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***REPORT OF THE  
SPECIAL COMMISSIONER OF INVESTIGATION  
FOR THE NEW YORK CITY SCHOOL DISTRICT***

*SEPTEMBER 1, 1999 – JUNE 30, 2002*

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**EDWARD F. STANCIK**  
SPECIAL COMMISSIONER

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# INTRODUCTION

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The Office of the Special Commissioner of Investigation (“SCI”) was created in 1990 in response to growing public concern that crime and wrongdoing occurring within the New York City school system required vigilant investigation. Our office initiates investigations into corruption or other criminal activity, conflicts of interest, unethical conduct, and other forms of misconduct based on complaints received from a variety of sources or upon the initiative of the Special Commissioner. SCI employs a two-part strategy that seeks both discipline and/or prosecution of known offenders as well as systemic change intended to prevent dishonesty and mismanagement within the school system.

This report summarizes SCI’s activities from September 1999 through June 30, 2002. During this period our office made or assisted in the arrest of 44 individuals, generated 17 public reports and issued 289 referral letters recommending disciplinary action against New York City Board of Education (“BOE”) employees. To better convey the scope of this office’s activities, we have included, where possible, the results of our investigations and the BOE’s responses to our recommendations.

Special Commissioner Edward F. Stancik, whose name appears on the front cover, passed away on March 12, 2002. He devoted the last eleven years of his life to making the New York City public schools better and safer for children.

Although this report covers the period from September 1999 through June 2002, it was finalized in December 2003.

# FRAUD AND CORRUPTION

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Cases involving fraud and corruption by BOE employees have been at the heart of SCI's investigative efforts since the office's inception.

In *Hijacked on the Technology Superhighway: The Fleecing of District 29*, we reported on an elaborate bid-rigging scheme for computer contracts involving the superintendent of that district, Celestine Miller. Over a period of three years, Miller and her fellow conspirators submitted inflated bids and stole millions of dollars while the children of District 29 received substandard computer equipment.

Investigations revealed that Home Instruction Teachers defrauded the BOE by claiming to teach home lessons that never took place and falsely billing the BOE for thousands of dollars in unearned fees.

This office also continued its examination of BOE custodial practices. Many of these investigations resulted in the arrest and prosecution of custodians.

We also uncovered various thefts and fraudulent schemes carried out by employees of the school system, as well as those who do business with it. In one instance, a vendor falsely billed the BOE more than \$1 million for services it never provided.

Finally, we report on seven employees who submitted false documents to excuse absences from work.

## ***Hijacked On The Technology Superhighway: The Fleecing of District 29***

In the fall of 1996, Celestine Miller, then superintendent of District 29 in Queens, went down the hall from her office to meet the building landlord, but she was not negotiating for more space or complaining about the lack of hot water. Instead, she was collecting \$50,000 in a brown paper bag—one of a series of kickbacks and other financial rewards given to Miller for ensuring that the landlord and his associates won lucrative contracts to provide computers for the district. An investigation by this office uncovered a three-year multimillion dollar scheme to rig bids for the district’s computer contracts by Miller, Thomas Kontogiannis—the landlord of the building in which District 29 is housed—

***An investigation uncovered a three-year multimillion-dollar scheme to rig bids for lucrative computer contracts for District 29.***

Ray Shain, an attorney who simultaneously worked for the landlord, for the District, and for Business Innovative Technology (“BIT”), the company that won the computer projects, and Kinson Tso—owner of BIT.

Our report detailed how the scheme was devised in 1996 when Miller “hired” Shain as an “unpaid” consultant on a project purportedly aimed at bringing computers to every school in the district. The real motive, however, was personal gain. Ignoring the required standard operating procedures and using false bids, Miller and Shain guided the inflated \$1.2 million contract to Tso and BIT. In turn, Tso kicked back some of the profits to Shain and Kontogiannis who then gave Miller a share.

The conspirators successfully repeated the scheme in 1997, upping the project to \$2.2 million and, once more, sharing the proceeds. However, when they tried to repeat the process for a third time in 1998, the BOE’s Office of Purchasing Management (“OPM”) became involved and advertised for bids. A real bidder, Web Wide World (“WWW”), submitted the lowest price quote, but was disqualified for failing to meet a financial technicality. Although BIT once again obtained the contract, WWW employees, suspicious of Shain’s knowledge and behavior, complained to our office which began the investigation that uncovered Miller’s plan.

Our investigation also revealed that the officials at OPM ignored the problems with Miller's bidding process, never questioned the amount of public dollars paid to her hand-picked computer contractor, and did not scrutinize the quality of the work. Shortly after installation of the equipment, it became clear that the end product was substandard.

### **Recommendations**

In our report, we recommended that Celestine Miller, who at the time of the report's release had already been removed as Superintendent as a result of another SCI investigation, be barred from future employment for any position with the BOE. In addition, we recommended that the individuals involved in the scheme be barred from future employment or participating in any business with the BOE.

### **Results**

At the conclusion of our investigation, Celestine Miller, William Harris, Thomas Kontogiannis, Ray Shain and Kinson Tso were arrested. They were subsequently indicted by a Grand Jury and prosecuted by the Queens District Attorney's Office: Harris, for Criminal Facilitation in the Fourth Degree; Miller and the others for Grand Larceny in the First Degree. In October 2002, the conspirators pleaded guilty to felony and misdemeanor charges. As a result, Kontogiannis and the others was ordered to pay the Board of Education \$5.2 million dollars in restitution. Both Miller and Harris, her husband and a former BOE principal, were placed on the BOE's ineligible list in March 2001.



## ***Home Instruction: Teachers Cheat Children Out of an Education and the BOE Out of Money***

### ***Frank Accardi***

Home Instruction Teacher Frank Accardi, assigned to District 31 on Staten Island, repeatedly defrauded the BOE and cheated the homebound children he was assigned to help by claiming to teach home sessions that never took place. The investigation began after a Home Instruction assistant principal conducted a random telephone check at the home of a student when Accardi was supposed to be there teaching. Further scrutiny by the assistant principal revealed that another student whom Accardi claimed to be teaching had returned to his regular school. As a result, this office was contacted.

Surveillance of Accardi conducted by investigators from this office uncovered his scheme to defraud the BOE, proving that the teacher often spent large portions of his “workday” at home or behind the counter of his bagel shop in Staten Island. Furthermore, he stole what was essentially overtime pay by falsely claiming that he was teaching children in per session classes beyond his assigned work hours. To further his scheme, Accardi falsified numerous documents and even attempted to coerce a parent to lie for him by threatening that the parent would not be able to get another instructor for his child. The evidence gathered suggests that Accardi stole much of his \$55,023 salary and per session earnings.

***Teacher Frank Accardi spent large portions of his “workday” at home or behind the counter of his bagel shop in Staten Island, even while he was claiming to be teaching home-bound students.***

### **Recommendations and Results**

In our report we recommended that Accardi’s employment be terminated and that this matter be considered should he seek any type of position with the BOE in the future.

On January 14, 2002, Accardi was arrested by investigators from this office and prosecuted by the Richmond County District Attorney’s Office on charges of Grand

Larceny, Petit Larceny, and Falsifying Business Records. In August 2003, Accardi pleaded guilty to Attempt/Falsifying Business Records and was required to repay \$1,659.00 to the BOE.

After refusing to accept a reassignment pending his BOE administrative hearing, citing medical reasons, Accardi was removed from the BOE payroll. On February 24, 2003, Accardi's employment was terminated and his name was placed on the BOE's Ineligible List.

### ***Stevenson Smith***

Stevenson Smith, a teacher at Chelsea Vocational High School in Manhattan, who also was assigned to home instruction per session work, essentially stole at least \$4,777 by falsely claiming that he was teaching children in per session classes, when he was not.

This investigation began after the Chief Administrator for the Office of Personnel Assessment and Licensing ("OPAL") reported that his office was unable to enter per session payroll data for Smith for attending training sessions on June 20, 21, 22, 2001, because the Home Instruction Schools had already entered his time for teaching on those dates.

A comparison of Smith's per session time cards and his Home Instruction Schools Hourly Professional Personnel Time Reports from February, March, and June 2001, revealed repeated conflicts between the hours he appeared to be at OPAL and the times he reported to be teaching homebound students. On most dates, approximately 15 minutes after Smith punched out of OPAL at 65 Court Street in Brooklyn, he claimed to be present at students' residences in upper Manhattan. This nearly impossible feat is all the more incredible given that it occurred during the evening rush hour.

Interviews with parents and students Smith was assigned to teach also revealed discrepancies in his claims of many hours of home instruction.

### **Recommendations and Results**

We recommended that Smith's employment with the BOE be terminated and that this matter be considered should he ever reapply for any type of position with the Board. We also referred our findings to Bronx County District Attorney Robert T. Johnson for

review. As a result, on January 2, 2003, investigators from this office arrested Smith on charges of Grand Larceny and Criminal Possession of Stolen Property in the 3<sup>rd</sup> Degree, and Falsifying Business Records and Offering a False Instrument for Filing in the 1<sup>st</sup> Degree. The criminal case and disciplinary charges are pending.

## ***Custodian Investigations: Corruption Continues***

### ***Steven McGuire***

As a result of this office's November 1992 report, *A System Like No Other: Fraud and Misconduct by New York City School Custodians*, the BOE established rules requiring custodians to keep their BOE funds separate from personal accounts and incorporated these requirements into its contract with the custodial union. As our investigation into School for the Future custodian Steven McGuire revealed, however, BOE custodial auditing guidelines are still in need of reform. For over three years, McGuire used his BOE budget as a personal interest-free credit line, commingling personal and BOE funds, and regularly using the money to pay his own personal debts. McGuire essentially stole money from the BOE, used it for own purposes, and then put it back to cover his theft. In fact, records show that he returned \$60,000 to the account shortly after he learned of our investigation.

***For over three years, custodian Steven McGuire used his BOE budget as a personal interest-free credit line, commingling personal and BOE funds, and regularly using the money to pay his own personal debts.***

As detailed in our findings, McGuire's misuse of the custodial account was able to occur because of a long-standing BOE practice that allows custodians complete control over such accounts. In addition, our investigation uncovered that an audit conducted under the BOE auditing protocols in place at the time would not have revealed that McGuire was commingling BOE and non-BOE funds because the BOE's Office of the Auditor General ("OAG") was limited to a review of custodial purchases which did not include an examination of checks written to custodial employees or a custodian's bank account.

