

April 11, 2007

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

**Re: Brenna Stewart
SCI Case no. 2007-0221**

Dear Chancellor Klein:

An investigation conducted by this office has substantiated that Brenna Stewart, a New York City Department of Education (“DOE”) teacher assigned to the Bronx Leadership Academy II, submitted unacceptable and false documents to excuse nine days of absences from work.¹ Specifically, Stewart provided notes in the name of her sister, Zenobia Brown, M.D., who is not licensed as a physician in New York, and “Dr. Richard Zengotita,” who apparently does not exist, to document eight of the absences. Brown acknowledged that on October 16, 2006 – one of the dates on which Stewart was absent from school and, according to the submitted documents, under Brown’s care – she and Stewart attended the sentencing of their mother, Lynne F. Stewart, at the United States District Court in Manhattan. To explain her ninth absence, Brenna Stewart submitted a death certificate in the name of an aunt, Mary Stewart, on which the date was altered, to document one day of bereavement leave in October 2005; Mary Stewart actually passed away in November 2002.

In January 2007, Bronx Leadership Academy II Principal Paulette Franklin contacted the Office of the Special Commissioner of Investigation (“SCI”) and reported that she had discovered discrepancies in documents submitted by Stewart seeking to excuse nine absences from school between October 2005 and January 2007. Franklin specified the following:

¹ Stewart has not been reassigned.

- The telephone number appearing on two physicians' notes submitted to excuse Stewart's absences in October 2006 and January 2007 corresponded to the number listed on her DOE Emergency Contact sheet for Lynne Stewart;
- an April 4, 2006 physician's note which Stewart submitted concerning two absences that month specified the dates as occurring in April 2005;²
- a death certificate which Stewart submitted in November 2005 to document her attendance at a family funeral during the previous month showed an issuance date of December 11, 2005.

SCI investigators visited Franklin at her school, and she produced the referenced documents and the available corresponding DOE "Application(s) for Excuse of Absence for Personal Illness (Sick Leave)" ("Form OP 198"). The principal said that the January 3, 2007 letter in the name of Brown first aroused her suspicion because it "didn't look professional," and because she recognized the doctor's stated telephone number as being the same as one of Stewart's emergency contact numbers. This discovery prompted Franklin to examine Stewart's personnel file, in which she made the further discoveries outlined above.

Stewart's absence on October 6, 2005.

Stewart submitted the subject death certificate to excuse her absence from school on Thursday, October 6, 2005.³ The certificate, issued by the City of Harlingen, Texas, bears apparently altered dates indicating that Mary Stewart (whom Brenna Stewart identified as her aunt) died on October 4, 2005, and that the document was issued on December 11, 2005. An SCI investigator telephoned the Trinity Funeral Chapel indicated on the certificate as having handled the burial arrangements. A representative who identified herself as "Michelle," informed the investigator that the chapel had no record of arrangements for Mary Stewart in 2005. Michelle referred the investigator to Becky Infante, Registrar of the Harlingen Bureau of Vital Statistics.⁴ The investigator contacted Infante by telephone, and provided her with the death certificate by facsimile. Infante then telephoned the investigator and advised him that the dates on the certificate had been altered, and that the Bureau's records corresponding to the registration number on the certificate indicate that Mary Stewart actually died on November 24, 2002.⁵

Stewart's absences on April 3 and 4, 2006.

Stewart submitted a letter dated April 4, 2006 bearing the (apparently photocopied) letterhead, "New York – Presbyterian – The University Hospital of Columbia & Cornell," but – remarkably – no return address or telephone number. The letter stated:

² Emphasis added.

³ DOE time records indicate that Stewart was absent on the two succeeding days – October 7 and 11, 2005 – which she declared to be self-treated sick days; the intervening day, October 10, was Columbus Day, a DOE holiday.

⁴ Infante is also identified as such on the certificate.

⁵ Infante confirmed that the Trinity Funeral Chapel handled the arrangements.

