

April 30, 2004

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

Re: District 24 Test Tampering
SCI Case #2003-0605

Dear Chancellor Klein:

An investigation conducted by this office has substantiated that Joseph Quinn, former Superintendent for District 24 in Queens, and Catherine Powis, former Deputy Superintendent for District 24, failed to ensure that uniform procedures were used in the grading of the 2003 Grade Four English Language Arts Examination (“ELA”).¹ Specifically, Powis constructed and implemented a process, with Quinn’s knowledge, whereby Audrey Murphy, Principal of PS 16 in District 24, was permitted selective access to her students’ scored test papers. As a result, on three occasions during the scoring process, Murphy reviewed her school’s examinations and singled out specific test papers for the sole purpose of having them re-scored. In addition, on the final scoring day, selected scorers in District 24 reviewed certain tests with low scores.² Moreover, Powis failed to ensure that all of the test booklets were adequately secured at the District Office scoring site.

The investigation also revealed that upon receipt of a subpoena *ad testificandum* from this office, Powis contacted Judith Nathan, First Deputy Counsel at the Department of Education’s (“DOE”) Office of Legal Services (“OLS”), and requested legal representation. Rather than immediately advising Powis that such representation would create a conflict of interest, Nathan contacted the DOE’s Division of Assessment and Accountability (“DAA”) and provided the information she had gathered from that Division back to Powis.

¹ Currently, Quinn and Powis are Local Instructional Superintendents for Region 4.

² Only tests with scores of 1 or less were eligible for this extra review.

Confidential Complainant

This investigation began in March 2003 when Chad Vignola, DOE General Counsel, forwarded a report from a confidential complainant. According to the complainant, he had been alerted to possible tampering during grading of the ELA at the District 24 Office.

The confidential complainant provided details to investigators from this office. In early February 2003, the ELA was given to fourth grade students throughout the DOE. Thereafter, the test's written portion completed by District 24 students was graded at the District 24 Office. The complainant explained that DOE employees, who were present during the scoring process, informed him that a box containing partially scored tests from PS 16 was found unsecured and that the score of one test had been raised.

Information from Scorers

Investigators spoke to a number of scorers who reported the following improprieties during the 2003 scoring period at District 24:

- Scorer A confirmed that she observed a changed test score. When she expressed her concerns to Marilyn Hamada, a former District 24 Senior Staff Developer and Scoring Site Coordinator, Hamada advised her that “supervisors have the right to check the papers.”³ Scorer A stated that she then told Lydia Hoffman, a former District 24 Senior Staff Developer and Scoring Site Coordinator, that a test score had been changed from 1 to 3.⁴ She added that when she next observed the test paper, after her complaint, the grade had been changed back to 1. Moreover, Scorer A also observed another test tagged with a Post-it and explained that no tests were flagged prior to the PS 16 test box being sealed the night before.
- Scorer B reported that fellow scorers had advised her that a number of test scores had been raised.
- Hamada took two tests that had been scored by Scorer C and had them reviewed by Scorer E. Scorer C recounted that Hoffman stated that she did not think it was fair for the grades to be changed.
- Scorer D stated that during the scoring process she sealed the boxes of exams every night. She recalled two occasions when the PS16 test box that she had sealed the prior nights was unsealed when she arrived the following mornings. Moreover, she observed that a few tests had been affixed with Post-its. She added that other scorers had mentioned to her that grades had been changed. Scorer D stated that Hamada

³ Hamada is currently a teacher at PS 13 in Queens.

⁴ Hoffman is currently a teacher at PS 14 in Queens.

advised her that principals were allowed to review their students' tests in the presence of the superintendent.

