

April 24, 2006

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

Re: Applications for Free and Reduced-Price School Meals/Milk
PS 122Q
Mary Kojes
Rita Zervoulakos
Constantia Sideris
SCI Case #2005-0419

Dear Chancellor Klein:

An investigation conducted by this office has substantiated that, during the 2004-2005 academic year, school personnel at PS 122 in Queens compromised the integrity of the process used to determine which students were eligible for free lunch.¹ With respect to the Applications for Free and Reduced-Price School Meals/Milk (“free meals form” or “the form”), we found that Principal Mary Kojes influenced entries made by parents which resulted in free meals for their children and affected the school’s poverty rate. In addition, School Aide Rita Zervoulakos improperly approved forms in a number of ways. For example, Zervoulakos entered erroneous calculations on forms, made changes to free meals forms, and provided parents with eligibility information for the purpose of allowing them to underreport earnings to obtain free meals. In addition, Teacher Constantia Sideris submitted a form containing false household income information so that her children, who attended the school, would receive free meals.²

¹ Beginning in the 2003-2004 school year, the New York City Department of Education made breakfast free for any student, regardless of economic status.

² No Department of Education employee was reassigned during this investigation. Zervoulakos voluntarily relinquished the responsibility for the free meals form process in the 2005-2006 academic year.

A potential motive for and certainly a side effect of underreporting income on the free meals form is based in the use of the forms as a poverty indicator in the distribution of federal Title I money to the school.³ Based on the school's poverty percentage – 76.5% – calculated using the improperly approved and outright false free meals forms, in the 2004-2005 academic year, PS 122 was allotted approximately \$950,000 in Title I funds.⁴ Notably, while our investigation was being conducted, based on the 2005-2006 academic year free meals forms, the calculated poverty rate at PS 122 dropped to 54.6%. This fell below the county poverty percentage cut off and approximately \$620,000 has been allocated to the school, a significant drop in Title I funds.⁵

This investigation began in February 2005, when the General Counsel for the New York City Department of Education (“DOE”) forwarded to this office an e-mail message sent from “Concerned Parent” which alleged that: “the principal of PS 122 in Astoria, Queens, NYC, has been requiring parents to illegally doctor their federal lunch forms in order to receive federal Title I status and with it extra money and school aid.”

In an interview with investigators, PS 122 Principal Mary Kojes described the free meals form process followed for the 2004-2005 academic year. Kojes explained that the responsibility for the forms, which were sent home with the students on the first day of school in September 2004, fell to Supervising School Aide Rita Zervoulakos. The aide arranged the forms by classroom and distributed them to the teachers who, in turn, provided the forms to the students to take home to their parents. When the completed forms were returned to the school, as the “determining official,” Zervoulakos approved them and recorded the eligibility status in the school's computer system.

Principal Kojes also explained the process when a student returned an incomplete free meals form. According to Kojes, Zervoulakos would telephone the parent, explain the missing information, and give the student another form to bring home. The principal added that, on occasion, a parent who repeatedly filled out the form incorrectly would be called into the school to complete it. Kojes also asserted that forms containing white out or crossed out information would not be accepted.

Investigators obtained the original free meals forms maintained at PS 122 for academic year 2004-2005. A review of the documents revealed problems with the

³ In a previous investigation conducted by this office, we found that employees at a number of schools engaged in improper conduct, such as altering information on the free meals forms, to inflate the poverty percentage at their respective schools. See SCI Case #2000-1447, referred on June 19, 2003.

⁴ Although based on the 2004-2005 forms, these funds were received for use during the 2005-2006 school year.

