

July 20, 2010

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

Re: Nathan Turner
SCI Case #2007-1583

Dear Chancellor Klein:

An investigation conducted by this office has substantiated that Nathan Turner, a history teacher at Beacon High School (“Beacon”) in Manhattan, traveled to Cuba during spring vacation 2007 with several Beacon students. He did so after being informed that the New York City Department of Education (“DOE”) and Beacon declined to approve the trip and after being instructed by his principal not to go.¹

The investigation began in April 2007, when Beacon Principal Ruth Lacey notified the Office of the Special Commissioner of Investigation (“SCI”) that a reporter was seeking information concerning a Beacon teacher and five students who were said to have been detained at the U.S. border upon returning from Cuba. Lacey continued that any such trip was not sanctioned by either the DOE or Beacon.

Since that time, SCI has interviewed numerous witnesses, including staff and administrators at Beacon, other current or former employees of the DOE, and parents. Documentary evidence was obtained and reviewed. Some witnesses were interviewed more than once. SCI also engaged in extensive litigation, which lasted over two years, to secure compliance with subpoenas *duces tecum* issued to the corporation and the executive director of The Inter-Religious Foundation for Community Organization, Inc. (“IFCO”) – an organization involved in the matter.

¹ Turner was not reassigned but did irrevocably resign from the DOE during this investigation. He is not eligible for employment with the DOE.

Principal Ruth Lacey was interviewed on multiple occasions. Lacey explained that she had been approached by teachers Nathan Turner, Owa Brandstein and Amy Daniels about the proposed 2007 trip to Cuba – most likely in June 2006, because students would earn money for the proposed trips over the summer.² She initially said it was “fine” since “we” went every other year.³ However, she subsequently grew concerned about the safety of the students after seeing a newspaper article concerning Fidel Castro’s ill health and the fear of “instability or unrest in Cuba.” Lacey spoke with her supervisor, Eric Nadelstern, about her concerns and he said “don’t go. I think that it is better if you don’t go. I’ll check with legal.”⁴ Lacey said that she did not have any discussions with Nadelstern about the regulations concerning travel to Cuba or Beacon’s prior trips to Cuba.

Lacey reported that the school’s website notified the students about the possibility of a trip to Cuba and about who had been selected to attend. She was unsure as to when the students were notified, but thought it occurred in November. She also knew they were meeting afterschool at Beacon.⁵ After she informed the three teachers that she would not approve the trip and her reasons for that decision, Daniels and Brandstein separately informed Lacey that they would not go on the trip. Since Turner never approached her, Lacey went to Turner and told him that he could not go, that he was to cease talking about it in the school, that there were to be no meetings in the school, and that he was not to go to Cuba with the students from Beacon at any time. Turner responded by saying that he had to go to Cuba to see Castro one more time before he died. Turner continued that “you know Ms. Lacey, I’m a Communist.” Lacey asked Turner if he heard her.

² Lacey’s recollection of exactly when she was approached by the three teachers was vague and she could not be specific about the time frame. Daniels relocated outside the area during the course of the investigation and was not interviewed.

³ When asked whether she was aware of travel restrictions to Cuba, Lacey denied that she was familiar with the laws. Lacey explained that she followed the DOE procedures, assumed that the procedures were “okay” for the Cuba trip, and maintained that there were trips to Cuba before she became principal. Since the 1999-2000 school year, Beacon students and staff have taken several trips to Cuba. In addition to the non-school, non-DOE trip described above, there were also trips taken in the spring of 2000, 2001, 2003 and 2005.

⁴ Lacey thought that this conversation with Nadelstern occurred in early January, after the winter break. Nadelstern thought that the discussion occurred in the fall or maybe early winter – November or December. At the time, Nadelstern was the Chief Executive Officer of the Empowerment Schools and is currently a Deputy Chancellor.

⁵ The individual who maintained Beacon’s website provided three postings regarding the 2007 trip. One posting indicated that the applications for the trip (which required a standard application form and an essay) were now available from a folder on the door to Turner’s room and were due at 3:30 p.m. on October 23, 2006. Another posting, dated November 16, 2006, by Brandstein explained the rubric used to select the participants and indicated that there were “way more qualified applicants” than could be selected. The third posting listed the students selected and those placed on a waitlist and announced that the first meeting would be held on November 22, 2006 from 3:00 to 5:00 p.m. Although two of the postings were dated after the participants had returned, they referred to a deadline in October 2006 and a meeting in November 2006.