- Scorer E recalled that Hamada told the scorers that the scoring process was a “secure thing.” She stated that at the end of each day Hamada would make an announcement to seal every box and that no one was permitted to exit the scoring room until and unless all test boxes were placed on the cart. She added that on one day during the scoring period Hamada had requested that she and Scorer F review some tests. Scorer E acknowledged that when she reviewed the tests she changed the score on one of them from 1 to 2.
- Scorer F confirmed Scorer E’s report as to the “security” statements attributed to Hamada. She stated that Hamada asked her to review some tests that had been already scored but she did not make any changes.
- Scorer G stated that, on two sequential days, she observed that the scores on tests had been increased. Scorer G stated that Hamada advised her that principals and Powis could review the tests.
- Scorer H stated she returned for a 6th scoring day and was instructed to review papers with very low scores to see if “they were fair.”
- Scorer I stated when she returned for a 6th day of scoring, Hamada, Diane Foley, former District 24 Director of Instructional Initiatives, and Powis instructed her and other scorers to check scores of 0 and 1.⁵ According to Scorer I, she has been grading the tests for 6 years and this was the first time that she had been asked to return for an extra day. Moreover, she stated that she had never heard of a 6th day being utilized to review tests in this fashion.
- Scorer J stated that Hamada asked her to return on the 6th scoring day “to make sure that 0’s were really 0’s and 1’s were really 1’s.”
- Scorer K stated that although she received no training regarding the Grade Four ELA, Hamada requested that Scorer K participate in the grading of that test. Moreover, she stated that Hamada had asked her to appear for the 6th day of scoring where Hamada handed her a number of test papers and instructed her to “look at a few schools for 0’s and 1’s.” She added that Hamada instructed her to “check to see if the score was fair.”
- Scorer L recalled that Hamada requested that she return for the 6th day of scoring. According to Scorer L, on that day she was told to review the tests and “give the child the benefit of the doubt.”

⁵ Currently, Foley is a Local Instructional Superintendent in Region 3.

The Impetus

Investigators interviewed Audrey Murphy and learned that she provided the momentum behind District 24's new procedure. The principal stated that when she received the 2002 ELA scores, she did not agree with some of them. Murphy explained that she felt a number of her students' papers that had received a grade of 0 or 1 had been underscored.⁶ According to Murphy, she first discussed her concerns with Karla Lederman Morrero, then assistant principal of PS 16 and 51st Avenue Academy, Foley and thereafter with Powis.⁷ She indicated that she requested that District 24 implement a "more objective" scoring procedure.

According to Murphy, Powis allowed her and Morrero to review the 2003 tests during the scoring period.⁸ After the completion of the first day of scoring, she and Morrero, accompanied by Powis, entered the District 24 open conference/scoring room, where she observed the box containing the PS 16 test booklets.⁹ Murphy explained that the box was moved to Powis's office, that she and Morrero perused it for tests with scores of 0 or 1, and that she read several of the students' answers in order to determine if she agreed with the scores. Murphy acknowledged that she only examined tests with scores of 0 and 1 and not those tests where students received higher grades. Murphy recalled selecting four tests that she wanted reviewed by an "impartial" scorer.¹⁰ Murphy stated that she handed the tests to Powis and that it was her understanding that Powis was to forward the papers to Hamada to be reviewed. Murphy added that Quinn was briefly present when she was reviewing the tests in Powis's office.¹¹

Murphy stated that on the second day of scoring, Morrero informed her that Nicholas Apostolo, former District 24 Director of Elementary Initiatives, Hoffman and possibly Hamada had complained that someone had reviewed the tests, but that Powis had advised Morrero that it was permissible for the principal and assistant principal to continue their review.¹² Murphy stated that after the second day of scoring had been completed she and Morrero reviewed the PS 16 tests with Foley in the District Office computer room and set aside four or five test booklets to be re-read. Murphy also

⁶ Although Murphy failed to support her contention that the scorers of the ELA had been prejudiced against her students, she stated that she felt "that the graders did not give her students impartial grades because they knew they were grading PS 16's tests when they were doing it."

⁷ Currently, Morrero is a Regional Instructional Specialist in Region 4.

⁸ Murphy acknowledged that she had not received training for the 2003 rubric used to score the ELA. Murphy stated that, to her knowledge, 2003 was the first year that anyone in District 24 reviewed their own tests.

⁹ Murphy acknowledged that she also observed boxes marked with the names of other District 24 schools.

¹⁰ When asked if it was her understanding that all the initial graders were supposed to be impartial, Murphy indicated "yes."