### **Recommendations and Results**

We recommended that Steven McGuire's employment be terminated. This office further recommended that the BOE amend its custodial auditing guidelines to include a

review of bank account records and payroll. We also recommended that the current rule barring a City employee from sharing a City funds account with any person become BOE policy. This would be in addition to the rule, adopted following our 1992 report on misconduct by custodians, requiring that the custodial budget be maintained in a separate account containing only those funds which are to be used only for BOE purposes.

Despite our recommendation, McGuire was approved for ordinary disability retirement in February 2002. As a result, the administrative case against him was discontinued. McGuire has since been placed on the BOE's ineligible list.

The most recent collective bargaining agreement with the union includes some changes to a custodian's banking practice. First, all accounts must be with Chase Bank. Moreover, the custodian will no longer receive a budget allocation check; rather, all funds will be deposited electronically. Finally, the custodian must sign an agreement allowing the Board of Education to have access to the account records.

Our investigation prompted the OAG to expand its examination of custodial accounts. The OAG has completed a report evaluating the first set of "comprehensive audits" it performed on custodial accounts, encompassing the recommendations we made in McGuire. In addition to the usual documents examined in a standard audit, the OAG thoroughly tracked "money in and money out" through review of canceled checks, ledgers, bank statements, check registers, the petty cash journal, and a payroll audit. The auditor also looked for signs of commingled funds.

### ***Gregory Kelly***

Gregory Kelly, the custodian at PS 70 in District 9 in the Bronx, submitted fraudulent documentation in support of alleged purchases of school supplies he made in 1998 in order to conceal his theft from the BOE of over \$9,500 in custodial funds.

This investigation began when the OAG informed this office that the 1998 audit of Kelly's custodial expenditures discovered potentially fraudulent claims submitted by Kelly in his Miscellaneous Expenditure Reports ("PO2s").

Following its initial audit, the OAG disallowed numerous expenditure claims by Kelly in his PO2s. Two of these claims, submitted with supporting invoices in November

and December 1998, were for alleged purchases that he made from The Floor Depot Company (“Floor Depot”) in the amounts \$4,542.00 and \$5,153.50, respectively. Kelly failed to attach canceled checks for the transactions to his PO2s, thus failing to prove that he actually paid for the materials. Although Kelly subsequently provided the OAG with signed checks in the amounts reflected on the invoices, the checks bore no indication that they had been processed by any financial institution. Therefore, the disallowance of the expenditures remained and Kelly was instructed to repay the funds, which he did in February 2000.

Despite his attempt to deceive the OAG by submitting copies of signed checks, a review of Kelly’s custodial bank account records confirmed that the two checks he purportedly sent to Floor Depot for the purchases were never deposited in any financial institution. Moreover, according to the owner of Floor Depot, while the invoices submitted by Kelly looked like the company’s invoices, he was unable to locate any record of either transaction.

Upon further examination of the custodian’s 1998 PO2s, our investigators also discovered that Kelly submitted duplicative expenditure claims for a \$102.00 purchase from a vendor called New Palace Paints (“New Palace”). On his July PO2s, the custodian claimed to have paid for the \$102.00 purchase using check #456. However, there was no record of this check ever having cleared his custodial account. Moreover, Kelly’s September PO2s, custodial bank records, and documentation received from New Palace indicated that he actually paid for that same \$102.00 purchase during that month as part of a larger expenditure.

The examination into his custodial bank account records also revealed that Kelly was co-mingling personal and custodial funds in violation of Section 14 of the Memorandum of Agreement contained in the 1994 custodial contract. A review of canceled checks from that account showed that Kelly was spending thousands of dollars on personal expenses, such as a car purchase, tuition, and payments to a football club.

## **Recommendations and Results**

We recommended that Gregory Kelly be terminated from his employment and be barred from future employment. He had repaid \$9,600 during his audit by the OAG. We also referred our findings to the Bronx County District Attorney's Office.

Kelly irrevocably resigned and cannot be rehired.

In November 2002, investigators from this office arrested Kelly for financial crimes, including felonies and misdemeanors, and he was prosecuted by the Bronx County District Attorney's Office. In March 2003, he pleaded guilty to Petit Larceny and was sentenced to a Conditional Discharge.

## ***Eric Klein***

Over a three-year period, Eric Klein, the custodian at PS 123 in Brooklyn, forged 185 invoices and receipts for the purchase of school supplies and submitted them for repayment by the BOE. As a result, Klein was able to steal approximately \$8,500 in funds belonging to the BOE.

This investigation began when the OAG informed this office that the 1999 audit of Klein's PO2s discovered numerous potentially fraudulent invoices and receipts. Since the expenditure amounts on these documents did not exceed \$50, Klein was not required to pay for the purchase by check. Thus, the OAG could not confirm whether Klein actually paid the vendors for the alleged purchases.

A review of the invoices and receipts submitted by Klein with his 1999 PO2s revealed a number of obvious problems. The vendors who purportedly issued the documents confirmed that they were not authentic.

When investigators from this office questioned Klein, he admitted his scheme and provided details. Klein explained that cash flow problems required him to "pad" his annual budget; thus, he needed to create fake invoices. According to Klein, he personally prepared 63 Canarsie Glass and Lock Service ("Canarsie") invoices and submitted them with his PO2s. He added that he used his own "Paid" stamp on them, which he turned over to investigators along with 13 blank Canarsie invoices that he had forged. Klein also acknowledged creating 14 Best Paint Company invoices and he turned over 24 blank

invoices purportedly from that vendor. Finally, Klein explained that, using a scalpel, he removed the date of purchase from photocopies of four legitimate Home Depot receipts and replaced them with dates removed from other receipts. The manufactured receipts were then photocopied and submitted with the PO2s along with the originals.

Following Klein's admissions about his 1999 account, this office examined the PO2s that he submitted in subsequent years. For the period from January 2000 through March 2001, we found an additional 52 Canarsie and 52 Best Paint invoices, totaling \$5,031.05, which fit Klein's description of the forged documents. When confronted with these invoices, Klein admitted that he continued to submit falsified records until March 2001. He claimed that he stopped doing so after realizing that such conduct was "wrong." Not surprisingly, however, the OAG began its audit of Klein in April 2001.

Over a three-year period, this scheme to defraud netted Klein \$8,542.90 in unjust compensation.

### **Recommendations and Results**

This office recommended that Klein be terminated from his employment, be barred from future employment, and be required to repay the funds he misappropriated. We also referred our findings to the Kings County District Attorney's Office.

Eric's Klein's employment was terminated, he was placed on the ineligible list, and he repaid \$8,500 to the BOE. He was not arrested for his conduct.

### ***11 Custodians Arrested in Bid Rigging and Kickback Scheme***

A joint investigation between this office and the Office of the New York State Attorney General uncovered that 11 school custodians repeatedly received kickbacks and rigged bids for window cleaning services in schools throughout the City between June 2000 and November 2001.

The custodians entered agreements with window cleaning services whereby, in exchange for being selected, the contractor would have to pay a kickback to the custodian of approximately 10% of the contract price, ranging from \$300 to \$2,000 in cash. Additionally, to circumvent the requirement of obtaining at least three bids for services



costing in excess of \$250, the custodian would ask the contractor to supply additional phony bids. Sometimes these contractors provided “bids” from firms that did not exist.

Based on their participation in the scheme, on December 11, 2001, the custodians were arrested on charges of Bribe Receiving in the 3<sup>rd</sup> Degree, a Class D felony; Receiving Reward for Official Misconduct in the 2<sup>nd</sup> Degree, a Class E felony; Contracts in Restraint of Trade (the Donnelly Act), a Class E felony; and Official Misconduct, a Class A misdemeanor.

## Results

- **Mario Arena** assigned to Midwood High School in Brooklyn pleaded guilty to Official Misconduct and was sentenced to Probation for 3 years and a \$1,000 fine. He resigned from his position and is ineligible for employment.
- **John Barden** assigned to High School for the Humanities in Manhattan pleaded guilty to Receiving Reward for Official Misconduct in the 2<sup>nd</sup> Degree and was sentenced to Probation for a period of 5 years and a \$5,000 fine. He has retired and is ineligible for employment.
- **Herbert Bradley** assigned to Tottenville High School in Staten Island pleaded guilty to Official Misconduct and was sentenced to Probation for a period of 3 years and a \$1,000 fine. He has retired and is ineligible for employment.
- **Kurt G. Brunkhorst** assigned to PS 192 in Manhattan pleaded guilty to Receiving Reward for Official Misconduct in the 2<sup>nd</sup> Degree and was sentenced to Probation for a period of 5 years and a \$5,000 fine. He has resigned and is ineligible for employment.
- **Marilyn Brunkhorst** assigned to PS 53 in Manhattan pleaded guilty to Official Misconduct and was sentenced to Probation for a period of 3 years and a \$1,000 fine. She has resigned and is ineligible for employment.
- **Daniel Donovan** assigned to DeWitt Clinton High School in the Bronx pleaded guilty to Receiving Reward for Official Misconduct in the 2<sup>nd</sup> Degree and was sentenced to Probation for a period of 5 years and a \$5,000 fine. He has retired and is ineligible for employment.
- **Anthony Franze** assigned to Jacqueline Kennedy Onasis International High School in Manhattan pleaded guilty to Receiving Reward for Official Misconduct in the 2<sup>nd</sup> Degree and was sentenced to Probation for a period of 5 years and a \$5,000 fine. His employment was terminated and he cannot be rehired.

- **John Koveleski** assigned to Springfield Gardens High School in Queens pleaded guilty to Receiving Reward for Official Misconduct in the 2<sup>nd</sup> Degree and was sentenced to Probation for a period of 5 years and a \$5,000 fine. He has retired and is ineligible for employment.
- **Rodney Lopez** assigned to Flushing High School in Queens pleaded guilty to Official Misconduct and was sentenced to Probation for a period of 3 years and a \$1,000 fine. He has retired and is ineligible for employment.
- **John Nolan** assigned to Newtown High School in Queens pleaded guilty to an attempt to commit Official Misconduct and was sentenced to a Conditional Discharge and 20 days of Community Service. He has retired and is ineligible for employment.
- **John Reid** assigned to PS 914 in Brooklyn pleaded guilty to Official Misconduct and was sentenced to Probation for a period of 3 years and a \$1,000 fine. He has retired and is ineligible for employment.

