

May 2, 2005

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

Re: Barry Schenker
SCI Case #2004-2733

Dear Chancellor Klein:

An investigation conducted by this office has substantiated that 61-year-old Barry Schenker, a teacher assigned to Franklin K. Lane High School in Brooklyn, had an inappropriate relationship with a 19-year-old female student ("Student A").¹

This investigation began in December 2004, after school officials contacted this office and the New York City Police Department ("NYPD") to report Student A's disclosure that she had been involved in a sexual relationship with Schenker. We deferred to the NYPD, but opened an investigation after being informed that its case was being closed without an arrest.²

From the NYPD, we learned that Student A had gone to the Dominican Republic for an indeterminate period of time.³ Moreover, through his attorney, Barry Schenker declined the opportunity to speak with investigators from this office. Consequently, we sought evidence from other sources.

¹ On December 8, 2004, Schenker was reassigned to the Region 4/5 Operations Center.

² The Kings County District Attorney's Office declined to prosecute Schenker after Student A refused to cooperate in any criminal case against him. Student A also asserted that her sexual relationship with the teacher began after she turned 17-years-old. In addition, the statute of limitations had expired on other contact she had with Schenker at the school when she was 14-to-17-years-old.

³ Student A's father confirmed this information.

A number of students (“Student B,” “Student C,” “Student F,” “Student H,” and “Student I”) and a former student (“Student D”) provided relevant information to investigators:

- Nineteen-year-old female Student B reported that Schenker was her music teacher when she was in the 10th grade. She described the teacher as “a flirt” and added that he repeatedly asked for her telephone number.
- Nineteen-year-old female Student C also referred to Schenker as “a flirt” who repeatedly requested her personal cell phone number and also asked the girl for pictures of herself. Student C added that the teacher would caress her arm, causing her to pull away because it made her uncomfortable. According to Student C, Schenker made a number of advances toward her, all of which she refused. He asked her out to dinner, telling the girl: “Your 18. It’s alright,” and “No one has to know.” He also inquired about visiting her work place. Student C reported that Schenker said he liked all kinds of women – meaning Black or White – and that “every night, [he] can have a different woman.” Schenker once approached Student C in the classroom, exposed his tangled neck chains, and stated: “Can you pull it?” which she considered was an apparent reference to sex. Student C added that Schenker made inappropriate comments about her clothing. She explained that the teacher instructed her to wear low-cut tops. Moreover, on one occasion, she was wearing 2 shirts – one with large ripped openings on top of another – and Schenker remarked that she should not wear a shirt underneath. Student C informed investigators that she usually had security walk her to class to avoid any chance of being alone with Schenker.

Student C also provided information about Student A. She gave details about a girl matching Student A’s description who spent time in Student C’s music class with Schenker even though she was not assigned to it. She described the girl as “coming and going” from the class “as she please[d.]” According to Student C, Schenker and the girl talked one-on-one and would laugh and giggle together.

- Seventeen-year-old male Student F reported that Schenker frequently allowed him to cut class and “hang-out” in his classroom.
- Seventeen-year-old female Student H, assigned to one of Schenker’s classes, was chosen at random to be interviewed.⁴ She informed investigators that Schenker never “disrespected her,” but nevertheless discussed “bagging numbers,” which she understood to mean obtaining the telephone numbers of female students. Student H confirmed a female, whose description matched Student A, was in and out of the classroom to visit Schenker.

⁴ Student H has turned 18-years-old.

- Fifteen-year-old female Student I was chosen at random to be interviewed. She had been a student in one of Schenker's classes and, on one occasion, he told her: "I like chocolate" and winked at her. Student I explained that she understood Schenker to mean that he liked Black women. According to Student I, a female student, who was not in her class, would be at the front desk talking with Schenker. Student I's description of this girl matched Student A.
- Female Student D, who attended Franklin K. Lane in the late 1980s, had Schenker as her music teacher. In a telephone interview with the assigned investigator, Student D explained that she was doing poorly in his class because she "cut" so many times. According to Student D, Schenker told her that if she wanted to pass she could stay after school, adding: "There are some things that you can do for me." Student D understood Schenker's comment to mean that he was looking for sexual favors in exchange for a passing grade. Student D added that Schenker often suggested that he wanted to go to parties with her. He also told her that he had "mescaline" – which he referred to by street names "blue turquoise" or "red star" – and offered to give her some; however, he never displayed any drugs, and she refused his proposition. Student D informed investigators that Schenker often stared at her breasts and made comments about them, such as "nice shirt," "tight shirt," "filled out her shirt," or "popping out of her shirt." The teacher also told Student D and her friends that they were "hot girls" and that they "look[ed] really hot." Student D added that, as she sat at her desk, Schenker would come along side and rub her thigh with one hand, while his other hand was in his pocket. Student D explained that the teacher's conduct upset and angered her and she subsequently left Franklin K. Lane, in part, because of Schenker's behavior toward her.

In a telephone conversation with the assigned investigator, Student A, who was in the Dominican Republic, denied having a sexual or romantic relationship with Schenker. According to Student A, she was "only joking" when she reported to a guidance counselor that she was involved with the teacher. Student A claimed that she continued to give the same details to the NYPD because she "couldn't stop [what was happening]." Student A added that she and her boyfriend would "hang out" with Schenker because the teacher was "cool." Student A maintained that she had not spoken with Schenker since the filing of the complaint and subsequent media attention.

Upon her return from the Dominican Republic, investigators again spoke with Student A who asserted that the information in the complaint lodged by the school on her behalf alleging a sexual relationship with Schenker was "untrue." Student A also claimed that she did not spend time in Schenker's classroom while she should have been elsewhere in the school. However, upon learning that other students had reported seeing her there, she acknowledged going to Schenker's classroom "once in a while." Student A also denied calling Schenker on his cell phone and at his home. When shown records relating to her cell phone, Student A identified Schenker's cell phone number on them and admitted calling him. Student A then refused to answer any additional questions.

Telephone records confirmed the relationship between Schenker and Student A. The girl's cell phone records show that she began calling the teacher on April 8, 2004, at 9:08 p.m. Student A registered 1,163 minutes in 316 calls to Schenker. Schenker also called Student A's phone 24 times for a total of 416 minutes. Most calls were after school hours or on weekends and the records also revealed that, despite her assertion to the contrary, Student A had contact with the teacher even after the complaint was made against him.

Schenker's telephone records showed that he called Student A at her home and on her cell phone during non-school hours, on weekends, and during summer recess. Schenker telephoned Student A 93 times for a total of 527 minutes.

The information provided by the students who had no motive to fabricate details and the documentary evidence clearly establish Barry Schenker's inappropriate behavior, including his relationship with Student A. Despite Student A's change of heart regarding her complaint against Schenker, it is likely that she and the teacher were involved sexually as indicated in the disclosure to her guidance counselor and her account to the NYPD. It is the recommendation of this office that Schenker'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 and of our report concerning this investigation to the Office of Legal Services. We also are forwarding our findings to the New York State Education Department for whatever action it deems appropriate. Should you have any inquiries regarding the above, please contact First Deputy Commissioner Regina 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 receipt of this letter of what, if any, action has been taken or is contemplated concerning Barry Schenker. 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.