⁵ The preliminary county cutoff calculation was 55.53%. PS 122 will be given the money through a “grandfathering provision” which allows schools falling below their respective county cutoff to receive a prorated share of funds for one year, regardless of their eligibility percentage. The amount cited is the preliminary allocation as of April 12, 2006.

calculations. For example, one form completed by a parent reported a weekly income of \$398 for a family of 3. The cut off for free meals eligibility for a household that size was \$392. However, the portion of the form completed by Zervoulakos indicated a weekly household income of \$378 and she approved the student for free meals. This manipulation of the reported income to bring it within the eligible limits was repeated on a number of other forms. In addition, we noted other obvious modifications to free meals forms. These included the addition of "M" to a family's income so that it was counted as monthly and, in some instances, changes to certain numbers in the income reported.⁶ Several approved forms contained white out.⁷

School Aide Rita Zervoulakos provided additional information. In an interview at the school, she told investigators that the free meals forms at PS 122 were her responsibility and were not reviewed by Principal Kojes, her immediate supervisor, barring a problem. She confirmed the process as described by Kojes, but also asserted that she had not received formal training for the task. According to Zervoulakos, when completed forms were received at the school, she verified that all the information was filled out, approved or denied free or reduced-price meals, and then input the data into the school's computer system. The aide noted that, many times, parents did not return the form to the school. Zervoulakos added that a form which was missing information was sent back home with the child to have the parent complete it. Zervoulakos informed investigators that she had created a letter which she attached to the form and it explained what needed to be added. Zervoulakos acknowledged that, on occasion, a parent was summoned to the school to fill out the free meals form. According to Zervoulakos, she did not meet with those parents; rather Principal Kojes met with them to discuss the forms.

Zervoulakos also informed investigators that Kojes told her it was common practice to look at a student's form from the previous school year when the current form had not been returned. According to the aide, when a student failed to submit a new form, but had received free lunch in the previous school year, she would enter the child as free meals eligible for the current school year.

Although she initially denied mishandling the free meals forms, the aide then admitted improperly approving some forms during the 2004-2005 academic year. When shown the form for the parent who declared a weekly income of \$398, but which she calculated as \$378, thus making the student eligible for free meals, Zervoulakos claimed to have made "an honest mistake."

⁶ The form states: "**If frequency is not noted, the reviewing official will process the income as WEEKLY.**"

⁷ Under oath and with her attorney present, in an interview conducted at this office, Zervoulakos said that she knew white out was unacceptable, but acknowledged that she had approved forms that contained white out.

Another form completed by a PS 122 family of 6 reported a \$300 monthly income for the father and a \$400 monthly income for the mother. According to the eligibility chart, a 6 member household could earn up to \$631 weekly to qualify for free meals. Rather than declaring the family to have a \$700 weekly income which would have precluded free meals, Zervoulakos took two steps to assist this family. First, she inserted an "M" to count the reported earnings as monthly, and then calculated the household income as \$600 without indicating a frequency.⁸ As a result, the children in this family who attended PS 122 qualified for free meals. Asked to explain her calculation, Zervoulakos again maintained that she had made an error. The aide added that she personally knew the family and asserted they were "extremely poor."

Investigators showed Zervoulakos a third problematic form. In pen, the document listed an income of \$500 for the named father and no income for the named mother. Attached to the form was one of the Zervoulakos-created letters explaining that the form was being returned and instructing the parent where additional information was needed. In this case, household names were missing as was the frequency that the income was received, for example, weekly or monthly. On the form, the names of 2 children were written in pencil as was an "M" indicating monthly income. Zervoulakos approved the form as free meals eligible for a 4 member household with a monthly income of \$500. Zervoulakos told investigators that she added the names of the children, but denied writing the "M" on the form.

The parent who completed that form provided conflicting information. The parent asserted that he entered the names of his 2 children, both of whom attended PS 122. In fact, although the parent entries were made in pen and the student entries were made in pencil, all 4 names appear to have been made by the same person. The parent denied inserting the "M" on the form. He informed investigators that he worked in construction and the frequency of his assignments and income were "unstable." The parent also reported attending an assembly at the school where the free meals forms were discussed and a family counselor who no longer worked at the school helped him fill out the form.