### **Recommendations**

In a joint release issued on the date of the arrests, Attorney General Spitzer and Special Commissioner Stancik suggested that the current procurement system for the BOE custodians encouraged corruption and impeded oversight. They noted that custodians have immense latitude in spending money earmarked for the maintenance of schools and that oversight of bidding procedures conducted by nearly 850 individuals is extremely difficult.

In response to this investigation and subsequent investigations involving corrupt procurement practices and theft, the BOE has made strides to sole source many of the purchases made by custodians. Provisions of the custodial contract have complicated this process, but attempts to correct the system continue.

## ***Vendor Corruption***

### ***The Retberg Child Center***

In 1998, a former employee of the Retberg Child Center, which had a contract with the BOE to provide related services to Special Education students, reported that Jack Retkinsky, a former BOE employee who was now the vendor's Executive Director, and co-worker Tammy Bruschansky were engaging in fraudulent practices. An investigation conducted by this office found that Retkinsky and Bruschansky had billed the BOE over \$600,000 for therapy services to preschool children that, in fact, had never been provided. We referred our findings to the New York County District Attorney's Office.

Bruschansky and Retkinsky were arrested in April 2001, and later indicted for Grand Larceny in the 2<sup>nd</sup> Degree, Attempted Grand Larceny in the 2<sup>nd</sup> Degree, and Conspiracy in the 4<sup>th</sup> Degree. Following the indictment, the District Attorney continued the investigation and uncovered an additional \$600,000 in false billing on the part of Bruschansky, Retkinsky, and a third associate, Abraham Schwartz, a billing consultant hired by Retberg in 1997.

### **Results**

Schwartz was arrested in November 2001. That same month, a second Grand Jury indicted Retkinsky for Perjury and, based on the increased monetary amount involved, upgraded the earlier Grand Larceny charge against him. He pleaded guilty to Grand Larceny in the 1<sup>st</sup> Degree and Conspiracy in the 4<sup>th</sup> Degree. He was sentenced to serve 2 ½ to 7 ½ years in State prison. Retkinsky and the Retberg Child Center were ordered to pay \$1.2 million to the BOE. Schwartz pleaded guilty to Attempted Grand Larceny in the 1<sup>st</sup> Degree and one count of Perjury. He was sentenced to Probation and is liable to pay \$603,600 in restitution to the BOE. Bruschansky, who cooperated with the District Attorney, pleaded guilty in October 2001 to one count of Offering a False Instrument for Filing in the 2<sup>nd</sup> Degree, a Class A misdemeanor. Although she was not ordered to pay restitution, Bruschansky received Probation for a period of 3 years.

To date, Schwartz has repaid \$330,476 to the City through SCI. Retinsky has not paid any restitution and the New York County District Attorney's Office is pursuing payment.

### ***Copy World of America, Inc./Candle Business Systems, Inc.***

This office conducted an investigation in conjunction with the Office of the New York State Attorney General into illegal conduct committed by Copy World of America, Inc. ("Copy World") and Candle Business Systems, Inc. ("Candle"), as well as individuals employed by them. Candle bought Copy World and they became one company in March 1999. These companies sell copiers and high speed duplicators.

The investigation began after Abraham Thomas, a salesman employed by Copy World/Candle, offered District 28 Business Manager Michael Tragale an envelope to persuade him to make a purchase for the district. Tragale refused the envelope, but Thomas later admitted to investigators that it contained \$500 in cash.

Investigators from this office set up covert video equipment in the District Office and caught Thomas on tape bribing Superintendent Neil Kreinik. Several meetings were recorded. Twice, Thomas was captured handing the superintendent an envelope containing \$500. Kreinik turned over the envelope and the cash to this office which vouchered it as evidence. Moreover, Thomas provided Tragale and Kreinik with all the bids needed to satisfy the BOE's procurement rules, one each from Candle and Copy World, and a third from Savin Corporation. On tape, the salesman explained in detail that Candle and Copy World were now the same company and that he had "arranged" for Candle to win the sale because he did not want any "flags" raised since Copy World had been doing a lot of business with the district. Nevertheless, he offered to switch the quotes so that Copy World was awarded the purchase if the superintendent preferred.

Thomas also suggested another improper way to purchase the equipment. Rather than using bids at all, he would add 30 copiers to a purchase order for an item already under contract with the BOE. The contract number on the purchase order relating to the pre-approved equipment would guarantee that the BOE would pay the supplier and it, in turn, would pay him.

Thomas's conduct led to the discovery of much broader criminal conduct by Candle and its owner, Joseph Weiss. Weiss admitted that he, on behalf of Candle, entered into an arrangement with Larry Weiss, the owner of Atlantic Business Products ("Atlantic") and no relation to Joseph, whereby they agreed not to compete against each other for sales.

## **Results**

Thomas was indicted by a Queens County Grand Jury and charged with two counts of Bribery in the 3<sup>rd</sup> Degree and three counts of Combination in Restraint of Trade pursuant to General Business Law Section 340, which is a Donnelly Act Violation. In October 2001, Thomas pleaded guilty to a misdemeanor, Giving Unlawful Gratuities, and in January 2002 was sentenced to Probation for a period of 3 years and a \$1,000 fine. He also agreed not to enter into public contracts for one year.

As a result of his illegal arrangement with Atlantic, in June 2002, Joseph Weiss pleaded guilty to one count of Combination in Restraint of Trade, a class E felony. In addition, Candle entered into a Settlement Agreement with the Office of the New York State Attorney General to cover the company's civil liability arising from its participation in the arrangement not to compete and for the use of fictitious bids. As a result, Candle paid New York State \$360,000 as a civil penalty and paid \$20,000 each to the New York State Attorney General's Office and the Special Commissioner's Office for reimbursement of costs expended during the investigation. The \$20,000 to the Special Commissioner's Office was deposited in the New York City General Fund as revenue. The company was enjoined from entering into any agreement not to compete in the sale of any office equipment. By the Settlement Agreement, Candle also became bound, for seven years, to disclose in writing to the Attorney General any intention to purchase, acquire, or merge with another office equipment dealer.

## **Recommendations**

After the investigation began, the BOE took steps to correct problems in the procedures used in the procurement of goods and services. In August 2001, Beverly

Donohue, the BOE Chief Financial Officer, distributed a memorandum outlining a “Purchasing Reform Initiative.” Modifications to the purchasing practices included that:

- All goods and services must be purchased from contract vendors. Any request to purchase a non-contracted item for instructional usage needs to be submitted on a requisition form to the Office of Purchasing Management for review and vendor selection.
- With some exceptions, all orders for contracted items should be processed through the BOE “fastrack” ordering system. This method allows individuals at the school level to purchase items through an established contract between a vendor and the Office of Purchasing Management, using a computer system that links schools with the central BOE’s mainframe computer, data files, and operating systems.
- The use of purchase orders will be available only in limited circumstances when no requirements contract exists.

As a result of information learned during this investigation, the Offices of the Attorney General and the Special Commissioner of Investigation issued recommendations regarding BOE purchasing. “The Report and Recommendations for Improving Procurement by the New York City Board of Education and Other Local Government Purchasers of Copiers and Duplicators,” suggests that the centralized purchasing trend should be continued. According to the report: “Eliminating off-contract purchases altogether would remove the problems ... and, would likely allow the BOE to negotiate a more advantageous contract.” The report also made the following recommendations:

- Provide schools with incentives to save money.
- Limit purchasing authority to trained employees.
- Implement a system of on-line procurement.
- Scrutinize leases.
- Take greater advantage of State contracts.
- Use sanctions more effectively.

## ***Employee Theft***

### ***Time Abuse: Julian Gonzalez and Domenick Pace***

Painters Julian Gonzalez and Domenick Pace falsified their time records in efforts to defraud the BOE. During the period May 2001 through July 2001, Gonzalez's time cards contained at least 8 discrepancies, occurring on 7 different workdays. Moreover, Gonzalez's supervisor reported that on two occasions Gonzalez failed to accurately record his hours worked. During that same period, Pace's time cards contained at least 10 discrepancies, occurring on 9 different workdays. Furthermore, Pace's supervisor reported that on one occasion Pace failed to accurately record his hours worked.

According to one of the supervisors, when he reviewed the painters' time cards for June 15, 2001, he discovered a discrepancy. The stamp for "date in," "time in," and "date out" each displayed a different setting than the stamp for "time out." In addition, the "date out" and the "time out" entries appeared on two different lines. The supervisor explained that when the time clock stamp is embossed on the time card, the date and time imprint should be aligned. According to the supervisor, it was apparent that on June 15, 2001, the painters used different clocks to perform the "double card method."

A second supervisor also noticed an unusual entry on the painters' time cards. Upon reviewing the June 15, 2001, time cards for Pace and Gonzalez, he observed different colored ink for the markings that appeared. According to this supervisor, the different inks indicated that the painters had used two different clocks.

A closer inspection of the painters' time records revealed a number of additional problems. These included missing time cards, erasures, and hand written entries.

### **Recommendations**

We called for strong disciplinary action to be taken against Gonzalez, which could appropriately include termination of his employment. As for Pace, who had a history of time card violations, we recommended that he be fired and barred from future employment.

In addition, this case illustrated that the current method used to account for the time worked by painters and other hourly employees needed to be reevaluated. Consequently, we recommended that current time clock usage and procedures be reviewed and revised, as necessary. We offered the following suggestions to aid in efforts to deter this and other types of time abuse:

- All schools should have working clocks on a dedicated circuit.
- At schools where clocks are in disrepair, a supervisor should be present on site at the beginning and end of each workday.
- Painters and similarly situated employees should be required to sign in and sign out at an official log maintained by the school safety agent at their assigned work site.
- Time clocks should be coded to be school specific.
- The time stamp should be redesigned to prevent use of the “double card method.”
- The condition of the site time clocks should be noted by the custodian at the school in the custodian’s daily logbook.

## **Results**

Julian Gonzalez was suspended for 30 days without pay and faced charges seeking to terminate his employment. While awaiting a hearing, Gonzalez resigned and was placed on the ineligible list. Domenick Pace also resigned from his employment with the BOE and is not eligible to be rehired.