¹¹ Murphy acknowledged that she did not have a conversation with Quinn regarding the procedure which should be utilized to look at the tests.

¹² Apostolo is currently the principal of PS 159 in Brooklyn.

recalled putting aside four or five tests to be re-examined after her third day of review.¹³ Murphy stated that she did not receive any direct information concerning changes in scores for the tests that she requested be re-examined. She claimed she was not interested in knowing whether or not the grade had been changed, her only interest was in having the tests re-examined. Murphy asserted that by having the tests looked at again she felt that she was doing the best she could for the children in order for them to get the proper recognition that they deserved.

Murphy recounted that when she apprised Quinn that she was going to speak to investigators from this office he stated to her “why I could kick you in the head for insisting that we look at the tests.”¹⁴ Murphy reported that she responded to Quinn, “I did not insist.”

Investigators spoke to Morrero who confirmed Murphy’s account of how the tests were reviewed. According to Morrero, Powis directed her and Murphy to give Powis whichever tests they wanted reviewed.¹⁵ Morrero asserted that Murphy wanted the tests to be re-examined to “really give the kids the best shot.”¹⁶ Morrero stated that Powis advised her that although Apostolo, Hoffman and Hamada had expressed concern that someone had looked at the tests, she had given her continued permission for Murphy and Morrero to proceed with their review of the PS 16 tests. Foley informed Morrero that the tests, which she and Murphy had reviewed in Powis’s presence, retained their original scores.

The Seal is Broken

When investigators first interviewed Hoffman, she stated it was her responsibility to place the scorers at tables. Hoffman initially denied knowledge of an unsecured test box and claimed that she never heard that a score had been altered from 1 to 3. In a subsequent interview, Hoffman stated that on February 25, 2003, Mary Messina, District 24 secretary, had handed her a number of loose PS 16 test booklets, all with scores of 1.¹⁷ Thereafter, she observed that the box containing PS 16 test booklets had been moved from the location where it had been stored the prior night. Hoffman stated that Messina told her that she was to re-read the tests and review the scores. Hoffman did so, determined the scores to be correct, and then returned the tests to the box containing the remainder of the PS 16 tests. Hoffman explained that she then sought out Apostolo and advised him of what had transpired. On a later date, Hoffman provided investigators with

¹³ Foley set up Murphy and Morrero in the computer room and then exited to attend a meeting. Murphy claimed that not all the test booklets with scores of 0 or 1 were put aside for re-examination.

¹⁴ The interview referred to occurred in June 2003.

¹⁵ Morrero acknowledged that she received no training in the 2003 ELA rubric.

¹⁶ Morrero explained this to mean that the tests were to have an “impartial re-look” to determine whether the tests were graded appropriately because Murphy felt her students were graded unfairly on the 2002 ELA.

¹⁷ Messina is currently a Parent Support Officer for District 24.

a copy of an e-mail message that she had sent to her attorney. In that document, Hoffman indicated that Messina advised her that Foley had directed Messina to give the test booklets to Hoffman with the instruction to change the test scores from 1 to 2.¹⁸ In a follow-up interview, Hoffman explained that after her conversation with Apostolo, Quinn informed her that Murphy was concerned about how her students were doing and advised her that other principals may also be coming to the District Office to look at their tests. Hoffman stated that she was not aware of any principals reviewing their tests in prior years.

Messina confirmed some of the information provided by Hoffman. Messina stated that Foley telephoned her and requested that she move a box from Powis's office into the conference room.¹⁹ According to Messina, she went to Powis's office, found the door open, retrieved a box atop Powis's conference table and delivered it to Hoffman in the conference room. Messina reported that she was not aware that principals were allowed to review their students' test booklets. Messina did not recall forwarding any instructions from Foley to Hoffman.

