSAT in January rather than October through no fault of their own, or simply qualified through their AP exam scores rather than PSAT testing.

We seek your immediate action to ensure that these qualified Black, Hispanic American, Latinx, Indigenous and rural community students who you have failed to identify do not lose out on even more scholarship opportunities. Despite the fact that many scholarship deadlines have passed, there is an opportunity now for you to mitigate this harm.

We demand that, by no later than **December 6, 2021**, College Board immediately send notice of the incomplete and inaccurate status of the National Recognition Programs list and Student Search database to parents, students, colleges, your “strategic partners”, and school counselors in the forms attached hereto as Appendices A, B, C, and D. This notice must ensure that you inform these recipients that

- The Student Search Service database and National Recognition Programs lists are not complete, missing likely hundreds of thousands of qualified and talented underrepresented students nationwide;
- By no later than December 15, College Board will provide parents, students, colleges, all scholarship organizations participating in the Student Search Service, strategic partners, high school counselors, and counsel with an updated, accurate and complete list of all qualifying students;
- By no later than December 15, College Board will provide all eligible students with a Certificate of Recognition Award identical to the certificates given to the eligible October 2020 PSAT examinees, and that these students should ensure that any and all schools they have applied to are aware of their inclusion in this honor;
- Due to the current exigent circumstances, College Board has waived the GPA verification requirement for National Recognition Programs for the Class of 2022; and
- Colleges, strategic partners, and scholarship organizations participating in Student Search should take steps, including extending deadlines when possible and sending out additional recruitment materials, to eligible students so that they can avail themselves of the remaining scholarship opportunities designed to assist and recognize those students from historically underrepresented demographics.

Our clients therefore demand that the College Board:

1. Provide notice as stated above, in the forms attached hereto, of the incomplete and inaccurate nature of the National Recognition Programs list and Student Search Service

database to parents, students, colleges, strategic partners, and school counselors by no later than **December 6, 2021**;

2. By no later than **December 13, 2021**, update the National Recognition Programs list to include all eligible students qualifying via the January 2021 PSAT test or AP exams, waiving the GPA verification requirement due to the current exigent circumstances, and update the Student Search Service database to include all eligible students qualifying via the January 2021 PSAT test or AP exam scores;
3. By no later than **December 15, 2021**, send the updated and expanded accurate National Recognition Programs list and access to the updated and expanded complete Student Search Database information to (i) all eligible students who qualify via the January 2021 PSAT or AP exams to confirm that they are now included the updated lists, (ii) any and all colleges and universities who receive the National Recognition Programs list or registry, and who utilize the Student Search Service database information, (iii) College Board “strategic partners” in the National Recognition Programs, and (iv) all school counselors on the College Board counselor distribution list; and
4. By no later than **December 15, 2021**, send the Award Certificates to all eligible students.

Until the above steps are taken, thousands of Black, Hispanic, Latinx, Indigenous and rural students continue to be deprived of millions of dollars of scholarship money and corresponding college opportunities. With each passing scholarship deadline, the chance to attend college is literally denied to more and more qualified and highly talented students from underrepresented groups nationwide.

Please contact the undersigned attorneys within 48 hours of receipt of this letter to indicate your intention to comply with our clients’ demands.

We look forward to hearing from you.

Sincerely,

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cc: Mr. Jeremy Singer, President
(jsinger@collegeboard.org)
Mr. Peter Schwartz, Chief Risk Officer and General Counsel
(pschwartz@collegeboard.org)

APPENDIX A

December xx, 2021

Dear Student,

As you may know, we at the College Board like so many of you and your schools faced unprecedented challenges related to COVID-19 this past eighteen months. Unfortunately, because of the complications caused by the pandemic, it is possible that you were not notified of your eligibility for one or more of College Board's National Recognition Programs. Our Student Search users, such as colleges and universities, use the student profiles we create to identify and recruit talented students like you to reach out and inform you of opportunities you may have earned, including scholarship opportunities. If you were not notified of your eligibility for National Recognition, your achievements may not have been included in your Student Search profile, making it difficult for colleges to identify and reach you.

The National Recognition Programs are designed to create pathways to college for underrepresented students by awarding them academic honors and connecting them with universities across the country. You may be eligible for recognition if you (a) identify as African American or Black, Hispanic American or Latinx, Indigenous, or attend school in a rural or small town; AND (b) You took the PSAT in January 2021 and scored well OR you earned a score of 3 or higher on at least two AP exams by your junior year.

In order to quickly and expeditiously remediate some of the harm that has been caused to many of you who either do not have a Student Search profile, or whose Student Search profiles do not reflect their eligibility for National Recognition Programs, we will be updating your profiles by and notifying all Student Search by December 15, 2021. All prior Student Search users with access during your sophomore and junior years will also be notified of the changes to your profile.

We are reaching out to all of our higher education partners, and the National Recognition Program's strategic partners, to request that they extend deadlines for outstanding scholarships designed to be offered to Black, Hispanic American, Latinx, Indigenous and rural students and take steps to conduct outreach to the students on the updated list.

Please note that, due to the current exigent circumstances, we are waiving the application process and GPA requirement for students to be included in the National Recognition Programs for the Class of 2022.