For the most part, the suggestions to deter time abuse have not been implemented.

## ***Scheme to Defraud: Judy Kennedy and Robin Hughes***

Payroll Secretary Judy Kennedy and Teacher Robin Hughes, assigned to PS 181 in Community School District 17 in Brooklyn, engaged in a scheme to defraud the BOE during the 1999-2000 school year. Kennedy intentionally failed to enter Hughes’s unpaid maternity leave into the payroll system which allowed Hughes to receive her regular salary during her leave of nearly six months. That same year, Kennedy also entered two separate unauthorized grace periods into the payroll computer on Hughes’s behalf, resulting in additional undeserved salary payments to Hughes. In total, Hughes received \$29,015.54 in unearned compensation.



This incident could have been avoided had the BOE terminated Kennedy's employment in 1996, following her felony conviction for Grand Larceny, which resulted from another scheme to defraud the government. From October 1992 to April 1994, she received welfare checks even though she was working for the BOE. As a result, Kennedy stole over \$13,000, which she was ordered to pay back to the government following her guilty plea. While the Office of Legal Services initially recommended to CSD 17 that Kennedy be fired, the General Counsel to the Chancellor subsequently suggested that a probationary extension or a reprimand letter would also be sufficient discipline. CSD 17 availed itself of these more lenient alternatives and retained Kennedy as the school's payroll secretary.

### **Recommendations**

We recommended that both Kennedy and Hughes be terminated from employment and made ineligible to hold future positions with the BOE. Moreover, we noted that Hughes should be required to pay back all unearned compensation. Our findings also were forwarded to the Kings County District Attorney's Office.

### **Results**

Both Judy Kennedy and Robin Hughes irrevocably resigned from their positions with the BOE and both are ineligible for future employment. In addition, Hughes agreed to pay back \$26,613.95 to which she was not entitled. The Kings County District Attorney's Office declined to prosecute Kennedy and Hughes.

### ***Payroll Fraud: Danielle DiSanto and Dawn Cox***

Danielle DiSanto, a payroll secretary at PS 223 in District 27 in Queens, repeatedly falsified her own payroll records during the 1999-2000 and 2000-2001 school years. During most of the 1999-2000 school year, DiSanto worked a part-time schedule while manipulating payroll records to ensure that she was paid as a full-time employee. In addition, with the assistance of Dawn Cox, a payroll secretary at PS 65 also in District 27, DiSanto falsely entered an additional 54 absences into the payroll system as

“medically certified sick,” which allowed DiSanto to be paid for time to which she was not entitled. Finally, between February and March 2001, DiSanto took another 22 absences, which she attempted to excuse by submitting a forged doctor’s letter and an unapproved BOE grace period application. In sum, DiSanto received approximately \$6,500 in salary for 76 unauthorized absences. Because DiSanto controlled her own timekeeping records, it was not possible to determine with specificity the number of additional days for which she was paid as a full-time employee while actually working part-time.

### **Recommendations and Results**

We recommended that both Danielle DiSanto and Dawn Cox be terminated from their positions with the BOE and be barred from future employment. Moreover, that DiSanto should repay the amount for which she was unjustly compensated. We also referred our findings to the Queens County District Attorney.

DiSanto irrevocably resigned her employment with the BOE and repaid \$5,350. Cox agreed to a 3-month suspension without pay. The office of the Queens District Attorney decided not to prosecute the matter.

### ***Frank Zanotti: A Larceny at Ground Zero Goes Unreported***

Frank Zanotti, the Bronx Supervisor of Plumbers, stole disaster relief supplies from a Red Cross station located at PS 234 in Manhattan during the week following the terrorist attack on the World Trade Center. As a result, on October 16, 2001, investigators from this office arrested Zanotti on larceny charges.

Information provided by a number of witnesses proved Zanotti’s criminal conduct. While working twelve-hour shifts from September 13 through September 16, 2001, to repair schools that suffered damage near “Ground Zero,” Zanotti was observed taking supplies, including large quantities of dog food and protective booties meant for the rescue animals, protective gear meant for rescue personnel, and some tools, from the Red Cross station set up within PS 234.

The outraged BOE employee who made an anonymous complaint to this office about the theft added that the same information had been reported to Division of School Facilities (“DSF”) supervisors, but Zanotti continued to work without any repercussions from his misconduct. In investigating the larceny, we found that the five BOE supervisors in DSF who had learned about the theft, and confirmed it through conversations with Zanotti, failed to report that information to either this office or the New York City Police Department. Instead, they discussed the matter among themselves and considered allowing Zanotti to return the stolen goods and retire. Some of these individuals candidly admitted that the concern about the negative publicity that would arise from such an embarrassing incident played a role in the failure to report.

Moreover, we discovered that Zanotti earned an inordinate amount of overtime wages and, therefore, reviewed his pay history. As a result, this office discovered a lack of administrative oversight in the expenditure of overtime to workers in various skilled trades in the DSF. In fact, according to records from the BOE’s Division of Financial Operations, the skilled trades overtime budget was severely overspent during the 1999, 2000, and 2001 fiscal years. In addition, although cost-benefit comparisons between overtime expenditures, additional hiring, and contractual work had been discussed by DSF officials in the past, no in-depth analysis of these issues had been conducted or even requested by DSF or BOE officials.

***In investigating Zanotti’s larceny, we found five DSF supervisors who learned about the theft, but failed to report it to SCI or the NYPD.***

## **Results**

On October 16, 2001, Zanotti was arrested by investigators from this office and charged with Petit Larceny, Attempted Petit Larceny, and Criminal Possession of Stolen Property. He pleaded guilty on November 29, 2001, and was sentenced on January 8, 2002, to Probation for a period of 3 years with the condition that he receive psychiatric treatment.

Zanotti, a 19-year veteran of the BOE, retired on October 4, 2001. He was placed on the ineligible list on October 29, 2001.

We recommended that disciplinary action be taken against the five supervisors who failed to report Zanotti's conduct. Each was verbally advised about proper reporting procedures.

### ***The Use of False Documents to Explain Absences***

In November 2001, this office reported our findings in 4 cases in which we found that employees of the BOE had provided fraudulent documents to excuse their failure to come to work. We referred 3 additional cases in April 2002, including Danielle DiSanto whose fraudulent scheme is described earlier in this report.

#### ***Batiek Simon***

A review of time records revealed that Simon, a secretary at the BOE's Office of Educational Vision Services, submitted two notes, dated September 14 and 18, 2000, as authorization for three days of sick leave taken during that month. Since Simon had already depleted her reserve sick time, she was not paid for the three days.

This office confirmed that the September 14<sup>th</sup> note, purportedly issued by a doctor at the Queens-Long Island Medical Group, was a forgery. According to the Group's medical assistant, the doctor inspected the note and confirmed that the signature was not hers. She also reviewed patient records and confirmed that, contrary to the note, Simon received no treatment on either September 14<sup>th</sup> or 15<sup>th</sup>.

Investigators also confirmed that the September 18<sup>th</sup> note, purportedly issued by New York Hospital, was a forgery. According to the New York Hospital medical records unit, Simon did not receive treatment at the hospital on the date stated in the note.

#### **Recommendation and Result**

We recommended that strong disciplinary action be taken against Simon, which could include dismissal. In a negotiated settlement, Simon agreed to a 30-day suspension without pay.

## ***Mark Drexler***

An examination of attendance records relating to Drexler, a teacher at PS 79 in Queens, revealed that he earned ten sick days during the 2000-2001 school year and used nine of those days for absences. Drexler submitted three different notes bearing the purported signature of a doctor as medical certification for three of the absences, the last of which was dated May 4, 2001. Following submission of the May 4<sup>th</sup> note, the PS 70 payroll secretary recognized its similarity to the previous two medical excuses and informed her supervisors.

A review of the three documents revealed that they were obvious photocopies, similar in all respects with the exception that the note Drexler submitted for the May 4<sup>th</sup> absence bore a handwritten date of issue, while the remaining notes were undated. None of the three notes stated the actual date of treatment. The assistant to the doctor named on the note told investigators that Drexler had not visited his office since October 2000 and, therefore, the three notes were not genuine.

### **Recommendation and Result**

We recommended that strong disciplinary action be taken against Drexler, which could include dismissal. In a negotiated settlement, Drexler agreed to pay a \$3,000 fine.

## ***Theresa King***

Theresa King, a paraprofessional at PS 17 in the Bronx, submitted three forged doctor's notes in an effort to justify her absence from school. The investigation began when school staff recognized that a doctor's note provided by King, dated February 28, 2001, was nearly identical to a note dated October 18, 2000, that she had previously submitted. Both notes purportedly originated from Montefiore Medical Center in the Bronx. In King's personnel file, investigators also found a third note purportedly issued by Montefiore, dated November 5, 1997.

The Assistant Administrator at Montefiore informed investigators that none of the three notes was issued by the Medical Center. Furthermore, a records check revealed that King had never been a patient at Montefiore.

When confronted with the information from Montefiore, King admitted to investigators that she created all three notes. She explained, however, that she had been a patient at Lincoln Hospital on October 18 and 19, 2000, but, after losing the documentation concerning those visits, decided to submit the fraudulent note instead. King offered no explanation for the submission of the November 5, 1997 or February 28, 2001 notes, instead she claimed to have forgotten why she submitted them.

Further examination of King's attendance history revealed a most egregious record, suggesting that the motive behind her submission of forged medical notes was to protect her employment. A review of payroll records revealed that between January 1997 and June 2001, King was absent from work a total of 96 days, 45 of which were not authorized. She also took an additional nine days without pay when her sick leave had been exhausted. Furthermore, King was late for work 56 times during that same period.

### **Recommendation and Result**

We recommended that strong disciplinary action, which could appropriately include dismissal, be taken against King. In response, King's employment was terminated and she cannot work for the BOE in the future.

### ***Suzannah Antonick***

Suzannah Antonick, a teacher at IS 139 in Community School District 7 in the Bronx, submitted fraudulent documents in an attempt to justify 18 absences from work. The documents falsely stated that Antonick was on jury duty, medical leave, or bereavement leave.