Apostolo explained that he was concerned that tests had been removed from a box and he approached Powis about it. According to Apostolo, on the second day of scoring, Hoffman approached him with four or five tests in her hand. Apostolo explained that when Hoffman stated that Foley had requested that she re-read the exam papers, he told Hoffman that it was a "breach of security" for the tests to be separated from the box. Apostolo explained that when he and Hoffman approached Powis, she informed them that Quinn had decided that principals would be allowed to review their students' tests and that Murphy, the principal of PS 16, had done so.²⁰

Powis admitted to Apostolo that, on the previous night, she had retrieved the box containing the PS 16 test booklets from the conference room. Apostolo added that it was at that time that he found out that the remainder of the test booklets had not been secured in the computer room at the end of the first scoring day. In fact, the boxes containing the tests were left in the conference room while a meeting was conducted where non-scorers had free access to the room. According to Apostolo, Powis informed him that Quinn had issued an e-mail advising the principals that they could review their students' tests at the end of each scoring day under appropriate supervision. Apostolo stated that he never saw the e-mail and had contacted four principals who each advised him that they had no knowledge of the e-mail or the process by which the tests could be reviewed.

The Tests are Reviewed

In an interview with investigators, Foley stated that it was her responsibility to arrange for test scorers to be present at the District during the scoring of the 2003 ELA.

¹⁸ Foley denied giving the directive to alter the test scores.

¹⁹ Messina stated that she did not recall being asked to transport the four or five loose tests.

²⁰ The test booklets in Hoffman's hand were those of PS 16 students.

Foley explained that after the 2002 ELA scores were released, Murphy expressed concern over her students' scores. According to Foley, in June 2002, Quinn explained that he had received some complaints, and he requested that she look more carefully into the selection of the scorers.²¹ Foley added that in December 2002, the superintendent advised her that principals would have the opportunity to review the test results prior to them leaving the District Office. Foley stated that Quinn decided that principals were to be given an opportunity to look at individual student papers after they were marked to see whether they needed to be reviewed by another scorer.²² Foley reported that she informed Hamada and Hoffman that principals were allowed to review their tests.

Foley conceded that principals' intervention was unnecessary. She acknowledged that there were existing procedures by which a test was reviewed during the course of the scoring day when a student received a grade of 0 or 1. Two others at the scorer's table would review the paper and if a question still existed as to the appropriateness of a score then Hamada or Hoffman would re-examine the test. Foley stated that in spite of the fact that the above steps were carried out, the decision was made to allow principals to review their students' scored tests and request that the answers be reviewed yet again.²³

Foley stated that after the first day of scoring had been completed, Murphy appeared at the District Office and requested to examine the PS 16 tests. Foley directed her to Powis. Foley stated that she later saw the various schools' test boxes in the conference room where she was attending a meeting unrelated to scoring. Foley acknowledged that the conference room was not secure. Foley stated that she later learned from Powis that Murphy had reviewed the PS 16 tests and that the box containing those tests was in Powis's office. Foley contacted Messina and requested that she make certain that Hoffman received the box and the loose tests that were in Powis's file cabinet.²⁴ Foley stated that on the second day of scoring, Powis informed her that Hoffman and Hamada had questioned why the box was moved and why the tests were reviewed. Moreover, according to Foley, Apostolo had complained about a "breach" of security.

Foley recounted that later that same week she told Quinn that she did not want to be involved with the process of principals reviewing their students' tests, whereupon Quinn directed her to "let them look." She stated that Murphy continued to review her students' tests throughout the week even though Foley had advised her that it was a waste of time. According to Foley, Murphy adamantly responded that she still wanted to look

²¹ Foley stated that she later learned from Murphy that she was the complaining principal.

²² Foley stated that even though principals were not given any training on how to evaluate the ELA, they were to be given the opportunity to review the scores and, based upon the principal's prior assessment of that individual student, determine whether they wished to have the test re-read for purposes of possible re-scoring.

²³ Foley stated that she advised Quinn and Powis about her decision to allow principals to be given the opportunity to view their tests at the end of each day.

²⁴ The loose tests were those that Murphy wanted re-scored.

at the tests because “I didn’t get a fair shake the year before.” Foley stated that she was not aware of any other principals reviewing their students’ tests.