Other parents also described attending an assembly where they received instructions on filling out the free meals form. Although some of these parents reported that the information on their forms was accurate, 3 parents told investigators that they misstated their incomes after speaking with school personnel at the assembly. The first Parent ("Parent #1") explained that she was about to declare an annual income higher than \$24,000 when an employee whom she could not or would not identify advised her

⁸ In a later interview, under oath, Zervoulakos admitted inserting an "M" to count the earnings on a monthly rather than weekly basis.

that, if she did so, her child would not receive free lunch. As a result, Parent #1 listed her family income as \$24,000 yearly and Zervoulakos approved her son as eligible for free meals.⁹

The second parent (“Parent #2”) implicated Principal Kojes. In an initial interview, Parent #2 claimed that the information on her free meals form was accurate and that no one had interfered with her completion of it. In a second interview, Parent #2 admitted that she had lied to investigators, but continued to be concerned about getting school employees in trouble. Nevertheless, she now revealed that she began reporting a lower income on the free meals forms when her eldest child – in the 4th grade in the 2004-2005 academic year – was in Kindergarten or the 1st grade. Parent #2 explained that, at that time, with other parents, she went to an afterschool meeting about the forms which was held in the auditorium. She continued that Principal Kojes, seated at a desk up in the front, would call each parent up to her and individually assist them in filling out the form.

According to Parent #2, when it was her turn, Kojes asked whether she wanted her children to receive free lunch. When she responded affirmatively, the principal instructed Parent #2 to declare an income that was lower than what her family earned because the actual amount would have made her child ineligible for free lunch. Parent #2 asserted that she was very uncomfortable about reporting a lower income, but nevertheless followed the instructions given by Principal Kojes. Parent #2 suggested that Kojes targeted the parents of Kindergarten students who, as new in the school, would follow the principal’s directives. Parent #2 acknowledged that over the years she knew what income to put down on the form to qualify her children for free meals.

Parent #2 informed investigators that she contacted Principal Kojes following her first interview and described the questions she had been asked. She also told Kojes that she put down a lower income on the form only because she was instructed to do so by the principal. According to Parent #2, Kojes responded: “Do what you have to do.”

The third parent (“Parent #3”) did not identify the employee involved, but reported that her income had been lowered on the form. Parent #3 explained that she attended an assembly at PS 122 and a school aide whom she could not or would not identify helped her fill out the form. She told investigators that her husband’s gross annual salary was approximately \$30,000, but the form indicated a yearly income of \$24,000 for her 4 member household. According to Parent #3, when the school aide inquired about the family income, she responded that her husband’s pay was

⁹ In a later interview, under oath, Zervoulakos explained that the parent was upset at the prospect of having to pay for lunch and, at the parent’s behest, she informed her about the annual salary which would make her children eligible for free meals.

approximately \$500 per week after taxes.¹⁰ Parent #3 added that the aide entered \$24,000 onto the form. Zervoulakos approved the form as free meals eligible.

Other parents reported being called in to meet with Principal Kojes. One mother (“Parent #4”), who had a child in Kindergarten, received 2 separate notes instructing her to schedule an appointment with Kojes. Parent #4 explained to investigators that she was a single mother who was living with a relative. When Parent #4 completed the form, she listed her relative as a member of the household and put down his monthly salary of \$3,600 as income. She had no earnings of her own. Upon meeting with Kojes, the principal asked whether she wanted free lunch for her child. When Parent #4 answered affirmatively, the principal ripped up the form that the mother had completed and instructed her to fill out a new one.¹¹ According to Parent #4, Kojes entered \$300 as weekly income and her relative was not included in the members of the household.¹² Parent #4 described feeling intimidated by the principal and she signed the form even though it contained false information. Zervoulakos approved Parent #4’s child as free meals eligible.

Another Kindergarten parent (“Parent #5”) reported meeting with Principal Kojes to fill out the form. The principal asked whether she wanted her child to have free lunch and Parent #5 replied that she did. According to Parent #5, she and the principal then discussed her husband’s salary. Parent #5 informed investigators that her husband did not receive his pay on a weekly basis and she was not able to state his annual salary. Moreover, although Parent #5 could not recall the household income listed on the form, she claimed that it was an accurate amount. A review of the form relating to Parent #5 revealed a weekly income of \$360 for a 4 member household. Zervoulakos approved the form, making the child eligible for free meals.