To Whom it May Concern:

Brenna Stewart was at Columbia New York Presbyterian, the Allen Pavilion, today, April 4, and yesterday, April 3, 2005 in order to assist with the continuation of treatment for her mother, Lynne Stewart, recently diagnosed with breast cancer.⁶

Thank you,

[apparent signature]

Richard Zengotita, M.D.⁷

In January 2007, SCI investigators visited the Allen Pavilion of New York – Presbyterian Hospital in upper Manhattan and met with Clinical Practice Specialist Lorraine Kemp, R.N. Ms. Kemp was asked if there are any records concerning “Richard Zengotita.” She reported that she checked the appropriate databases of all New York – Presbyterian Hospital facilities, and that there is no listing in that name. The same month, an SCI investigator conducted a search for the name of “Richard Zengotita” in the Internet directory of the New York State Office of Professions, which contains the names of all licensed physicians in the State; the results of the search were negative.

Stewart’s absences on October 13, 16, and 17, 2006, and January 2, 3, and 4, 2007.

Stewart submitted a signed Form OP 198 dated October 19, 2006 accompanied by a letter in the name of Zenobia Brown indicating that Stewart was unable to work for three dates that month.⁸ As the principal indicated, the return address on Brown’s stationery (which appears to have been composed on a word processor) corresponded with Stewart’s mother’s home address and telephone number as indicated on her emergency contact card.⁹ The letter stated, in part:

Ms. Stewart suffers from [redacted], also known as [redacted] of her [redacted]. Between the dates of October 13th and October 17th, Ms. Stewart was unable to work at my advice secondary to symptoms from her [redacted].¹⁰ On October 16th and 17th she was under my direct care for evaluation and treatment of her condition.

A signature appears above the name, “Zenobia Brown, M.D.”

⁶ Emphasis added.

⁷ DOE records do not show a corresponding Form OP 198 concerning Stewart’s leave on April 3 and 4, 2006. These dates appear as “personal days” in her DOE Time and Attendance Record.

⁸ Notwithstanding the letter and the Form OP 198, two of the subject dates – October 16 and 17 – are recorded as “self-treated” sick days in Stewart’s DOE Time and Attendance Record.

⁹ The letter contains a facsimile stamp at the top margin stating “DR ZENOBIA BROWN” next to Stewart’s mother’s home telephone number.

¹⁰ Specifications describing a medical condition appearing in the original letter are marked “[redacted]” above.

Stewart's Form OP 198 for the three days in January 2007 is unsigned and undated. It refers to Brown as her physician, and to an attached letter in Brown's name, with a letterhead and return address similar to the October 2006 document. The letter states that Stewart was "under my direct care during" the three days she was absent from work due to an (unspecified) "acute contagious illness." The signature is similar to the one in Brown's name on the October letter.

An SCI investigator contacted the Office of Professional Conduct of the State of New York to inquire about Brown's status as a physician. The investigator was informed that Brown did not renew her registration after it expired on March 30, 2004, and that she was not permitted to practice medicine in New York.

The investigator contacted Brown by telephone at her place of employment, the Sarasota County (Florida) Health Department. She confirmed that she is Stewart's sister, and maintained that when she visits New York, she provides medical care to family members and close friends. Brown acknowledged the letters bearing her name, and said that her sister's reported illnesses were genuine. Asked if she is licensed to practice medicine in New York, Brown replied that her license is "for life." The investigator asked about the Brooklyn address which appears in Brown's letter, and she stated that it is her mother's residence, and not a medical office.

Brown subsequently telephoned the SCI investigator, who asked her if she was actually in New York to diagnose her sister's illnesses reported in October 31st and January 3rd letters. Brown replied that she was in New York in October and December, and that she returned to Florida on December 29th. She said that she prepared the January 3rd letter in Florida and transmitted it to Stewart by e-mail. Brown was asked if she was acquainted with a Dr. Richard Zengotita. She replied that she has a lot of contact with physicians who care for her mother, but was unfamiliar with that name. Brown stated that she would check her records concerning Zengotita. She has not subsequently contacted the investigator.

Brenna Stewart's account to SCI investigators.

Stewart was interviewed at the Bronx Leadership Academy II. She said that she has been assigned to the school as a physical education teacher for two years. She has been employed by the DOE since 1984, and stated that she was also employed as a New York State Court Officer for 15 years.¹¹ Stewart indicated that she was aware that investigators had contacted her sister, Zenobia Brown. Asked if Brown provided "medical services" to her, Stewart replied, "yes," before adding that her sister provided her with "medical advice."