Moreover, Foley asserted that she was not aware of a District-wide review of tests with scores of 1. Although Foley created a document calling for a 6th day of scoring to review tests scored 1 or less, she maintained that she did not know whether that practice was implemented. Foley believed that either Powis or Quinn had asked Hamada or Hoffman to have a group of markers review scores of 1 on the final scoring day, however she was uncertain whether this action took place. Foley claimed that she was not aware of any test scores being changed and she denied asking anyone to alter any scores.

Investigators also spoke to Hamada. Along with Hoffman, she monitored the marking of the 2003 ELA at District 24. She stated that each night the table leaders sealed the boxes and that no one reported boxes being open when they arrived the next morning. Nevertheless, according to Hamada, Morerro approached her with two PS 16 test booklets and asked that they be reviewed. Hamada complied with Morrero’s request. Given that some of the information she provided appeared inaccurate and was inconsistent with other evidence, investigators attempted to speak to Hamada on a subsequent occasion. However, through her attorney, she refused to be re-interviewed.

District 24 – District-wide Policy or School Specific Provision

During the course of the investigation, it was necessary to speak with Powis on a number of occasions. In the initial interview, Powis stated that she oversaw the 2003 ELA scoring process. According to Powis, it was the “unwritten” policy of the District to allow principals to look at the ELA papers from their schools during the grading process.²⁵ She stated that if a student received the score of 0 or 1 then a third person would review the score to be fair to the child. In a subsequent interview, Powis acknowledged that after the completion of the first or second day of the ELA scoring, a box containing the PS 16 tests was retrieved from the conference room, placed in her office and thereafter Murphy reviewed the students’ scored tests in Powis’s presence.²⁶ According to Powis, after this review, the principal stated that she “had a concern about five tests” and asked Powis if it was “possible for another person to look at the exams.” Powis claimed that she then locked the five tests in her file cabinet and left the box containing the remainder of the tests unsecured in her office.²⁷ Powis repeated “it is District policy to allow principals to look at [tests],” adding it must be done “under supervision.”

²⁵ Quinn claimed he was not aware that the policy permitted a principal to review tests during the scoring period.

²⁶ In other interviews, Powis acknowledged that Morrero assisted Murphy with the review. Moreover, although Powis claimed that Apostolo assisted her in locating the PS 16 box, others did not recall Apostolo’s presence.

²⁷ In a subsequent interview, Powis conceded that she was not certain she had locked the file cabinet.

In a later interview with investigators, Powis confirmed that she was the top person responsible for the ELA scoring conducted in District 24. According to Powis, in the Fall of 2002, Quinn advised her that if any principals wished to review their students' tests they were to be permitted to do so and that he had announced this new policy initiative at a conference with principals in June 2002. Powis stated that in December 2002 or January 2003, at a meeting with the District Office's top staff, the idea of principals reviewing their exams was discussed and Quinn suggested letting principals review their students' tests as the scoring process was occurring.²⁸

Powis stated that on the first day of scoring, she instructed the scorers to do their best, meaning that "they should make sure they give the child every opportunity to be given an objective score." According to Powis, on that day Murphy requested that she be permitted to review her students' tests.²⁹ Powis stated that when she retrieved the PS 16 tests from the conference room, she observed that the rest of the District's test booklets were there and, accordingly, she instructed Foley to lock the doors to the conference room at the conclusion of the meeting.³⁰ Powis explained that on the following morning she telephoned Foley and advised her that the box containing PS 16 test booklets was in her office, that there were five tests in her file cabinet which needed to be re-scored, and that the documents should be forwarded to Hoffman. According to Powis, later that day, Apostolo approached her and asserted that there may have been a breach of security because some of the principals may have viewed their students' tests. Powis informed Apostolo, Hamada and Hoffman of the District's new policy of allowing principals the opportunity to review their students' tests and she acknowledged that she had permitted Murphy to review the PS 16 tests. Powis added that the principal had concerns regarding approximately five tests which had been provided to Hoffman to be re-read.³¹ Powis stated that when she advised Quinn what had transpired in regard to the reviewing of the tests he told her that he had sent an e-mail to the District principals informing them that they could examine their students' tests.³²

According to Powis, on the 5th day of the scoring period, Hamada informed her that on the 6th scoring day a select number of scorers were going to review some test booklets which had been scored 1 and possibly 3. Powis was uncertain whether a procedure was in place requiring the review of all tests graded 1. Powis claimed not to know whether any tests were in fact reviewed on that 6th day.

