

December 12, 2006

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

Re: Jay Sarkar
Poonam Batra
SCI Case #2006-1353

Dear Chancellor Klein:

An investigation conducted by this office has substantiated that Occupational Therapists Jay Sarkar and Poonam Batra, independent contractors provided by KCM Therapy ("KCM"), a Department of Education ("DOE") vendor, committed theft of service and employee misconduct. Specifically, they submitted time sheets which falsely described the services being provided to students at CS 152 and P 10 @ 152, located in the Bronx, under their Individual Education Programs ("IEPs").¹ The investigation also substantiated that Sarkar and Batra allowed an unidentified male, not known to the DOE, to attend occupational therapy sessions with schoolchildren at CS 152 and P 10.²

This investigation began in April 2006, when CS 152 Assistant Principal Kim Nohavicka contacted the Office of the Special Commissioner of Investigation ("SCI") and reported allegations of theft of service against Sarkar. Nohavicka alleged that Sarkar had submitted time sheets for services he had not provided to students in February 2006. Nohavicka explained that she was made aware of the problem by David Kilen, the owner of KCM where Sarkar was an independent contractor.

¹ Sarkar and Batra were not reassigned during this investigation.

² This person was not identified during this investigation.

SCI received a second complaint from P 10 Principal Barbara Hanson who reported that Assistant Principal Antoinette Bello and Unit Teacher Donell Ford had advised her that Sarkar and Batra were not signing in and out on their time sheets.³ Hanson further indicated that Batra was servicing both her caseload and Sarkar's caseload.

Assistant Principal Nohavicka informed SCI investigators that Hanson had advised her that KCM owner Kilen said to "keep an eye on" Sarkar as a result of internal problems at KCM regarding salary. According to Nohavicka, Batra appeared to be providing the occupational therapy ("OT") for both her students and Sarkar's students at the same time, contrary to the services mandated by the children's IEPs. Nohavicka also reported that there was another individual present with Batra and Sarkar whom DOE personnel had not been able to identify.

Principal Hanson informed SCI investigators that Sarkar did not always service the students assigned to him for OT. Hanson continued that, sometime during late March 2006, Administrative Coordinator Dianne McCauley received a call from Kilen who reported his suspicion that Batra and Sarkar had been sharing students. Hanson explained that she confronted Sarkar several times and he was evasive about his presence in the classroom. According to Hanson, Sarkar told her that he was conducting administrative work when he was not in the classroom with the students. Hanson provided investigators with statements given by three students ("Student G," "Student H," and "Student I") to P 10 Assistant Principal Antoinette Bello in the presence of Unit Teacher Donell Ford. In them, the children indicated that Batra handled their OT services. However, Hanson reported that those students were assigned to Sarkar.

In an interview with SCI investigators on May 9, 2006, Administrative Coordinator McCauley confirmed that Kilen had called her about a month earlier and said that he suspected Batra and Sarkar of sharing students because they seemed to be keeping the same hours at school and both were absent at the same time.

According to their IEPs, nine students ("Student A" through "Student H" and "Student K") were mandated to have one-to-one therapy sessions conducted by either Batra or Sarkar. In separate interviews with SCI investigators, these students said that they were in the classroom with at least one other student while receiving OT. With the exception of Student B, all of the students, whether assigned to Batra or Sarkar, were picked up by Batra for their OT sessions. Moreover, Student C, Student F, Student G, Student H, and Student K all reported that an unknown male was in the classroom with Sarkar and Batra.⁴

³ The February and March time sheets were provided to SCI investigators.

⁴ School officials could not identify the man. He would enter the school with Sarkar without signing in.

On May 1, 2006, Assistant Principal Nohavicka informed the assigned investigator that Sarkar and Batra had been at CS 152 and P 10 that day and, without the permission or knowledge of the administrations of the schools, performed a written survey of teachers. To do so, Sarkar—sometimes with and sometimes without Batra—went classroom to classroom while instruction was taking place and asked each teacher to answer questionnaires immediately.

SCI investigators visited P 10 and Hanson provided copies of the survey questionnaires which Sarkar and Batra had handed out on May 1, 2006, to at least 10 teachers. The two questionnaires—one for each of the therapists—asked the teacher to answer “Yes” or “No” to the following:

1. Has Jay Sarkar [or Poonam Batra] provided Occupational therapy services to the children in your class consistently as per the mandates in the IEP?
2. Are you satisfied with the services provided by Jay Sarkar [or Poonam Batra]?
3. Would you recommend Jay Sarkar [or Poonam Batra] to continue to provide the services?
4. Any additional comments.

When questioned by school officials about the surveys, the teachers wrote statements in which they indicated that Sarkar never—or very infrequently—picked up students, that he described himself to teachers as Batra’s supervisor, and that he told the teachers he worked as a team with Batra.⁵ Investigators interviewed one of the teachers, Grace Romero, who confirmed that Student G, who was assigned to Sarkar, was picked up by Batra from February 2006 to June of 2006. Nevertheless, she answered “Yes” to each of the questions relating to Sarkar’s performance.

Through their attorney, both Jay Sarkar and Poonam Batra declined to be interviewed by SCI investigators.

Jay Sarkar took funds to which he was not entitled when he submitted requests for payment which falsely indicated that he provided therapy services to his assigned students. Sarkar exacerbated that misconduct when he allowed an unidentified male to be present when students were receiving services from Batra.

Poonam Batra took funds to which she was not entitled when she submitted requests for payment that falsely indicated that students were receiving individual instruction mandated by their IEPs. Batra also allowed an unidentified male to be present while she was servicing the students.

⁵ Investigators obtained copies of the teachers’ statements.

It is the recommendation of this office that Jay Sarkar and Poonam Batra be made ineligible to perform any services for the DOE and that this matter be considered should either of them seek employment in a New York City public school either directly or through any provider. In addition, the DOE should seek to recover any funds wrongly paid to Sarkar and Batra.

We are referring our findings to Bronx County District Attorney Robert T. Johnson for whatever action he deems appropriate.

It is also the recommendation of this office that all DOE employees be reminded that unauthorized persons have no place in school buildings where children may be endangered.

We are forwarding a copy of this letter and of our report concerning this investigation to the Office of Legal Services. We also are sending our findings to the 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 regarding Jay Sarkar and Poonam Batra. 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.