¹¹ Stewart said that she "returned" to teaching while pursuing a law degree. The New York State Unified Court System Attorney Directory indicates that she was admitted to practice law in 1995, and is currently registered. Available at <http://iapps.courts.state.ny.us/attorney> (last visited Apr. 2, 2007).

Stewart was shown the subject letters in Brown's name, and she said that her sister prepared them. When told that her sister had not renewed her New York medical license, and was not permitted to practice in New York State, Stewart stated that she did not "want to get [her] younger sister in trouble," and would simply say that she prepared the letters herself. The investigators told Stewart that this was unacceptable, and she then said that Brown had sent the letters to her by e-mail, and that she then submitted them to her school. Stewart declined to state whether her sister had actually examined her in New York, or diagnosed her over the telephone.

Investigators showed Stewart the subject death certificate, which she acknowledged submitting. She was shown the differing fonts, and was asked if she changed the date of death on the document. Stewart was unresponsive, stating only that "an aunt died." She was then asked if she mistakenly submitted the wrong certificate, and if she had a death certificate for a family member which coincides with the date of her claimed bereavement leave; Stewart declined to answer.

Stewart was shown the letter in the name of "Richard Zengotita" by investigators and asked how she obtained it. She did not reply. Stewart was then advised of the results of the investigator's inquiry at New York – Presbyterian Hospital. She then apparently wrote down the name of the purported doctor, and told the investigator that she would call him with contact information for Zengotita. In the more than two months since the interview, Stewart has not contacted the investigator.

Finally, when asked about her absence on October 16, 2006, Stewart acknowledged that she took the day off from work to attend her mother's sentencing in U.S. District Court, but said that she did not file for sick leave for that date. This is contrary to Stewart's signed Form OP 198, and to the letter (in her sister's name) which she submitted with it.¹²

Conclusions and Recommendations.

Brenna Stewart submitted forged documents – an altered death certificate and a letter in the name of a nonexistent physician – to claim compensation for three days of leave to which she was not entitled. When confronted with letters in Brown's name which she submitted to verify six paid sick days, Stewart acknowledged that her sister prepared them. After being informed that Brown was not a licensed physician in New York, Stewart stated that she would switch to a duplicitous explanation – that she prepared the letters herself. Stewart also falsely told investigators that she did not claim a sick day for her absence from work on the date of her mother's sentencing. We recommend that Brenna Stewart's employment be terminated, that she be made ineligible for work with the DOE, and that this matter be taken into account should she apply for any position with the DOE or its affiliates in the future.

¹² News accounts confirm that Lynne F. Stewart was sentenced on October 16, 2006. See Julia Preston, *Sheik's Lawyer, Facing 30 Years, Gets 28 Months, to Dismay of U.S.*, N.Y. Times, Oct. 17, 2006 at A1.

We are also forwarding copies of this report to the New York State Education Department and to the DOE Office of Legal Services.

We are also referring this matter to the District Attorney of Bronx County for whatever action he deems appropriate. As Stewart is a licensed attorney, we are also referring this matter to the Disciplinary Committee of the New York Supreme Court, Appellate Division, First Department.

Zenobia Brown, M.D., appears to have improperly certified Stewart's sick leave. She is not licensed to practice medicine in New York, but prepared medical excuses on stationery which gives the impression that she maintains a practice in Brooklyn. The two letters do not even indicate whether Brown had examined the patient. Accordingly, we are forwarding a copy of this letter to the Office of Professional Discipline of the New York State Education Department and to the Florida Department of Health for whatever action they deem appropriate with respect to Brown.

Should you have any inquiries regarding the above, please contact Deputy Commissioner Gerald P. Conroy, the attorney assigned to the case. He can be reached at (212) 510-1486. Please notify Deputy Commissioner Conroy within thirty days of receipt of this letter of what, if any, action has been taken or is contemplated concerning Brenna Stewart. Thank you for your attention to this matter.

Sincerely,

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

By: _____
Gerald P. Conroy
Deputy Commissioner

RJC:GPC:gm

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