Prior to the 2001 school system winter recess—February 19<sup>th</sup> through February 23<sup>rd</sup>—Antonick informed the payroll secretary at IS 139 that she had to report for jury duty on February 26<sup>th</sup>, the first day after the break. In fact, Antonick did not appear for work after the recess until March 12<sup>th</sup>, missing a total of ten working days. The payroll

secretary spoke with Antonick by phone on at least two occasions during her absence and she reported that her jury service was continuing.

When Antonick returned to work on March 12<sup>th</sup>, she submitted a document purportedly emanating from the jury administrator and an application to excuse her absence bearing her apparent signature. Both forms stated that her jury service ran from February 28<sup>th</sup> through March 9<sup>th</sup>.

Since Antonick's jury service document did not appear to be the standard form issued by the courts, the payroll secretary sent it to the district for inspection. In turn, it was forwarded to Robert Rogers, Jury Administrator for the United States District Court of the Southern District of New York. According to Rogers, the document was an altered copy of an obsolete certificate previously issued by his office. In fact, the document contained two names of former office personnel who had not been employed by the court since 1992. Moreover, a search of the Southern District's jury rolls revealed that Antonick was not listed as having been summoned to serve during the period indicated on the documents.

***Antonick claimed that she was caring for her father during her purported jury service, but her file showed that he was dead at the time.***

When confronted by investigators from this office, Antonick admitted that she was not summoned and did not appear for jury duty during the stated period. Antonick claimed that she had to take care of her father and other sick family members and altered and submitted an old jury service note because she had been warned by Principal Norma Barinas about her excessive absences and lateness. Indeed, according to Antonick's personnel file, on February 15, 2001—less than two weeks before her purported jury service—Barinas advised the teacher and her UFT representative that Antonick's record of 17 absences and 29 late arrivals during the 2000-2001 school year was jeopardizing her students' ability to learn and was unacceptable. Barinas warned her that such practices could result in further disciplinary action, including dismissal.

With respect to Antonick's claim that she was caring for her father during her purported jury service, her personnel file indicated that he was dead at the time. Four months earlier, she had submitted a letter from the I.J. Morris Funeral Home ("I.J. Morris") to justify a 4-day absence in October 2000 to attend services following the death

of her father. When confronted with this contradiction, Antonick admitted that her father was alive and claimed that the note should have referred to her grandfather, who died at that time. She did not respond when asked why her own application for salary payment based on the bereavement leave also identified her father as the deceased.

Antonick's explanation about the actual identity of her deceased relative also proved to be false. Information from I.J. Morris revealed that the letter submitted to excuse her absence, purportedly emanating from the funeral home, was a forgery. Moreover, records maintained by the funeral home showed that Antonick's grandfather had died in 1998.

Investigators also determined that two medical leave notes contained in Antonick's file were forgeries. A note submitted to excuse Antonick's absence on February 5, 2001, purportedly was issued by the New York Medical Group. However, according to the Group's records, Antonick had not been a patient since April 1995. Moreover, the stationery on which the note appears was obsolete—the Group had changed its name and letterhead in June of 2000. The second note, purportedly issued by Pace University's Health Care Unit to excuse Antonick's absences on February 6, 8, and 9, 1995, also was false. Records at that facility showed that Antonick was not a patient during the period covered by the note.

According to the payroll secretary for District 7, teachers are compensated for jury service and bereavement leave in addition to their regular salaries. Unlike sick leave compensation, which prevents teachers' salaries from being diminished due to circumstances beyond their control, jury service and bereavement leave are, in effect, "bonus" payments. Thus, through her deceitful conduct Antonick not only attempted to cover unauthorized absences, she also stole money.

A review of payroll records revealed that Antonick was unjustly compensated for the 10 days she falsely claimed as jury service and the 4 days she falsely claimed as bereavement leave. As a result, she received \$1,426.60 to which she was not entitled.



## **Recommendations**

Antonick submitted a resignation letter on April 6, 2001, effective April 16<sup>th</sup>. She subsequently attempted to withdraw her resignation, but was not allowed to do so. We recommended that she be barred from future employment. We also referred our evidence to the Bronx District Attorney's office for whatever criminal action he deemed appropriate.

## **Results**

On June 14, 2002, investigators from this office arrested Antonick and on September 26, 2002, she pleaded guilty to the misdemeanor charge of Offering a False Instrument for Filing. Antonick was sentenced to a Conditional Discharge and required to pay court costs.

Antonick repaid the BOE for the amount she wrongfully was paid and she was made ineligible for future employment.

## ***Lynda Cosgrove***

In the course of investigating Lynda Cosgrove, a Special Education speech therapy teacher employed by the BOE, for falsifying the attendance records of three dozen students she was assigned to teach at P831 in Queens during the 1999-2000 and 2000-2001 school years, we found that she altered and submitted a jury duty attendance certificate by which she fraudulently claimed to have served an additional day of jury service in September 2000.

Cosgrove submitted an altered jury service certificate in order to excuse three absences when she actually served only two days of jury duty. The document reflects that Cosgrove appeared for jury service in Suffolk County on September 14, 25, and 26, 2000. However, the files in the Office of the Suffolk County Commissioner of Jurors show that Cosgrove served on September 14 and 25, but not on September 26. Cosgrove's jury service slip, issued by the jury clerk, was changed to include the

additional date. Payroll records indicate that Cosgrove was paid \$168.22, the equivalent of one day's salary, for the fraudulently claimed date of jury service.

Cosgrove, through her attorney, declined the opportunity to be interviewed by this office.

### **Recommendations and Results**

We recommended that Cosgrove's employment be terminated and that her conduct be considered should she apply for a position with the BOE in the future. We also recommended that the BOE take available measures to reclaim the compensation Cosgrove received as a result of her false jury duty claim.

In a negotiated settlement, Cosgrove irrevocably resigned from employment effective September 23, 2003, and agreed to return her pay for the one day of jury duty that she did not perform.

### ***Ferdinand Resto***

While assigned as a teacher at PS 13 in Community School District 19 in Brooklyn, Ferdinand Resto falsely claimed a line of duty injury and submitted a forged medical document to excuse seven absences purportedly related to it. We also found four additional instances in which Resto submitted forged medical documents to excuse absences that he took between 2000 and 2002.

On Monday, March 19, 2001, Resto told an assistant principal that he had fallen down the stairs at the school the previous Friday, fractured his hand, and was unable to write. The assistant principal directed him to submit accident and school safety reports, and to supply a doctor's note regarding his injury. The teacher then left the school and returned a short time later in possession of a leave of absence application, which bore the apparent signature of "Dr. S. Sarabanchong." The application, which Resto submitted to the payroll secretary, requested that he be excused from teaching from March 19<sup>th</sup> to April 19<sup>th</sup> as a result of the alleged line of duty injury.

Resto also completed and submitted accident and school safety reports. In them, Resto claimed that he fell down the stairs at 3:02 p.m. on Friday and only realized the

severity of his injury after leaving the school. According to the accident report submitted by Resto, “Dr. K. Goel” treated his injury.

The assistant principal informed Resto that the leave of absence application was insufficient and that he needed to submit supporting medical documentation regarding his injury. The teacher then left the school and did not report to work until March 28<sup>th</sup>. Upon his return, Resto submitted a letter, purportedly signed by “Dr. John Schecter” of the Beth Israel Medical Center, which described an injury to his hand that made him unable to use it for four weeks.

The PS 13 principal informed investigators that Resto could not have been injured as he reported. On March 16<sup>th</sup> at 3:02 p.m., the teacher was attending a meeting in the principal’s office that occurred between 2:40 p.m. and 3:15 p.m.

According to the documents submitted by Resto, he was treated by three doctors, Schecter, Goel, and Sarabanchong, within days of the alleged injury. However, this office confirmed that each of these claims was false.

According to Beth Israel’s security supervisor, the hospital had never employed a doctor named John Schecter. Moreover, a review of hospital records revealed that Resto had never been a patient there. This office also examined the New York State Medical Register, which contains the names of licensed physicians, and “Dr. John Schecter” was not listed.

Contrary to Resto’s claim on the accident report, Dr. Kavita Goel’s secretary told investigators that her office had no record of treating Resto between March 16<sup>th</sup> and March 19, 2001.

Finally, according to Dr. Samarn Sarabanchong, who signed the leave of absence application, Resto came to his office on March 19<sup>th</sup> claiming that he had been treated for a hand injury at the Beth Israel Emergency Room the previous Friday. Sarabanchong did not examine Resto; rather, the doctor simply complied with his request to sign the line of duty absence application, which indicated “an injury to right wrist.”

An examination of the teacher’s personnel file revealed two previous applications for medical leave submitted by Resto, which included supporting medical documents that were forged. The first application, dated February 8, 2000, contained a document purportedly signed by “Dr. Kevin Hollingshead” of Beth Israel, which indicated that

Resto had appeared for an MRI and CAT scan on February 7, 2000. The second application, dated February 9, 2001, contained a document purportedly signed by “Dr. Dorothy Greenburg” of Beth Israel, which indicated that Resto had appeared on February 6, 2001, for an MRI, CAT scan, and other tests. As noted above, Beth Israel had no record of ever treating Resto as a patient. In addition, it had never employed Dr. Hollingshead or Dr. Greenburg. This office also confirmed that neither individual was registered with the New York State Medical Register as being a licensed physician.

While our investigation was pending, Resto resigned from his employment at PS 13 and transferred to a position at PS 377 in District 32. Investigators also discovered two additional forged medical notes submitted by the teacher to PS 377. Resto failed to come to work on nine days between January and February 2002. The teacher submitted notes for two of those absences, dated February 5 and 26, 2002, purportedly emanating from “Dr. Augusto Zevallos.” However, the doctor informed investigators that he did not issue the notes and he had no record of Resto’s presence at his office on those two dates. An inspection of the two documents revealed them to be altered copies of a legitimate note issued by the doctor on February 14, 2002. As a result of his fraudulent conduct, Resto received \$1,165.95 in unearned income. Through his attorney, Resto declined the opportunity to be interviewed by this office.

### **Recommendations and Results**

We recommended that Resto’s employment be terminated, that he be required to pay back any unearned income, and that this matter be considered if he ever reapplied for employment with the BOE. We also referred our findings to the Kings County District Attorney.