²⁸ According to Powis, Apostolo was present at the cabinet meeting in which the new reviewing policy was discussed. Apostolo denied being present.

²⁹ Powis added that Morrero and Murphy came to the District on two additional dates to review the PS 16 tests and were assisted by Foley on those occasions.

³⁰ After the first day of scoring had concluded, a meeting, unrelated to scoring, was held in the conference room.

³¹ Powis conceded that prior to this occurrence she had no discussions about the policy with Hamada or Hoffman.

³² Murphy stated that she did not receive any written communication advising her that she could come down and review the tests.

In the final interview, contrary to the information she previously provided, Powis stated that it was never discussed when in the scoring process principals could review their tests and she did not recall Quinn stating that principals could review their tests only after the grading had been completed. Powis produced documentation which she stated emanated from Foley, indicating that the 6th day of scoring would “definitely” be used for a group of markers to look over any papers that received a score of 1 or less. Moreover, this same document stated that “principals would have any opportunity to review their scores and papers prior to sending them to D.A.A.” [Division of Assessment and Accountability].

In an interview with investigators, Quinn stated that reviewing papers scored 0 and 1 was a good procedure and it was good common sense. Quinn claimed that the procedure setting up a 6th day of grading, where a group of markers looked over any papers that had received a score of 1 or less, had been used for two or three years.³³ Quinn asserted that there was nothing in the State guidelines prohibiting it. He stated that he wanted the grading to be more “humanistic.” Quinn wanted Powis to try to have people on the marking committee who “have a heart and who can follow whatever the rules and regulations are,” meaning “someone looking at the rubric where there is some room for flexibility.”

Quinn claimed that Powis failed to notify him that the tests were left in an unsecured location. In fact, he denied any knowledge of a security breach during the scoring process.

Quinn acknowledged that the 2003 school year was the first time that principals were given an opportunity to review their tests.³⁴ He continued that he and Powis made the decision. He claimed he was not aware of any principals reviewing their students’ tests during the scoring process and asserted that any review should have been done only after the scoring had been completed.³⁵ Contrary to what others have indicated Quinn reported to them, the superintendent maintained that nothing was disseminated to principals advising that they could review their students’ tests at the District Office. Quinn claimed that between June 2002 and September 2003 he did not have any conversations with Murphy regarding her reviewing of the ELA tests. In fact, when asked if he ever commented to Murphy “I can kick you in the head for insisting we look at the test,” Quinn responded, “I don’t know...I don’t remember.” Quinn denied that Murphy played a role in his decision to give principals the opportunity to review their students’ tests.³⁶

³³ Quinn stated he did not know whether tests were reviewed on the 6th scoring day.

³⁴ Quinn stated that he authorized the reviewing of tests by principals only after the completion of the scoring process.

³⁵ Quinn stated that he had no discussion with anyone regarding a possible breach and he was not aware that any principals viewed their tests.

³⁶ The superintendent stated that no one expressed concern to him when the grades for the 2002 ELA tests were released.

Investigators spoke to several District 24 principals all of whom stated that they were not notified that they could review their students' tests. Principal Carol Wertheimer, PS 68, stated that Powis told her that Quinn was allowing a few principals to review their tests. Wertheimer explained that she was advised of this new policy only after she observed Murphy reviewing the PS 16 student test booklets at the District Office. Wertheimer stated that at first she was going to review her tests but after rethinking it she decided not to do so.