In interviews with investigators, other parents (“Parent #6” and “Parent #7”) identified information which had been altered after their forms had been submitted, but could not or would not explain the origin of the changes. Parent #6 said that she did not receive any help from school personnel when she filled out the form. Parent #6 reviewed the form that she had completed and told investigators that she had entered her husband’s weekly salary as \$700, but the form now read \$200 per week as the household income. According to Parent #6, “it looks like somebody switched it,” to make the 7 into a 2. Zervoulakos approved the form as free meals eligible, having determined \$200 to be the weekly income for the 5 member household. The “2” in the household earnings section and in the approval section appear to have been written by the same person.

¹⁰ The instructions accompanying the form explain that the reported income should reflect earnings before taxes or other deductions.

¹¹ Under oath, in an interview at this office, Kojes denied that this occurred.

¹² The form states: “LIST NAMES OF **ALL** HOUSEHOLD MEMBERS AND THEIR INCOME.”

A review of the form relating to Parent #7 most likely was changed by Zervoulakos, but the mother would not implicate the aide. The form, which was completed in pencil, declared a monthly income of \$3,400 for the 8 member household. The "4" in the reported earnings is darker than the other entries on the form and does not match Parent #7's handwriting, even though she claimed to have written it by asserting: "I write my 4 in different ways." Rather, it matched the "4" in the calculated household income listed by Zervoulakos as well as the "4" in the date on which the aide approved the form as free meals eligible.

In a second interview with investigators from this office, Rita Zervoulakos claimed to be unaware of any assembly held to discuss the free meals forms. However, asked specifically about the documents pertaining to Parent #6 and Parent #7, Zervoulakos acknowledged making changes to some of the free meals forms and maintained that Principal Kojes was not aware of her conduct. For example, despite Parent #7's claim that she wrote the "4" in \$3,400, Zervoulakos admitted that she entered that number in order to lower the household income and bring it within free meals eligibility. When questioned about the "7" which became a "2" on Parent #6's form, Zervoulakos admitted changing information on forms. According to Zervoulakos, the alterations were for her own benefit because it "made [her] job a lot easier." The aide explained that, when students did not qualify for free lunch, she constantly had to make efforts to collect money for the meals because parents did not want to pay. She described it as "a constant battle." Zervoulakos added that School Aide Ionna Triantafilidis, who kept count of the students who were required to pay, answered questions about the free meals forms for some of "the Greek parents."

For investigators, Triantafilidis confirmed that her duties included counting those students who were required to pay for the school lunch and keeping track of those who received it for free. The aide reported that her supervisors were Principal Kojes and Zervoulakos. She explained that parents of children who did not receive free meals were supposed to pay every week, but generally did so on a monthly basis. Triantafilidis acknowledged that parents would call her to inquire about how their children could qualify for free meals and she would tell them about the "Household Eligibility Criteria Chart." According to Triantafilidis, although she supplied the eligible income information based on the number of household members in a given family, the parent decided the earnings amount that was placed on the form. Triantafilidis estimated that she gave the eligibility information to 10 parents and claimed that she could not name any of them. Triantafilidis informed investigators that Kojes and Zervoulakos were aware of her conduct.

The investigation also identified an employee at PS 122 who submitted a free meals form which contained false information. Constantia Sideris, a part-time Music teacher assigned to the school, offered a number of explanations for her conduct, none of

which made sense. In an initial interview with investigators conducted at her home, Sideris acknowledged that she completed the free meals form for the 2004-2005 academic year for her children who attended PS 122. The form attributed an annual salary of \$32,000 to her husband and that amount was used to determine that Sideris's children, part of a 6 member household, were eligible for free meals.¹³ The form did not include any income for Constantia Sideris, but to investigators she claimed that the \$32,000 related to her earnings. At the same time she said that the amount on the form was not accurate and had been altered. In a follow up interview with investigators conducted at the school, Sideris again maintained that her current annual salary was approximately \$32,000, even though DOE records showed that she was paid just under \$10,000 in 2004. She also claimed that the amount reported on the form as emanating from her husband, Steve Sideris, actually represented combined earnings and the teacher explained that she "did not want everyone at the school to know [her] husband's income." Sideris then asserted that she had been interviewed previously, expressed embarrassment at being questioned at the school, and refused to answer additional questions.