Resto resigned from his position with the BOE and has been barred from future employment, but he was not required to repay his unearned income. The King’s County District Attorney’s Office declined to prosecute Resto.

## EDUCATOR CHEATING

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Several major investigations conducted by this office focused on two specific areas of fraud in the public school system: the practice of promoting failing students to the next grade level, and cheating by school personnel to manipulate student performance on standardized tests.

In *Cheating The Children: Educator Misconduct On Standardized Tests*, we exposed misconduct by over 50 school employees ranging from manipulating answer sheets to prompting students to change their responses. The report, which received considerable public attention, led to additional testing misconduct complaints and spawned two other major investigations by this office. The first of these focused on testing irregularities at CES 88X and established that educators there prompted students to change incorrect answers even while the school was under investigation for the earlier cheating scandal. The second of our cases exposed widespread cheating on several City and State exams at eight different schools throughout the City.

The practice of falsely promoting failing students, or “social promotion,” is in direct violation of BOE policy. Based on information from an assistant principal employed in District 5, our office conducted an investigation into the promotion of 53 failing 7<sup>th</sup> grade students by that district’s Director of Middle Schools, Frederick King. We established that, to accomplish his goal, King manipulated the school’s computer database and altered students’ grades.

## ***Cheating The Children: Educator Misconduct On Standardized Tests***

An investigation by this office uncovered widespread cheating by educators at 32 elementary and middle schools in all five boroughs to manipulate student performance on City and State examinations, primarily the Citywide reading and math examinations and the State reading and English Language Assessment tests. Our investigation began in July 1998 after a number of teachers at CES 90 and CES 88 in District 9 in the Bronx publicly exposed a history of cheating at those schools during the administration of standardized tests. After interviewing several students at that school, we learned that at least six educators, including the principal, improperly influenced the school's performance.

Our report cited 52 school employees for a variety of misconduct. The investigation revealed that educators frequently instructed students to place their answers on scrap paper that was subsequently corrected by proctors before the final responses were transferred onto the official bubble sheets. Others physically altered answer sheets, prompted students to change incorrect responses or provided students with practice exams that contained actual test questions.

Our report further detailed the BOE's handling of allegations of testing irregularities. A review of over twenty cases brought to the attention of the Chancellor's office revealed that numerous instances of impropriety during the administration of tests were mishandled or completely disregarded by BOE officials. Educators responsible for corrupting the testing process went largely unpunished and in many cases unduly influenced the status of their respective schools. In addition, students whose performances were affected by misconduct often had their scores invalidated and deleted from official records, thus hindering an accurate assessment of their educational abilities and needs.

***Our investigation began after a number of teachers at CES 90 and CES 88 in the Bronx publicly exposed a history of cheating at those schools during the administration of standardized tests.***

## **Recommendations and Results**

We recommended termination of employment for 12 individuals, including 5 at CES 90: Principal Richard Wallin, Dean Eugene Mendelsohn, Testing Coordinator Susan Tasch, and teachers William Hegarty and Nancy Mendelsohn. Wallin retired in August 2001 and has been placed on the BOE's ineligible list; Eugene Mendelsohn and Nancy Mendelsohn both resigned effective July 2002 and are ineligible for employment; Susan Tasch was suspended for six months without pay. An administrative hearing officer dismissed Hegarty from his employment after finding the teacher guilty of misconduct. We also recommended termination of employment for the principal at PS 234; however, in January 2002, following a hearing on the charges brought against her, the principal was found not guilty.

In addition, we recommended that disciplinary action be taken against 40 other educators for their misconduct. The vast majority of these individuals were reprimanded for their conduct and received letters of discipline in their files.

We further recommended that the BOE devise a coherent procedure for identifying and exposing such misconduct. Following the release of our report, we noticed that administrators and other educators have become more sensitive to possible instances of cheating and report suspected wrongdoing with greater frequency.

In light of our finding that the Chancellor's Office of Special Investigations ("OSI"), as it was then staffed and constituted, was incapable of handling test-cheating cases, we further recommended that OSI be re-organized. As a result, OSI was placed under the supervision of the Deputy Counsel to the Chancellor who serves as that office's Director.

We also suggested that an office other than OSI be given responsibility for investigating test irregularities. Allegations of that type which are not investigated by this office are now referred to the BOE's Division of Assessment and Accountability which has long been involved in the testing process and which played an instrumental role in our initial investigation.

## ***The United Federation of Teachers Responds to Our Cheating Report***

Immediately following the release of *Cheating The Children*, the United Federation of Teachers (“UFT”) hired Thomas (“Toby”) Thacher, III and his company Thacher Associates (“Thacher”) to “investigate” our investigation. In December 2000, Thacher issued a report criticizing our investigation into testing improprieties on the part of BOE teachers. There followed a series of letters from Special Commissioner Stancik to Toby Thacher and from Thacher to Stancik—each, in turn, adamantly contesting the findings of the other.

## ***An Investigation into the Continued Cheating in City Schools***

Following the release of *Cheating The Children: Educator Misconduct On Standardized Tests*, this office began receiving numerous complaints of wrongdoing committed by BOE employees during the testing process. Notably, many of these new allegations were made by parents and other educators. Evidence gathered during the office’s renewed inquiry substantiated cheating by nine educators at eight schools throughout the City, two of them in the Chancellor’s District. The investigation revealed that the BOE employees helped students cheat on several standardized tests—including two tests that were the focus of the earlier investigation, as well as the State English Language Assessment (ELA), the Citywide Performance Assessment Mathematics (PAM), and the Performance Assessment Language (PAL) tests administered after the release of the earlier report.

We confirmed that teachers Paul Egan and Paul Zomcheck, who served as proctors, helped students cheat through various methods, including providing students with answers, encouraging students to “check” wrong answers, and changing students’ incorrect responses after the tests were collected. We also exposed misconduct by teachers Alice McNally and Jane Nevis, who previewed the testing material three days before the administration of the exam and used the information to prep their students. Moreover, the investigation found that teacher Virgilio Rivera created utter chaos during



his stint as proctor for the 2000 PAM test. He interfered during its administration: writing an answer on the Board and trying to force children to accept it, yelling at his co-proctor, taking students' booklets, and causing a boy to burst into tears.

In addition, despite specific BOE directives to the contrary, our investigation uncovered systematic delays on the part of school officials in reporting complaints to this office.

## **Recommendations and Results**

Our report included a number of disciplinary, as well as systemic, recommendations:

- Terminate the employment of Paul Egan, Jane Nevis, and Virgilio Rivera.
- Take disciplinary action against Paul Zomcheck, Alice McNally, and four others.
- Make systemic changes for more accurate and effective testing procedures, including preventing proctors from viewing testing materials before students are given the examinations.

In February 2002 Egan signed a stipulation of settlement agreement and was issued a letter of reprimand. In June 2001, following a 3020-a hearing, a decision was rendered stating that no cause for disciplinary action against Nevis had been found. Rivera irrevocably resigned pursuant to a negotiated settlement. Both Alice McNally and Paul Zomcheck received letters of reprimand.

## ***An Investigation into the Cheating at CES 88X***

Another investigation into testing misconduct established that CES 88X teachers Anna Rivera, Lalmatie Ramrup, and Barbara Tannenbaum prompted students at that school to change incorrect answers during the administration of the Citywide reading test in April 1999. The misconduct occurred while the school was under investigation as a result of *Cheating The Children*.

Our investigation began when students inadvertently revealed the misconduct to other teachers during a prep course for an upcoming test. The students questioned the need to prepare for the test because they expected to be given the answers by Ramrup and Tannenbaum. This expectation was based on the teachers' actions during the administration of the reading test one week earlier.

***Our investigation revealed that teachers at CES 88X, acting as proctors, prompted students to change wrong answers on standardized tests—even while that school was under investigation for testing misconduct.***

The investigation confirmed that the teachers, acting as co-proctors, had prompted their class to change wrong answers. Investigators later confirmed that Rivera also cheated on the reading test by explaining questions and pointing out incorrect choices on student answer sheets.

As our findings detailed, when the teachers of the prep course attempted to report the information provided by the students, they received unexpected resistance from Principal Jeffrey Fisher. Instead of reporting the matter to this office, Fisher conducted his own “investigation,” a process that included the interrogation and harassment of the reporting children and faculty members. Fisher’s reaction to the complaint was meant to bury the information. But after our office released *Cheating The Children: Educator Misconduct On Standardized Tests*, the reporting teachers directly contacted this office.

In addition to the information provided by those teachers, many other educators and students cooperated with our inquiry, providing a variety of relevant and corroborating evidence against Rivera, Ramrup, Tannenbaum, and Fisher.

## **Recommendations**

Concerned about the seven-month interval that occurred before our office learned about the new complaint, we asked the Chancellor to take steps to ensure that allegations of cheating are reported to investigators without delay. We also asked that the Chancellor be vigilant for signs of retaliation against those who cooperated with the investigation. Finally, in light of Rivera's involvement in the original cheating case at CES 88, we called for her employment to be terminated. As for Ramrup, Tannenbaum, and Fisher, we recommended that appropriate discipline be taken against them, which could include ending their employment.

## **Results**

- Fisher retired from the BOE in August 2001 pursuant to a Pre-Charge Stipulation of Settlement and cannot be rehired.
- Tannenbaum resigned from her employment effective June 30, 2002. As of the date of this report, she has not yet been placed on the ineligible list.
- Ramrup agreed to pay a \$5,000 fine.
- Rivera's employment was terminated effective October 31, 2000, and she has been placed on the BOE's ineligible list.

## ***An Investigation into the Social Promotion of Failing Students in District 5***

An investigation by this office revealed the Director of Middle Schools for Community School District 5 in Manhattan, Frederick King, attempted to promote 53 7<sup>th</sup> grade students to the 8<sup>th</sup> grade even though they had failed summer school.

We reported that King directed the assistant principal in charge of the 2000 summer school program at IS 43 to promote the 7<sup>th</sup> grade students who were being held back because they had failed. When the assistant principal refused to do so, King had the grades of the students changed from "F" to "P" by using the assistant principal's computer code, without his knowledge. When the assistant principal returned from

vacation, he discovered the promotions, including the advancement of four students who had been expelled from the summer program, and reported King's conduct to this office. When King learned about the investigation, he moved the children yet again, this time into a "7+" program which claimed to be an intensive curriculum for these students who would be given an opportunity to be promoted to the 8<sup>th</sup> grade mid-year.