New York State Department of Education ("SED") and DAA Guidelines

According to Virginia Hammer, SED Exam Specialist, and Lori Mei, Senior Instructional Manager of DAA, there are SED guidelines in place for the hand scored section of the ELA.³⁷ "In order to ensure that tests are reliably scored, it is essential that scorers receive training each and every time they serve on a committee to score a State test."³⁸ The scoring involves evaluating a student's work for its total, overall, or whole effect based on the rubric and accompanying exemplar responses.³⁹ This process is called holistic scoring.⁴⁰ The SED guidelines include:

- A Site Coordinator who supervises the scoring operation.⁴¹
- The Scoring Leader who trains the scorers and monitors the scoring sessions.⁴²
- The Table Facilitator who monitors the sessions while the Scoring Committee scores the test.⁴³
- The Scoring Committee which is comprised of a group of teachers chosen by the Site Coordinator to score.
- Each Scoring Committee must have a minimum of three members.
- The reader worktables are to be arranged so that the Table Facilitator is at the head of the table, with up to five readers positioned around the table.⁴⁴
- The Table Facilitators conduct read-behinds. "Read-behinds are scored books that are read again as an informal check of scorer accuracy and consistency."⁴⁵

³⁷ The handwritten section was manually scored at the District 24 Office for District 24 students.

³⁸ New York State Education Department, *Grades 4 and 8 English Language Arts Grades 4 and 8 Mathematics School Administrator's Manual for Public Schools, 2003 Edition*, at 44.

³⁹ New York State Education Department, *New York State Testing Program Scoring Leader Handbook*, at 5.

⁴⁰ According to the New York State Education Department, *English Language Arts Grade 4 February 2003 Writing and Writing Mechanics Scoring Guides and Scorer Practice Sets*, at I, the rubric used to score the written response is graded on a scale of 0 to 3: 0 point[s] indicates that the response is completely irrelevant or incoherent, 1 point indicates that the response fulfills few requirements of the task, 2 points indicate that the response fulfills some requirements of the task, while 3 points indicate that the response fulfills the requirements of the task.

⁴¹ This person can also be referred to as the School District Administrator.

⁴² This person can also be referred to as the District ELA Leader.

⁴³ This person can also be referred to as the School ELA Leader.

⁴⁴ New York State Education Department, *Grades 4 and 8 English Language Arts Grades 4 and 8 Mathematics School Administrator's Manual for Public Schools, 2003 Edition*, at 50.

⁴⁵ *Id.*, at 51.

- All test books, as well as scoring manuals, must be regarded as secure and confidential materials. These materials should not be left unattended during breaks or lunch and the room in which the tests are secured should be kept locked after school hours.⁴⁶

Although Hammer acknowledged that there is no definitive regulation prohibiting District 24's procedure which allowed principals to review their students' tests and request reconsideration of the scores, she reported that the SED would not condone this scoring process. "For any large scale scoring project to be successful and have meaningful results, all scorers must use established criteria."⁴⁷ Moreover, Mei indicated that her office would not recommend a scoring model in which only some principals reviewed their students' scores and would not recommend that only some papers be re-scored. According to Mei, "the practice of re-scoring only certain papers at the conclusion of the scoring period leaves open to question the integrity of the scoring." In addition, Mei stated that during the scoring of the performance assessments at the scoring sites all student answer booklets must be stored in a secure locked facility.

Financial Incentive

According to Mei, the results of the 2003 ELA impacted, in part, on the bonus calculation for superintendents and principals, as well as other DOE administrators. Mei explained that 2003 was the first year that superintendents were eligible to receive bonuses and that they could share these funds with their deputy superintendents if they requested to do so.⁴⁸ Mei stated that superintendents were advised, prior to the commencement of testing, of the necessary test increases that their District needed to achieve in order to qualify for bonuses.⁴⁹ Principals were advised that in order to receive a bonus, their school must show an improvement of 25% based on a scale score system and must achieve a 25% increase compared to similarly situated schools.⁵⁰ Quinn and Murphy have been slated to receive bonuses, however, those funds are being held in abeyance pending the completion of this investigation.

Interference and Bad Advice

Powis acknowledged that upon receipt of our subpoena she contacted Nathan seeking legal representation. Powis explained that although Nathan had ultimately advised her that OLS could not provide legal representation to her, the attorney nevertheless contacted personnel from DAA to seek an opinion regarding the reviewing of tests by principals. According to Powis, Nathan advised her that she had been

⁴⁶ *Id.*, at 45.