Upon release of the updated and complete lists on December 15, 2021, we urge you to explore the possibilities of applying for scholarships and enrollment in one of many colleges and universities who offer programs for our honorees in the National Recognition Programs.

Please accept our apologies for this oversight and any harm it may have caused to you and your families.

Thank you,
The College Board

APPENDIX B

December xx, 2021

Dear Higher Education Partner,

With great regret, we are writing to inform you that due to our failure to include and incorporate the scores from the January 2021 PSAT test or any of the 2021 AP tests, both *the National Recognition Program Registry and our database for the Student Search Service is incomplete*, failing to include thousands of high-achieving and qualified Black, Hispanic American, Latinx, Indigenous and rural seniors across the country.

We realized that by leaving thousands of qualified eligible Black, Hispanic American, Latinx, Indigenous and rural students nationwide off the registry and database, we may well have rendered these highly qualified and underserved students beyond your reach to date for scholarship outreach programs. For this reason, we are sending you this notice, so that you are aware that you may not have reached many thousands of qualified high-achieving seniors of color, and that delaying the deadlines for scholarship applications and decisions may be appropriate to allow these students the opportunity to apply for your school and relevant scholarship opportunities.

In order to quickly remediate some of the harm that has been caused to these deserving students, we will be providing you with an updated, complete and accurate National Recognition Programs registry list by no later than December 15, 2021, and ask that as of that date, you take immediate steps to focus your outreach and provide appropriate modifications of filing deadlines and scholarship consideration for the students who were excluded from your earlier lists and scholarship outreach.

Please accept our apologies for this oversight and any harm it may have caused to you, your applicants and potential future students.

Thank you,

The College Board

APPENDIX C

December xx, 2021

Dear National Recognition Programs Strategic Partner,

Thank you for your partnership these last years in trying to increase access to higher education opportunities for historically underrepresented groups through the College Board's National Recognition Programs. With great regret, we are writing to inform you that due to our failure to include and incorporate the scores from the January 2021 PSAT test or any of the 2021 AP tests, both *the National Recognition Program Registry and our database for the Student Search Service is incomplete*, failing to include thousands of high-achieving and qualified Black, Hispanic American, Latinx, Indigenous and rural seniors across the country.

We realized that by leaving thousands of qualified eligible Black, Hispanic American, Latinx, Indigenous and rural students nationwide off the registry and database, we may well have rendered these highly qualified and underserved students beyond your reach to date for scholarships. For this reason, we are sending you this notice, so that you are aware that you may not have reached many thousands of qualified high-achieving seniors of color, and that delaying the deadlines for scholarship applications and decisions may be appropriate to allow these students the opportunity to apply for your funding and relevant scholarship opportunities.

In order to quickly remediate some of the harm that has been caused to these deserving students, we will be providing you with an updated, complete and accurate National Recognition Programs registry list by no later than December 15, 2021, and ask that as of that date, you take immediate steps to focus your outreach and provide appropriate modifications of filing deadlines and scholarship consideration for the students who were excluded from your earlier lists and scholarship outreach.

Please accept our apologies for this oversight and any harm it may have caused to you, your applicants and potential future students.

Thank you,

The College Board

APPENDIX D

December xx, 2021

Dear Valued High School Counselor,

With great regret, we write to inform you that, due to our failure to identify students who earned eligibility for our National Recognition Programs based on their January 2021 PSAT results or their AP Exam results, the list of eligible students we provided to colleges and our partner scholarship organizations is incomplete for the Class of 2022. Furthermore, the Student Search profiles for these students who qualified for National Recognition programs may not reflect their eligibility, making it difficult for colleges to identify and inform these students of opportunities they may have earned.

Thus, so far this year, our National Recognition Programs process has been available only to a subgroup of all those students who were eligible and should have been able to apply for these honors. Relatedly, our erroneous reporting means that these same students were denied participation in the full benefits of the College Board Student Search Service, and therefore have not received outreach and recruiting materials and scholarship consideration by many colleges and universities who rely on that service to identify and recruit these students for scholarship opportunities.

We regret that this means that thousands of high-achieving and qualified eligible Black, Hispanic American, Latinx, Indigenous and rural students, including students at your school, have been left out of hundreds of college and university scholarship outreach programs.

In order to quickly remediate some of the harm that has been caused to these deserving students, we will be providing you with an updated, complete and accurate list of students who may be eligible for our National Recognition Programs by no later than December 15, 2021, and we ask that you take immediate steps to ensure that any students on this list who were previously unaware of their eligibility be informed of the update. We also ask that you urge these students to make any colleges they are applying to, or considering applying to, aware of this change as soon as possible so that they may be eligible for scholarship consideration.

We will be mailing all eligible students a Certificate of Recognition Award identical to the certificates given to the eligible October 2020 PSAT examinees. Please inform any colleges the students may have already applied to, or are applying to, that they will be receiving the Certificate of Recognition Award.

We are reaching out to all of our higher education partners to request that they extend deadlines for outstanding scholarships designed to be offered to Black, Hispanic American, Latinx, Indigenous and rural students and take steps to conduct outreach to the students on the updated list.

Please note that, due to the current exigent circumstances, we are waiving the application process and GPA requirement for students to be included in the National Recognition Programs for the Class of 2022.

Please accept our apologies for this oversight and any harm it may have caused to you, your students and their families.

Thank you,

The College Board