In fact, according to our report, most of the failing summer school students who participated in the 7+ program were promoted in February 2001, even though many still were failing or did not have the 90% attendance rate required by the Chancellor's rules regarding promotion. School administrators did not follow the new regulation that ended social promotion, but used their own criteria instead. Furthermore, our report criticized the insensitive treatment shown to parents, many of whom were never informed about the various class changes, and to the children, who were moved from grade to grade at the whim of an administrator.

### **Recommendations and Results**

We recommended that strong disciplinary action be taken against King, including removal from his position, and that promotion practices at District 5 be better monitored. King was removed from his former position and received a letter of reprimand in his file. With the reorganization of the City school system that began in July 2002, he has been assigned to the Division of Instructional Support located at central headquarters at the Tweed Courthouse.

## **FAILURE TO REPORT CRIMES AND MISCONDUCT**

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Since this office's inception, we have stressed the need for school officials to report allegations of crimes and serious misconduct to the police. The 1994 report of the Joint Commission on the Prevention of Child Sexual Abuse, sponsored by SCI and then-Chancellor Ramon Cortines, we noted how critical it was that "a child's allegation ... immediately be in the hands of law enforcement professionals." It is our firm belief that attempts at ridding the school system of those who commit misconduct cannot possibly succeed when silence and ignorance shield the offenders.

Several major cases and numerous investigations conducted by this office over the years, including some detailed in this report, have exposed the sometimes tragic consequences of the failure by BOE personnel to report crimes and misconduct, particularly allegations of child abuse. Our investigations have demonstrated that, much to the contrary, school officials are often slow to bring in law enforcement for a variety of reasons. Their conduct not only jeopardizes any potential criminal investigation, but ultimately harms the children who are the victims of the underlying misconduct.

Several reports completed during this period highlight the problem. In *Dangerous Consequences: Officials at Brooklyn Technical High School Fail to Report Armed Robberies to the Police*, this office investigated the conduct of two deans in handling reports of armed robberies at their school. Their actions—which ranged from withholding information to the police to alerting the suspect that the police were coming to arrest him—seriously compromised the criminal case.

***“Sometimes a child will simply not come forward to report his abuser. But the most heartbreaking cases are those where the children summon the courage to come forward only to be failed by the adults they are depending on.”***

**-- From the testimony of Edward F. Stancik before the New York City Council, June 4, 2001.**

In addition, we exposed the failure of officials at several schools to report incidents of sexual abuse. One case in particular, involving the failure of officials at CS 66X to report the sexual assault of a young girl, attracted considerable media attention. The CS 66 investigation came on the heels of another highly publicized investigation into teacher Milton McFarlane, who was accused of sodomizing a young boy. The case awakened public outrage when it came to light that a complaint against the teacher received by this office in 1998 had been referred to the Chancellor's Office of Special Investigations, which in turn neglected to conduct a thorough investigation.

In June 2001, Special Commissioner Stancik appeared before the City Council to urge passage of a school crime reporting bill. The matter was subsequently referred to the City Charter Revision Commission, which placed it on the November 2001 ballot. Voters subsequently approved an amendment to the New York City Charter requiring public school employees to report crimes against students to the police and to SCI.

To date, however, the rules needed to establish the reporting procedures have not been promulgated. Thus, the City Charter revision, as a practical matter, has yet to take effect.

## ***Dangerous Consequences: Officials at Brooklyn Technical High School Fail to Report Armed Robberies to the Police***

Our 32-page report analyzed two armed robberies committed on March 21, 2000, by separate groups of students at Brooklyn Technical High School (“Brooklyn Tech”), one of the City’s most prestigious high schools. Our investigation began when an Assistant District Attorney from the Kings County District Attorney’s Office, who was prosecuting a robbery at that school, called this office expressing concern that Brooklyn Tech officials might not be reporting all robberies occurring there to the police.

We found that Brooklyn Tech deans Enrique Rodriguez and Bert Yaged withheld information from the police relating to two separate robberies at the school. Instead, the deans conducted their own internal investigations, purportedly motivated by the need to bring student disciplinary proceedings. They handled the investigations badly, showing attitudes toward the police ranging from indifference to outright hostility. They withheld the identities of critical eyewitnesses from the police, but revealed them to the identified robbers as part of the disciplinary proceedings. Twice, the deans alerted one suspect that the police were coming to arrest him, causing him to flee the school and avoid apprehension. As a result of the deans’ actions, many of the robbers were never caught, and continued to attend classes at Brooklyn Tech. Only two robbers were arrested, as a result of police fortuitously learning of one of the robberies. Our investigation further revealed problems in the way disciplinary hearings are conducted, particularly with regards to the treatment of victims and witnesses.

***Deans Enrique Rodriguez and Bert Yaged showed attitudes toward the police ranging from indifference to outright hostility. Their actions—which included withholding information from the police—severely compromised the criminal investigation.***

## **Recommendations**

We recommended that strong disciplinary action be taken against Dean Enrique Rodriguez and Dean Bert Yaged and that appropriate disciplinary action be taken against Principal Lee McCaskill.

We further recommended that superintendents and principals be given a clear instruction to call the police rather than conduct their own internal investigations of serious criminal activity at their schools. While we noted that the Chancellor's directive of June 2000 was an important step forward, the events at Brooklyn Tech demonstrated that it was not enough, standing alone, to eradicate the problem. In addition, we urged the BOE and other government agencies to review the use of disciplinary investigations when serious crimes are involved. Disciplinary proceedings should be secondary to a successful criminal prosecution of charges, like the armed robberies that occurred at Brooklyn Tech.

## **Results**

After the release of our report, Rodriguez received a letter of reprimand from Principal McCaskill and a rating of "unsatisfactory." He resigned effective January 31, 2001. Yaged agreed to sign a letter prepared by the Brooklyn Superintendent's office that stated that his term as dean would not be renewed. Principal McCaskill also received a letter of reprimand.

## ***An Investigation into the Failure of School Officials at IS 278K and MS 180Q to Report Allegations of Sexual Abuse***

An investigation conducted by this office substantiated that school officials at two middle schools failed to report serious allegations of sexual abuse of at least eight female students. In both cases, parents ultimately reported the abuse to the police, who arrested a total of thirteen male students, charging them with Sexual Abuse in the 1<sup>st</sup> Degree.



## **IS 278, Brooklyn**

On a hot and humid Friday, hundreds of students at IS 278 in Brooklyn spent the entire day in “extended recess” in the schoolyard, because a religious holiday and the opportunity for a four-day weekend following “Brooklyn-Queens Day” had resulted in 35 teachers taking the day off. Principal Michael Quigley failed to find substitutes, forcing the cancellation of numerous classes. The sultry weather inevitably drew students to a sprinkler system in an adjacent park, where mayhem ensued. Groups of boys sexually assaulted at least seven girls, most of them 12-year-olds, in a series of attacks near the sprinkler. Boys threw girls into the sprinklers and tried to undress them; they yanked off blouses, bras, and skirts, groping the girls’ breasts and vaginal areas.

Many of the girls reported the attacks to Dean Daniel Landberg, and teachers Frank DiFranco and Vincenzo Montalbano also heard of the assault. The seriousness of the crimes was obvious: girls were soaked and terrified, their clothes ripped, and one girl’s glasses were broken. Yet neither Quigley, Landberg, nor the other teachers reported the crimes to the police. They simply directed the girls to the auditorium to write statements.

Furthermore, parents who learned of the attacks and confronted Quigley, Landberg, and others about why the police were not called were told that the school was conducting its own investigation. School officials refused to call law enforcement officials. When the parents continued to insist that the police be notified, they were told that they could not use school phones or even remain in the school building. The parents then left the school and called the police. Officers responded and ultimately arrested and charged six boys with 1<sup>st</sup> Degree Sexual Abuse.

## **MS 180, Queens**

Less than two weeks later, another 12-year-old girl was sexually assaulted by a group of boys in the schoolyard at MS 180 in Queens. The boys held the girl upside down with her hands held together while they groped her breasts and buttocks and tried to get her clothes off. The victim and other witnesses tried to tell Dean Carey Wittman what happened. Wittman, who was busy “preparing for graduation,” told the girls to write out statements, but did not read the statements until the next day. Fortunately, the

girl's mother called the police later that night, and seven male students were arrested and charged with 1<sup>st</sup> Degree Sexual Abuse.

### **Recommendations and Results**

We recommended that strong disciplinary action be taken against IS 287 Principal Michael Quigley and Dean Daniel Landberg, including removal from their positions. We also recommended disciplinary action against the two teachers, Frank DiFranco and Vincenzo Montalbano, who failed to handle the sexual assault allegations properly. With respect to MS 180, we recommended that appropriate disciplinary action be taken against Dean Carey Wittman.

Quigley received a letter of reprimand in his file. In addition, the principal was assigned a mentor to assist him on a day-to-day basis at the school. Landberg received a letter of reprimand and was removed from the dean's position. Wittman, DiFranco, and Montalbano received letters of reprimand.

### ***An Investigation into the Failure of Administrators at CS 66 to Report an Incident of Sexual Abuse***

This office conducted an investigation into the failure of an administrator at CS 66 in the Bronx, which was in the Chancellor's District, to contact the police upon learning that two male 6<sup>th</sup> graders had sexually abused two 5<sup>th</sup> grade girls in a stairwell at the school. The investigation found that Assistant Principal Judith Ramirez intended to notify the police, but was told not to do so by Donna Baker, Assistant Director of Pupil Personnel Services at the Chancellor's District. Instead, Baker directed Ramirez to continue an internal investigation. The police were not notified about the CS 66 incident until the next day when the girls' parents learned the specifics of the abuse.

Although Baker denied any discussion about the police, other evidence corroborated Ramirez's version of events, including her initial plan to call the police and the subsequent instruction against doing so. In addition, we found that an instructional checklist issued by the Chancellor's District, known as "the blue card," which described 13 steps to be "taken concurrently," confused rather than clarified the situation.

The attack in the stairwell of CS 66 occurred in May 2001, at about the same time that Mayor Giuliani and City Council Speaker Vallone were announcing proposed legislation which would make it a misdemeanor for school personnel to fail to report a suspected crime.