During her first interview conducted in the presence of her representative, Lacey said that Turner asked for a meeting with all of the students who had been interested in going to Cuba. The meeting was held in the 3rd floor lab room. According to Lacey, she addressed the students and informed them of her decision to not allow a trip to Cuba that school year. Lacey reported that Turner did not say anything in front of her at the meeting. After informing the students of her decision, she left the meeting and did not know what was discussed after her departure.

Lacey maintained that there were no further meetings about the Cuba trip in the school. Lacey later recalled telling Turner in the hallway “please, don’t do anything” that he would regret and she would regret. Lacey could not put a time frame on this hallway conversation except that it was after she spoke with Nadelstern.

Lacey continued that there came a time when rumors were circulating that a trip to Cuba was being planned. After informing Nadelstern and, at his suggestion, conferring with an attorney at the DOE, letters were sent by U.S. mail to the residences of the students who had expressed an interest in the Cuba trip.⁶ The letter, which was addressed to parents, stated in part:

Beacon has always supported international travel that enhances our curriculum. This year we enthusiastically look forward to several substantial travel opportunities. We anticipate the following international trips will be supported and sanctioned by the Department of Education and Beacon for this year: a Sweden-Russia trip, two exchange trips to Spain, an exchange trip to France, a trip to the US/Mexico border, and the London Project.

In contrast to these trips, teachers on their own have proposed to lead a trip to Cuba. Neither the Department of Education nor the Beacon School is sponsoring this trip, or any other trip to Cuba. An employee who participates in a trip to Cuba is not participating in his or her capacity as a Department of Education employee, and the DOE accepts no responsibility for his or her actions or welfare. Likewise, a student who participates on a trip to Cuba does so as an individual without sponsorship of the DOE and the DOE accepts no responsibility for his or her own actions or welfare. Any intimation suggesting otherwise would be false.

The letter, which contained a tear off portion at the bottom of the page, requested the parent(s) sign and return to the school the “attached copy of this letter” indicating that the parent was aware of the school and the DOE policy. The school received only responses concerning five students out of the 30 names on the list of interested students which had

⁶ As Lacey, accompanied by a representative, explained during her first interview, there were two mailings: January 29 and February 15.

been provided by Lacey.⁷ Lacey recalled that there were also some phone calls to the school and verbal statements by students who said they would not go to Cuba.

After she received the call from the reporter, Lacey informed Nadelstern and SCI about the matter. She also asked Turner what happened in Cuba that she should know about. Turner inquired why she was asking, and Lacey responded that no doubt the trip would be in the paper tomorrow, “so do you mind telling me?” Turner told her that something happened at immigration but that she did not want to know the rest. Lacey reported that she did not know who actually went on the trip or was stopped.⁸

Owa Brandstein was interviewed by SCI investigators in the presence of his attorney. Brandstein, who taught 9th and 10th Grade English, recalled that at the end of the summer of 2006, he had spoken with some colleagues about a possible trip to Cuba. He was interested and agreed to be a chaperone. Brandstein and others began to make announcements in the school and online about the trip and started to take applications. The interested students were asked to submit an application containing an essay about why they wanted to go to Cuba and how they would benefit from such a trip. Brandstein did not recall the exact number of applications which were submitted but said that 30 students were picked. Brandstein reported that Lacey was aware of what was transpiring and she was “okay” with the planning of the Cuba trip but was waiting for Nadelstern’s approval. A meeting was held at the school with the staff and students who were scheduled to take the trip to Cuba.

