

Latham & Watkins LLP:
Report of Review of Diversity, Equity,
and Inclusion at BC High

June 28, 2021

Executive Summary

On June 12, 2020, an Instagram social media account, Black at BC High (@blackatbchigh), was anonymously created with the stated purpose of dedicating a “platform to share stories and experiences of Black student at BC High, past and present.” Posts on the Instagram account, mostly attributed to anonymous sources, shared experiences with various kinds of misconduct, including, but not limited to, allegations of racial harassment by peers and members of Boston College High School’s faculty and administration and the alleged inadequacy of the administration’s response to the same.

As part of its commitment to make meaningful change to become a more inclusive community, the Board of Trustees at Boston College High School (“BC High”) engaged Latham and Watkins (“Latham”) to conduct a comprehensive independent review of the issues raised through the Instagram account and, more broadly, review the climate at BC High around issues of diversity, equity, and inclusion (“DEI”).

As part of our independent review, Latham interviewed dozens of members of the BC High community, including current and former students, parents of current and former students, faculty, staff, and administrators, and received many written submissions. In addition, Latham reviewed a broad range of documents and data relating to the issues raised in our interviews, including among other things: (i) BC High policies and procedures; (ii) JUG-level disciplinary data from Academic Years 2015 - 2019; (iii) student disciplinary contracts; (iv) disciplinary investigation files for Accountability Boards; (v) work product on past DEI initiatives; and (vi) documentation of past curriculum review.

Broadly speaking, Latham’s review uncovered four recurring themes relating to diversity, equity, and inclusion at BC High, centered around the following areas: (i) discipline, (ii) hiring faculty of color and recruiting students of color, (iii) the role of diversity, equity, and inclusion at BC High, and (iv) professional development and classroom training. While the full review process and findings for each of these areas are set forth in detail throughout this report, below is a summary of the findings in each of these areas:

I. Discipline

A recurring theme in the Black at BC High Instagram postings, as well as our interviews, was a palpable sense of inequity in the administration of discipline at the school in a manner that eroded the feeling of belonging at the school for traditionally underrepresented students, and Black students in particular. These concerns centered on two areas: (i) a concern that students of color were more likely to be disciplined or to receive harsher discipline for the same conduct than their White peers, and (ii) a concern that students who engaged in inappropriate harassing conduct were not subject to appropriate discipline.

As to the first concern, in addition to conducting interviews, Latham reviewed five years’ worth of disciplinary data, including the administration of JUGS by race and ethnic background. That review did not demonstrate materially different discipline for students of color to

corroborate the first concern. That said, the anecdotal concerns we heard, coupled with Latham's broader review of the disciplinary process, did uncover that the process of meting out discipline is one that is ad hoc and discretionary across different faculty and administrators and lacks formal training or guidance for administration of discipline.

As to the second concern, Latham reviewed: (i) BC High policies and procedures broadly relating to discipline and specifically relating to harassing conduct; (ii) conducted interviews; and (iii) did an extensive review of all disciplinary investigations relating to harassing conduct over a five-year period. Latham's review uncovered instances of serious harassing conduct—including instances of racially harassing conduct that were investigated and put through the school's normally disciplinary process, such as Accountability Boards—that did not result in students being separated from the school. These decisions appeared to have been driven in part by a de facto policy of not separating students from the school, even for serious misconduct, but rather of using infractions as a teaching moment to help students become better people. The flip side of such a policy is that allowing students who engage in harassing conduct to remain at the school can, and did, erode the sense of community and belonging for traditionally underrepresented students at BC High.

Among Latham's recommendations to the Board resulting from our review of the disciplinary process are the following:

- Consider whether changes to the school's policies mandating more serious discipline, including separation from the school, for harassing conduct are appropriate.
- Regardless of any formal policy changes, provide guidance to the administration as to expectations concerning the appropriate level of discipline for conduct that erodes the sense of inclusion and belonging for traditionally underrepresented students, and ensure that this guidance is understood by the broader community.
- Consider implementing training for faculty and administrators relating to the disciplinary process, such as training regarding: (i) unconscious bias and how it can manifest itself in the discipline process, and (ii) how to appropriately consider the roles of, and impact on, the victims of such conduct in determining the appropriate punishment.
- Reconsider the role of restorative justice in the context of discipline where the victim of the misconduct is from a historically marginalized group, as that process can further marginalize the victim and potentially deter victims from reporting such harassing conduct.

II. Hiring Faculty of Color and Recruiting Students of Color

A second recurring theme Latham uncovered was that hiring more faculty of color and recruiting more students of color would foster a more inclusive environment and that these goals should be top priorities for advancing diversity, equity, and inclusion efforts. In reviewing this issue, Latham analyzed: (i) current faculty and student enrollment data; (ii) conducted interviews with the current and former faculty and administrators who have responsibilities for hiring; and (iii) analyzed past DEI work product relating to hiring and recruiting efforts.