⁴⁷ New York State Education Department, *New York State Testing Program Scoring Leader Handbook*, at 5.

⁴⁸ Quinn did not opt to share his bonus with Powis.

⁴⁹ Quinn stated that he did not expect to receive a bonus for the 2002-2003 school year.

⁵⁰ Principals were also aware of their target prior to the start of testing.

informed that although the process of allowing principals to look at tests was odd, it was not illegal.

In an interview with investigators, Judith Nathan acknowledged that she received a telephone call from Powis in which Powis requested representation because she had received a subpoena to appear at this office. According to Nathan, she did not immediately advise Powis that because she represented Chancellor Klein she could not represent the deputy superintendent. Instead, Nathan listened to Powis's version of events that had taken place during the scoring of the ELA. Thereafter, Nathan contacted DAA in order to have an understanding of the grading process. Nathan admitted that although she informed Powis that OLS could not represent her, she also advised her that if she had implemented the superintendent's policy, then she "would be okay."

Conclusion

It is clear that Quinn and Powis failed to ensure that District 24 used uniform procedures in scoring the ELA. Murphy's students' tests were reviewed in a manner not consistent with the remainder of the District and City. Moreover, tests that received low scores were re-reviewed with the sole purpose of having the tests re-scored. In addition, Powis, as the "top person" in charge, had the ultimate responsibility to make certain that the test booklets were secured for the duration of the scoring process at the District Office. She failed to accomplish this task.

It is inherently unfair to differentiate between groups of failing students. In addition, the process by which only low scores were re-reviewed raised the appearance of impropriety in the scoring of the ELA and calls into question the accuracy of the test results. It is the recommendation of this office that additional procedures be implemented to ensure that all tests are graded in a uniform manner. The process of a single principal removing tests for a specific review or the re-assessment of test scores that fall below a certain level clearly was not consistent with the intent of the SED.

Moreover, during the course of scoring the ELA for District 24, test booklets were not adequately secured on a daily basis. After the first night of scoring, the majority of test booklets remained in the conference room while a meeting was being held. Additionally, the seal on the PS 16 box was disturbed on three separate occasions, and on one of those occasions tests were actually removed from the box and stored elsewhere. It is recommended that those test security procedures, which are supposed to be utilized during the scoring process, be clearly articulated to all personnel responsible for the scoring of the tests to help ensure that potential manipulation of test answers and/or scores does not occur.

Undoubtedly the concept of awarding bonuses to reward stellar performance can be a motivational tool. However, the impact that the results of mandatory tests, such as the ELA, have on the calculation of these monetary incentives may influence directly or

indirectly the manner in which the scoring takes place. The compensation of Quinn, and Murphy, as well as other District 24 employees, is based, in part, on the test results of students under their administration. Therefore, any interference with a proper and uniform method of scoring raises the potential for a conflict of interest.

As a result of Murphy's repeated claims that the scoring of the 2002 PS 16 tests lacked impartiality, she was given the opportunity to review her students' 2003 tests and question the validity of the scores they had been given. Powis and Quinn did not afford this option to all principals throughout District 24. Without addressing the propriety of such an inspection, this action resulted in an unequal treatment of fourth grade students within the District and across the City. Despite the fact that there are procedures in place to verify the accuracy of a given score, the District leadership initiated a policy by which only selected low test scores were given additional levels of review. This type of policy allows for tainting of the scoring process.

We are forwarding our findings for your information and whatever action you deem appropriate.

Judith Nathan knowingly interjected herself into an ongoing investigation being conducted by this office. This type of action could potentially have a detrimental effect on the handling of a matter within our purview. It is recommended that Ms. Nathan be reminded as to the possible consequences of any such future lapse in judgment.

We are forwarding a copy of this letter and of our report concerning this investigation to the Office of Legal Services. We are also sending our findings to the State Education Department for whatever action it deems appropriate. Should you have any inquiries regarding the above, please contact Eileen Daly, the attorney assigned to this case. She may be reached at (212) 510-1407. 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:ED:ss

c: Chad Vignola, Esq.
Theresa Europe, Esq.
Rick Stewart, Auditor General