Sideris's claimed reluctance in disclosing information about her husband at PS 122 did not stop her from reporting his income at another school in Queens where one of her children was enrolled as a student in a previous year.¹⁴ A review of the form filed for the 2003-2004 academic year for her child who attended PS 166 revealed that Sideris declared that her husband earned \$1,000 per week.¹⁵ No income was reported for Constantia Sideris even though DOE records showed that she was paid nearly \$18,000 in 2003. Nevertheless, free meals were denied because her husband's salary alone was above the cut off for a 6 member household.¹⁶

Investigators obtained copies of the Individual Income Tax Returns for 2003 and 2004, filed by Steve and Constantia Sideris. In 2003, the couple's total taxable income was \$62,128 and, in 2004, it was \$46,737.¹⁷ The W-2 forms accompanying the Sideris's returns confirmed that the DOE wages paid to Constantia in 2003 were \$17,927.28 and in 2004 were \$9,893.67.

¹³ The "3" in \$32,000 was written over another number. Zervoulakos approved the child as eligible for free meals. Zervoulakos later testified that, at the time, she did not realize the Sideris form related to a teacher at the school.

¹⁴ Sideris had been a teacher at PS 166.

¹⁵ A form filed with PS 166 for the 2002-2003 academic year did not report any household income. However, the form, completed by Constantia Sideris indicated: "We'll pay in full."

¹⁶ A notation of the form also indicated: "Not interested."

¹⁷ These annual earnings of the Sideris family exceeded the cut off to be eligible for free and reduced-price meals based on a 6 member household.

The assigned investigator obtained reports prepared by Ionna Triantafilidis on which the school aide documented the number of free lunches consumed during the 2004-2005 academic year by Constantia Sideris's children at PS 122.¹⁸ Based on the documents, the investigator calculated that Sideris owes approximately \$285 for the free meals to which her family was not entitled.

Through her attorney, Constantia Sideris declined to answer further questions for this office.

In an interview conducted at this office in the presence of her attorney, under oath, Supervising School Aide Rita Zervoulakos confirmed the process she followed with respect to the free meals forms, which she previously had explained to investigators.¹⁹ She reiterated that only she approved or denied the forms and added that "nobody even looked [at] what I did." The aide asserted that, although she answered questions for parents, she never sat down with a parent to fill out the free meals form. Zervoulakos never supplied the "Household Eligibility Criteria Chart," but acknowledged being asked by parents what income was required for a household of a particular size to qualify for free meals and said that she would provide that information. She did not name any of these parents.

According to Zervoulakos, Principal Kojas instructed her to have students appear in the computer system as eligible for free meals until a returned form indicated otherwise. Thus, although the computer entries from the prior academic year would be wiped out in September of the new school year, Zervoulakos would make those children, who previously qualified for free meals, eligible once again even though a completed form had not been received.²⁰

Zervoulakos admitted that she changed the form submitted by Parent #7 so that the child would be eligible for free meals. The aide explained that the "4" was in her handwriting and replaced a higher number. She added that the parent was aware of the change and, in fact, it occurred after the parent complained about having to pay for school meals. Similarly, in another instance, Zervoulakos recalled that her calculation of \$378 for the household income when the form listed earnings of \$398 occurred with the knowledge of, if not at the behest of, the parent who wanted free meals for her children. When asked about other questionable forms, after a private conversation with her attorney and upon his advice, Zervoulakos invoked her 5th Amendment privilege against self-incrimination.

¹⁸ The 2005-2006 form submitted by the Sideris family did not report any income. Instead, "NOT INTERESTED" was written on the form.

¹⁹ She handled this task for the 2003-2004 and 2004-2005 academic years.

²⁰ Zervoulakos later testified under oath that Principal Kojas was not aware that she was entering the free meals code into the computer for students who were not eligible.