Brandstein continued that sometime after the first meeting, Lacey said that the trip was not going to be approved by the DOE. According to Brandstein, Lacey’s position was that since the DOE was not approving the trip to Cuba, there could no longer be any meetings at the school. A second and third meeting took place, each of which was attended by 35 to 40 students and parents. According to Brandstein, he, Turner and a third teacher were explicitly clear that the trip was not sanctioned by the DOE or Beacon and that Lacey also did not approve. Brandstein recounted that the parents and students were told that, if they felt uncomfortable about the DOE not sanctioning the trip, they did not have to take part in the trip. Brandstein said that Lacey provided a letter to teachers with the instructions to make sure students and parents knew the DOE’s position. Within weeks of Lacey’s letter, he informed the other staff members that he would not go on the Cuba trip and cited Lacey’s letter and her reasoning. Brandstein stated that he, Turner, and the other staff members never discussed regulations concerning the government’s position on Cuba but that “Pastors for Peace” was also at the meetings and they handled the discussions concerning the regulations about travel to Cuba.⁹

⁷ Lacey provided copies of the returned letters. Lacey initially believed that there had been six responses. The parents either completed the tear-off portion and returned the letter (two students), indicated that the student would not go to Cuba (one student), or was not on the Cuba trip (two students).

⁸ Early in the investigation, Lacey had provided investigators a listing of students who had expressed interest in going to Cuba.

⁹ As described on IFCO’s website, Pastors for Peace is a “special ministry” of IFCO.

Then Chief Executive Officer of the Empowerment Schools Eric Nadelstern was interviewed twice by SCI staff; the second time under oath.¹⁰ Nadelstern recalled that, during November or December 2006, he discussed with Lacey a trip that a teacher wanted to lead to Cuba. He recalled telling Lacey in no uncertain terms that it was a bad idea and that “we” would not approve of it. Nadelstern continued that he explained to her that travel to Cuba was prohibited by the State Department, that there were no direct flights from the United States to Cuba, and that in order to get there students needed to travel through another country.¹¹ Under those circumstances, Nadelstern maintained that the proposed trip would endanger students. He did not recall Lacey mentioning Castro’s health issues but admitted that she could have. Nadelstern reported that Lacey did not need to convince him and she did not “push back” against his position, rather she said that she would communicate the DOE’s position to the teacher.¹² Nadelstern recalled that he had conferred with Michael Best, Counsel to the Chancellor, who had agreed that the trip was not a good idea. Then, during the spring 2007, Lacey called and informed him that she had become aware that a teacher took students from Beacon to Cuba during spring break on his own and not as a school sponsored activity, and that they had been detained at the airport on their return.

On April 30, 2007, a parent sent an e-mail message to Lacey maintaining that it was known not to be a school trip.¹³ The names of the parents of two other students also appeared in the message. SCI investigators met with a group of parents of five students (which included the parents who sent the e-mail) and their attorney.¹⁴ The parents said that Turner, who was disappointed with the DOE’s decision but still wanted to take the trip, participated at meetings held outside the school. When questioned as to how informative Turner was about the potential legal ramifications because of the policy regarding travel to Cuba, the group replied that Turner was very brief. Rather, after the DOE refused to authorize the trip to Cuba, Pastors for Peace became the primary source of information. According to the parents, Pastors for Peace had each parent sign and have notarized a “harmless clause” document relating to Pastors for Peace. None of the parents admitted to having a copy of the harmless clause document. The parents commented that it was their choice to send their children to Cuba. Another parent spoke with an SCI investigator by telephone and reported that all of the parents of the students who went to Cuba were aware that the DOE did not sponsor the trip as well as the U.S. Government’s sanctions, and the possible ramifications.

Pursuant to court orders, IFCO provided some documents to SCI in June 2009 and two other documents in November 2009. Also, pursuant to a court order, IFCO’s Executive Director was interviewed in the presence of counsel. In regard to his and

¹⁰ Nadelstern is currently a Deputy Chancellor.

¹¹ During one of her interviews, Lacey did not recall having any conversation with Nadelstern about the restrictions. She also did not recall any conversations with Nadelstern concerning any prior trips to Cuba.

¹² Nadelstern said that the discussion might have occurred over more than one call.

¹³ Lacey provided a copy of that e-mail message to SCI.

¹⁴ Two of these five students were not reflected on the list of the students who had expressed an interest in the proposed trip, which had been provided by Lacey.

IFCO's involvement, if any, with any trips to Cuba by students and staff from Beacon, the Executive Director objected to and/or claimed different privileges, including his Fifth Amendment privilege against self-incrimination.