Latham's review found that the faculty and administration expressed a clear understanding of the desire from the student population to hire more faculty of color and enroll more students of color, a belief that doing so would improve the environment surrounding DEI at BC High, and a genuine desire to make improvements in this area. That said, with respect to hiring a more diverse faculty, Latham's review found that while historically some efforts had been made to target more diverse faculty in the hiring process, those efforts lacked sufficient top-down focus and had been sporadic and uncoordinated. While Latham saw some encouraging recent efforts by the current administration to make improvements in this area, historically there had been a lack of innovation or clear accountability for success. With respect to enrolling more students of color, Latham's review found that while the school has seen some recent improvement in enrollment of students of color, overall many of the same institutional shortcomings exist in the student recruitment process as in the faculty hiring process, particularly for Black students.

Among Latham's recommendations to the Board resulting from our review of the hiring and recruiting processes are the following:

- Consider creating clearer institutional priorities and structure designed to incentivize innovation and create accountability for success in achieving hiring and recruiting goals relating to diversity, equity, and inclusion.
- Consider leveraging the school's unique relationship with Boston College to create a deeper pipeline of faculty candidates of color and those with training and expertise in teaching students of color.
- Consider targeted training programs related to recruiting and retention of faculty and students from more diverse backgrounds.

III. The Role of Diversity, Equity, and Inclusion at BC High

A third recurring theme Latham encountered was a perception that, historically, diversity, equity, and inclusion efforts were not prioritized by leadership outside of the Office of Equity and Inclusion. Latham uncovered a sense that in the prior administration, the role of the Office of Equity and Inclusion as more of a check-the-box exercise and that diversity, equity, and inclusion was not a true strategic priority or value within the institution. While that focus has clearly improved under the current administration, our review demonstrated substantial room for

improvement in the area of procedural and institutional focus around the role of diversity, equity, and inclusion at BC High.

In reviewing these concerns, Latham analyzed, through document reviews and interviews: (i) BC High's efforts to integrate issues of diversity, equity, and inclusion into curriculum; and (ii) the historical role of the Office of Equity and Inclusion. With respect to the first topic, Latham's review showed that, while a curriculum review was conducted during the 2017-18 academic year, there was a lack of institutional follow up on the curriculum review, and a lack of both accountability and direction for how to make meaningful change resulting from the review. With respect to the second topic, Latham's review found some positive recent changes in both institutional focus and process regarding the role of diversity, equity, and inclusion at BC High, but there remains room to improve in both structure and resources to make progress on this key strategic priority at BC High.

Among Latham's recommendations to the Board resulting from our review of the role of diversity, equity, and inclusion at BC High are the following:

- Consider drafting written responsibilities and expectations around diversity, equity, and inclusion for those members of the school who currently have oversight of these efforts at each level of the institution.
- Consider whether additional resources and structure should be put in place to ensure that there is adequate institutional focus dedicated to improving diversity, equity, and inclusion in all aspects of the institution.
- Consider whether there are particular goals (such as in faculty hiring and student population) for the school to strive for in a particular time frame, and consider what process changes are needed to create meaningful change in all areas of diversity, equity, and inclusion. Further, these goals should be clearly communicated to those with responsibility for implementing strategies for success, and then evaluated as part of annual performance reviews for all members of the institution responsible for advancing these efforts, along with proper incentives for achieving success.

IV. Professional Development and Classroom Training

The fourth recurring theme Latham encountered was that some faculty members failed to set an example of appropriate behavior in the classroom and were even instigators of insensitive or harassing comments themselves, and that this demonstrated, among other things, a lack of sufficient professional development and training for faculty relating to issues of diversity, equity, and inclusion. In reviewing this issue, Latham, through interviews and document reviews, analyzed BC High's past efforts to provide professional development and cultural competency training for faculty.

Latham's review found that while historically there were some training and professional development opportunities focused on diversity, equity, and inclusion for faculty, they were not made widely available or made mandatory for all faculty and members of the administration and

had been sporadically offered. As a result, Latham found a perception of a lack of competency to deal with such issues, and negative impacts for diversity, equity, and inclusion at the school, including: (i) students of color are relied upon to take on the role of educating others, which can further isolate them and unfairly burden them, (ii) faculty members mishandle conversations about issues of race and diversity, or (iii) faculty members avoid discussion of timely topics relating to race and diversity and therefore limit opportunities for meaningful discussion in the classroom.

That said, BC High's recent partnership with Courageous Conversations to institute a training program for all faculty and staff is the type of top-down, wide-reaching program that numerous interviewees felt has been missing from professional development and training opportunities in the past. The program is designed to provide its participants with the tools to engage with and discuss issues of race openly and honestly in the classroom.

Among Latham's recommendations to the Board resulting from our review of professional development and classroom training regarding diversity, equity, and inclusion are the following:

- Carefully evaluate the success of the Courageous Conversations program, and consider making such a program annual, requiring new hires to participate in the program, and consider whether a similar program could be beneficial on the student level.
- Latham's review uncovered that students of color have been subjected to harassment and micro-aggressions from peers and that misconduct happens in spaces where adults are not present, and therefore consider whether explicit training for students about unconscious bias and the tools to combat it are appropriate.
- As is the case with the broader analysis of the role of diversity, equity, and inclusion at BC High, consider the appropriate systems and resources that should be in place to ensure ongoing measurement and accountability in the area of professional training and development to ensure that, as the immediacy surrounding diversity and inclusion fades and other priorities take center stage, efforts do not fall by the wayside.

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