However, on a later date, accompanied by her attorney, Rita Zervoulakos returned to answer additional questions under oath. Zervoulakos reviewed forms with apparent modifications and admitted either making the change or advising the parent how to qualify the family for free meals. She also acknowledged improperly approving families as eligible for free meals although there were problems with the forms, such as income which was too high, a change in the earnings or frequency sections, and the presence of white out. Information provided by Zervoulakos indicated that the motivation for her conduct was not an attempt to obtain additional Title I funds; rather, she was trying to make a very difficult job easier to complete and also was seeking to help families whom she felt needed or wanted free meals for their children.²¹

Accompanied by her attorney, Mary Kojes voluntarily appeared at this office and was interviewed under oath with the conferral of use immunity.²² Kojes denied participating in any assemblies or group meetings with parents where the free meals forms were discussed. Although she acknowledged answering questions about the form for parents, the principal denied being asked for or offering information concerning income amounts which would result in free meals. According to Kojes, she did not destroy a form and instruct the parent to complete a new one, she did not instruct any parent to lower the reported income, she did not complete any forms for parents, she did not tell a parent that the earnings amount reported was too high to be eligible for free meals, and she did not encourage a parent to underreport the household salary. The principal added that she did not instruct Zervoulakos or any other school employee to wrongfully complete or improperly approve free meals forms. Kojes expressed that, in her opinion, a computer meal code entered in the previous academic year stayed with a student until a form for the new school year was returned to the school. She acknowledged that the children continued to be given free meals and asserted that the school – in 2004-2005 through Rita Zervoulakos – made every attempt to obtain current forms. Regarding the form submitted by Constantia Sideris which did not include her DOE wages, Kojes remarked: “It’s not right.”

Despite the statements made by Principal Mary Kojes under oath, we credit the contrary information provided by parents. However, even accepting her denials, Kojes failed to exercise oversight of the free meals forms process for which, as principal, she retained ultimate responsibility. In addition to failing to supervise Zervoulakos, Kojes erroneously advised the aide about the use of meal forms from prior years which led to some of Zervoulakos’s improper conduct. It is therefore the recommendation of this office that appropriate disciplinary action be taken against Mary Kojes.

²¹ Zervoulakos claimed that she was unaware of the distribution of Title I funds to the school.

²² Kojes was advised that her statements would not be used against her in any subsequent criminal prosecution other than for perjury or contempt arising from her testimony.

School Aide Rita Zervoulakos admitted her misconduct. However, she did not improperly approve the forms for personal benefit or with the intent that the school's poverty percentage be increased. She simply was trying to perform a job which overwhelmed her and for which she received no constructive guidance from Kojes. It is therefore the recommendation of this office that appropriate disciplinary action be taken against Rita Zervoulakos.

Teacher Constantia Sideris reported false information on the form she submitted for her family in order to obtain free meals for her children. She then provided incredible explanations for her conduct which were in conflict with her tax documents. It is the recommendation of this office that Sideris's employment be terminated, that she be made ineligible for future work, and that this matter be considered should she apply for any position with the New York City school system in the future. In addition, she should be required to pay for the meals to which her children were not entitled.

We are referring our findings to Queens District Attorney Richard A. Brown for whatever action he deems appropriate.

We also recommend:

- Training: A mandatory training program be implemented for all employees, including principals and their designees, who are responsible for the free meals form process.
- The form: A certification be added to the form which will hold an approving official liable for criminal and civil penalties for misrepresentations made on the form by that DOE employee.
- The form: The face of the form be changed to advise the applicant that the household income listed is before taxes and other deductions.²³
- At the school level: All principals be reminded that they have ultimate responsibility for the forms filed. They must supervise the employee to whom they have delegated the tasks of collecting and approving the documents and entering the data into the computer system.
- Within the central Department of Education: A more aggressive posture be taken with respect to auditing the free meals form process. There must be increased monitoring by the Office of School Food & Nutrition Services and the Office of the Auditor General for the Department of Education.

²³ The instructions accompanying the 2004-2005 free meals form advises the applicant: "Write the amount of income each person now receives...**before** taxes or other deductions."

We are sending a copy of this letter and of our report concerning this investigation to the Office of Legal Services. We also are forwarding our findings to the State Education Department for whatever action it deems appropriate. Should you have any inquiries regarding the above, please contact Special Counsel Eileen Daly, the attorney assigned to the case. She can be reached at (212) 510-1407. Please notify Ms. Daly within 30 days of receipt of this letter of what, if any, action has been taken or is contemplated concerning the free meals process in general, and in particular, the forms at PS 122, Mary Kojas, Rita Zervoulakos, and Constantia Sideris. 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:ECD:gm

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