The second production of documents contained a three and one-half page document labeled "MISCELLANEOUS INFORMATION ABOUT YOUR TRIP for participants in the Beacon School delegation April 1-10, 2007" (capitalization in original). This document referred to attached flight information and a program; however, there were no attachments.

The paragraph about travel described that the group would be leaving from LaGuardia Airport early on the morning of April 1 on several different flights to Nassau because there were not enough seats on any one flight to travel together.¹⁵ There would be chaperones on each flight. They would have lunch and an orientation meeting in Nassau before they boarded the connecting flight and they were scheduled to arrive in Havana at 7:45 that night.

The paragraph about money explained:

[p]lease remember that **credit cards, debit cards, travelers' checks, money orders and any other financial instruments drawn on a US bank CANNOT BE USED IN CUBA, because of the US embargo laws.** Remember also that according to the US embargo laws, you are not supposed to be spending any money in Cuba. (Emphasis in the original).

After explaining how U.S. currency is not recognized for any transactions in Cuba and the 10% fee to change it into Cuban currency, the paragraph continued:

[s]o you know how much cash to carry: You have been made aware of US Treasury Department restrictions on spending and purchasing in Cuba (see www.treas.gov/ofac).

General pricing information was then provided. The paragraph about expenses and incidentals listed what was covered and what was not.

¹⁵ Among the documents provided in June 2009 were two lists of trip participants and flight information for 33 of the participants from LaGuardia to Nassau on April 1 and a return trip on April 10. During a June 2009 interview under oath and in the presence of counsel, a custodian of records explained that he had located the two documents on a non-networked computer at the IFCO offices during his search for records. One of the lists had 34 participants listed; the other 36. Some of the participants listed also appeared on the list of interested students provided by Lacey and/or the posted list of students selected or waitlisted.

The other document was a blank, undated “IFCO/Pastors for Peace” release form which contained the instruction that the form should be returned after it has been signed and notarized. If the applicant was less than 18 years old, the release needed to be signed by a parent or legal guardian. The body of the form began “[c]oncerning the program of the 4/07 student delegation to Cuba, a project in which I intend to participate, I understand the following:....” Among the items the applicant understood was that there were restrictions placed on travel to Cuba by the U.S. government (and OFAC’s web address) and that the applicant released and held harmless IFCO/Pastors for Peace and the United Church of Canada.

Beacon Assistant Principal Harry Streep had discussions with Turner about the trip.¹⁶ During an interview conducted in the presence of his counsel, Streep told SCI staff that, after the trip, he told Turner that he could not believe that he traveled to Cuba. When Streep expressed concern for the welfare of the students, Turner responded that he thought it was important that “this unfair law be overturned.”¹⁷ Additionally, Turner told Streep that there was no one who went on the trip who did not know that it was not a DOE approved trip – in other words, everyone who went knew that they were going on their own. Additionally, Streep believed that the parents knew because “apparently” the parents and students met outside of school on a regular basis.

Through his attorney, Nathan Turner declined the opportunity to be interviewed by investigators from this office.

The 2007 trip was not a school or DOE approved trip and it is unlikely that any parent (or student) could have thought otherwise. Turner ignored the instruction of his supervisor not to go to Cuba with students from the school and potentially exposed the students to civil and criminal penalties.

It is recommended that Nathan Turner remain ineligible to work for the DOE and that this matter be considered should he ever apply for any type of position in the New York City public school system in the future.

¹⁶ Streep was interviewed twice. Streep had been a chaperone on the 2001 Beacon trip to Cuba. Streep agreed that, thereafter, the regulations became stricter and he explained that he had learned of that by reading the paper “maybe as early as 2004, maybe 2005.” Streep said that, during his conversation with Turner after the trip, Turner pointed out that Streep had gone to Cuba and that he responded that the law was different then.

¹⁷ According to Streep, Turner asserted that “you knew that we were going” and Streep responded “[n]o, I didn’t know that you were going and we made every effort to have you not go.”

We are forwarding a copy of this letter to the Office of Legal Services. We are also 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 Ann E. Ryan, the attorney assigned to the case. She can be reached at (212) 510-1493. Please notify Ms. Ryan within 30 days of the receipt of this letter as to what, if any, action has been taken or is contemplated regarding this matter. Thank you for your attention to this matter.

Sincerely,

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

RJC:RAL:AER:gm

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