

January 7, 2005

Hon. Joel I. Klein
Chancellor
New York City Public Schools
Department of Education
52 Chambers Street, Room 314
New York, NY 10007

Re: Fernando Salvador
SCI Case #2004-2696

Dear Chancellor Klein:

An investigation conducted by this office has substantiated that 54-year-old Fernando Salvador, a teacher assigned to City-As-School in Manhattan, performed oral sex on an 18-year-old female student ("Student A") inside a classroom.¹

This investigation began in December 2004, when Principal Robert Lubetsky contacted this office and reported that a teacher had entered a darkened locked classroom and observed Salvador seated in a chair sliding away from an unidentified female student whose pants and underwear were down around her ankles. Officers from the New York City Police Department ("NYPD") and investigators from this office responded to the school and Salvador identified Student A as the girl who was in the room with him. When it was determined that Student A was 18-years-old and had consented to sexual contact with Salvador, the NYPD deferred to our investigation.

Salvador informed Officer Torres of the 6th Police Precinct that Student A was in one of his classes, that she had a stomach ache, and that he told the girl to lay her head down.

¹ Effective December 6, 2004, Salvador was reassigned to 131 Livingston Street, in Brooklyn. He was then sent to 110 Livingston Street.

Teacher Lucy Small described her observation for investigators. On December 3, 2004, shortly after 1:00 p.m., she unlocked the door and entered room 402, a computer lab, to retrieve an easel board.² Small saw someone sitting in a chair and the person started sliding away from the corner of the room. Upon closer inspection, Small realized that the person in the chair was Teacher Fernando Salvador. Small then saw a female in the corner of the room, the same area from which Salvador was moving away, “feverishly” attempting to pull up her panties and pants. Although Small did not see the face of the girl, she observed her complexion, hair, and wardrobe and provided details to investigators. She also took them to examine room 402.

Teacher Rhea Modeste confirmed that Student A fit the description of the girl whom Small observed with Salvador. Modeste explained that Student A was in her classroom in the morning on December 3, 2004. Information from Modeste about the girl and her clothing that day matched the account given by Small.

Student A described her encounter with Salvador. She approached Salvador about a question on a test and he asked her to wait to discuss it until he returned from the computer room. Because the teacher was gone a long time, she went to look for him. Inside room 402, Student A started using a computer while talking to Salvador when he came up behind her and touched her on the sides of her midsection. Salvador told her to sit on a cardboard box that was in the corner of the room and, when she did, Salvador pulled Student A’s pants and panties down to her ankles and began to touch the outside of her vagina. Salvador then performed oral sex on Student A. According to the girl, she was clothed from the waist up and the teacher remained completely clothed. Student A added that, as she bent forward to pull up her underwear, a female teacher walked into the room, said “Fernando,” and left the room. Student A explained that Salvador was sitting in a chair during the sexual encounter and, when the teacher entered, he slid across the room. Student A asserted that she participated in the sexual act willingly and was not forced to do so by Salvador.

Investigators from this office interviewed Fernando Salvador. The teacher maintained that he and Student A went to room 402 to play “Spades,” a card game, on a computer. Salvador claimed that he was trying to get the computer to operate when Teacher Lucy Small walked into the room. Asked why Student A was standing in the corner of the room with her pants and panties down, Salvador replied that those facts were “not true.” Salvador then advised the investigators that he had been instructed by his lawyer not to speak without the attorney being present.

² Principal Lubetsky informed investigators that Salvador was one of a select group of teachers who had the key to room 402.

Through his attorney, Fernando Salvador declined to be interviewed further by this office.

It is the recommendation of this office that Fernando Salvador's employment be terminated and that this matter be considered should he apply for any position with the New York City school system in the future.

We are sending a copy of this letter to the Office of Legal Services. We are also referring our findings to the State Education Department for whatever action it deems appropriate. Should you have any inquiries regarding the above, please contact First Deputy Commissioner Regina A. Loughran, the attorney assigned to the case. She can be reached at (212) 510-1426. Please notify First Deputy Commissioner Loughran within thirty days of the receipt of this letter as to what, if any, action has been taken or is contemplated regarding Fernando Salvador. Thank you for your attention to this matter.

Sincerely,

RICHARD J. CONDON
Special Commissioner
of Investigation for the
New York City School District

By:

Regina A. Loughran
First Deputy Commissioner

RJC:RAL:gm

c: Michael Best, Esq.
Theresa Europe, Esq.

January 7, 2005

Hon. Rose Gill Hearn
Commissioner
New York City Department of Investigation
80 Maiden Lane, 18th Floor
New York, NY 10038

Re: Fernando Salvador
SCI Case #2004-2696

Dear Commissioner Gill Hearn:

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Sincerely,

RICHARD J. CONDON
Special Commissioner
of Investigation for the
New York City School District

By: _____

Regina A. Loughran
First Deputy Commissioner

RJC:RAL:gm

January 7, 2005

Hon. Richard P. Mills
Commissioner
New York State Department of Education
Washington Avenue
Albany, NY 12234

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We are forwarding our findings and recommendations for whatever action you deem appropriate. Should you have any inquiries regarding the above, please contact me or First Deputy Commissioner Regina Loughran. She can be reached at (212) 510-1426.

Sincerely,

RICHARD J. CONDON
Special Commissioner
of Investigation for the
New York City School District

By: _____

Regina A. Loughran
First Deputy Commissioner

RJC:RAL:gm

c: Deborah A. Marriott, Esq.