### **Recommendations and Results**

Our report to Chancellor Levy recommended that a uniform procedure be developed and disseminated throughout the school system advising employees about the correct steps to be taken when a student reports being abused by another student. We advocated calling the police first before making notifications “up the line.” We also recommended that disciplinary action be taken against Baker and Ramirez, but noted that Baker’s instruction mitigated Ramirez’s failure and that any punishment should not exceed a reprimand. Our recommendations notwithstanding, the Chancellor chose to demote Assistant Principal Ramirez. Baker, in turn, received a letter of reprimand and re-training.

### ***An Investigation into the Entry of a Male Intruder at PS 89***

We conducted an investigation into the circumstances surrounding the entry of a male intruder into PS 89 in District 24 in Queens. During his second entry, the intruder sexually abused several schoolchildren. The news of the incidents at PS 89 was widely disseminated by the media and led to concern in the school community. The New York City Police Department requested that SCI review the actions of PS 89 officials regarding the incidents and determine whether the staff responded properly. After conducting interviews and carefully reviewing school documents, police reports, and written statements by the PS 89 staff, we concluded that, in immediate response to the incidents, the staff took appropriate action to ensure student safety at PS 89 and to contact the authorities.

## **Recommendations**

Our investigation did not find that Principal Cleonice LoSecco committed any wrongdoing and, therefore, did not recommend that any disciplinary action be taken against her. We recommended that the current Citywide security measures in schools be examined to determine if they are satisfactory for occasions when there is a significant increase in the number of outsiders in the schools. Moreover, working with the New York City Police Department, the Chancellor and the BOE should review the manner in which School Safety Agents are allotted to individual schools.

## STUDENT SAFETY

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### *Charles Serrano: Using Students to Purchase Marijuana*

An investigation conducted by this office substantiated that 45-year-old Charles Serrano, a teacher assigned to the Frederick Douglass Academy in Manhattan, used students to purchase marijuana for him.

This investigation began when a New York City Police Department (“NYPD”) Detective assigned to the Manhattan North Narcotics Division reported to this office that he and his partner had observed Serrano in a vehicle with a 17-year-old male student. Moreover, a pipe containing marijuana was on the seat between the teacher and the boy. According to Alvarez, the teacher claimed the pipe belonged to the student, but the boy denied ownership of it.

At the request of this office, the NYPD’s Controlled Substance Analysis Section analyzed the contents of the pipe that was recovered from Serrano’s car. An examination of the laboratory report prepared by the chemist who conducted the analysis revealed that the pipe contained marijuana.

The student described his relationship with Serrano for investigators. According to the boy, beginning in the 2000-2001 school year, approximately every two weeks, he bought marijuana for Serrano with money provided by the teacher. On the day they were stopped by the police, the boy had already purchased some marijuana for Serrano and they were headed to buy more.

Under the supervision of our investigators, the student surreptitiously recorded a conversation with Serrano. In it, Serrano named the student who would replace the boy as the teacher’s marijuana supplier. The teacher asserted that he would “take care of” the boy’s replacement—pass him—provided he was marked present for class. Moreover, the conversation revealed that Serrano was aware that the student was using illegal substances. When the boy disclosed that his “Pops” wanted him to go to “rehab,” the teacher replied: “He knows?”

The boy’s replacement confirmed the information learned during the recorded conversation. According to him, Serrano made a deal with him: if he bought marijuana for the teacher, he would pass his Global History class. The student admitted to

investigators that, on several occasions, he purchased marijuana for Serrano, using money provided by the teacher.

In an interview with investigators, Serrano admitted that he had students purchase marijuana for him and that he had a problem with the illegal substance. In a written statement, the teacher added that, since January 2001 he has been receiving help from a psychiatrist to treat his “manic depression.”

### **Recommendations and Results**

We recommended that Charles Serrano’s employment be terminated and that he be barred from working for the BOE in the future. Serrano was charged pursuant to New York State Education Law §3020-a. In the course of the resulting hearing, Serrano chose to resign irrevocably from the BOE and he is not eligible for future employment.

## SEXUAL ABUSE AND MISCONDUCT

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From the office's inception in 1990, SCI has taken the lead in uncovering sexual abuse of students by BOE employees. As of June 30, 2002, we had substantiated 704 cases of such misconduct, ranging from inappropriate sexual remarks to forcible sexual intercourse.

Two of our sexual misconduct cases concluded during the period covered by this report involved high-level school officials. Our investigation into Adlai Stevenson High School Dean Irwin Goldberg substantiated that the educator sexually abused two male students in the 1980s. Another investigation revealed inappropriate conduct on the part of an assistant principal. Other cases resulted in the arrest of BOE employees for sex-related offenses.

In addition, we conducted a major investigation into the manner in which victims of sexual abuse are treated during the BOE's disciplinary hearings. Our report, *Victims On Trial: The Treatment of Sex Abuse Victims and Victims of Other Serious Crimes in Board of Education Student Suspension Hearings*, detailed how the BOE lags behind the criminal justice system in its treatment of victims of sex abuse.

## ***Omar Ayed***

Our office conducted an investigation into inappropriate conduct by Omar Ayed, a 44-year-old Assistant Principal of Social Studies at A. Philip Randolph High School in Manhattan, toward a 17-year-old female student at that school.

As detailed in our report, Ayed made the student feel uncomfortable when he instructed her to wear a short, black skirt on the day she would be standing on a table to file books. Other female students then came forward to report that Ayed made sexual remarks and stared at them. Two of Ayed's female colleagues revealed that they, too, had been victims of his misconduct.

Our investigation also revealed a history of physical contact, sexual harassment, and sexual misconduct by Ayed toward students and staff at various schools where he was previously assigned. During the current inquiry, SCI investigators reviewed the prior matters, spoke with witnesses, and verified that the incidents attributed to Ayed had occurred.

### **Recommendations and Results**

We recommended termination of Ayed's employment and that he be barred from working for the BOE in the future.

In May 2003, the arbitrator for Ayed's disciplinary case found him guilty of the charges and, as a penalty, suspended Ayed for 27 months. He will be suspended without pay until the first day of 2005-2006 school year. The New York County District Attorney's Office, which had been considering charging Ayed with Sex Abuse in the 3<sup>rd</sup> Degree, has informed this office that it would not be prosecuting Ayed, citing the expiration of the statute of limitations period.

## ***Irwin Goldberg***

An investigation substantiated that Irwin Goldberg, a 53-year-old dean at Adlai Stevenson High School in the Bronx, sodomized a male student starting in 1981 when the boy was 15-years-old. The abuse continued until the victim graduated in 1984.



Shortly after the victim transferred to Stevenson, Goldberg lured him into participating in sexual acts, including oral and anal sex. This criminal activity took place in the dean's office or empty classrooms at the school and at an apartment belonging to Goldberg's mother, when she was out of town.

Under the guidance of investigators from this office, the victim, now 34-years-old, confronted the dean in a series of recorded conversations that took place at Stevenson. Goldberg admitted the prior sexual conduct, but claimed the boy was 17-years-old at the time. Moreover, during the recorded meetings, Goldberg exposed his penis and attempted to entice the now adult victim into new sexual activity. Although they were alone at those moments, the school was fully populated with students and staff.

***Under the guidance of investigators, the now 34-year-old victim confronted Goldberg in a series of recorded conversations at the school.***

Following the release of our findings of sexual misconduct by Goldberg, a second victim contacted this office. We substantiated that Goldberg sexually abused the boy, then 16-years-old, when he attended Stevenson in 1989. We reported these additional findings to the Chancellor.

### **Recommendations and Results**

While the statute of limitations which precludes a criminal prosecution had expired, our reports concluded that Goldberg's acts of sexual abuse toward the victims and his reaction upon seeing one of the students sixteen years later demonstrated that he had no place in the City's public school system. Consequently, this office recommended that Goldberg's employment be terminated and that he be barred from future employment with the BOE.

In May 2001, Goldberg resigned from the BOE as part of negotiated settlement. Goldberg agreed not to teach in public or private schools in the NYC area and was required to surrender his teaching license. Goldberg has been placed on the BOE's ineligible list.

## *Angela Xenakis*

Forty-six-year-old Angela Xenakis, a physical education teacher and tennis coach at Lafayette High School in Brooklyn, had an intimate and sexual relationship with a 17-year-old female student at that school.

The investigation began in February 2001 when a teacher who chaperoned a school ski trip to upstate New York reported that, on a number of occasions during the outing, Xenakis and the female student acted inappropriately toward each other. Upon receiving the allegation, it was apparent to investigators that a similar complaint involving Xenakis and the same female student had been lodged with this office in 2000. That matter was investigated, but closed after both the teacher and the girl adamantly denied having an improper relationship and no evidence to the contrary was discovered.

The student's previous denial of an inappropriate relationship with Xenakis, made during the earlier investigation, led investigators to seek additional evidence prior to interviewing her about the new allegation. As a result, surveillance of the couple revealed intimate encounters between the gym teacher and the girl. On a number of occasions at the end of the school day, Xenakis was observed in her car, picking up the student at a location which was a short distance from Lafayette. One time, they parked and placed shades over the windows of the gym teacher's car. Upon closer observation, our investigators saw that Xenakis and the student were in the back seat, hugging and caressing each other. In another instance, as investigators followed the couple on the Van Wyck Expressway, Xenakis was observed rubbing the student's crotch with her right hand while using only her left hand to drive. On a third occasion, again in the parked car, investigators viewed the student lying back against Xenakis while the gym teacher stroked the girl's hair and arm.

Telephone records also confirmed the relationship. A review of documents relating to the telephone number assigned to Xenakis revealed 72 calls which were placed to the residence of the female student during the period from September 2000 through July 2001. Fifteen of these were made between 9:00 p.m. and 8:00 a.m. During the same time frame, the girl made 13 calls to Xenakis, including 3 between 9:00 p.m. and 8:00 a.m.

To investigators, the female student—soft spoken and apparently embarrassed—reluctantly acknowledged her intimate relationship with Xenakis and wrote a brief statement about it.

During an interview with investigators, Angela Xenakis admitted her relationship with the female student. She also wrote a statement which purported to explain the history of their involvement.

### **Recommendations and Results**

We recommended that Angela Xenakis's employment be terminated and that she be barred from holding a position with the BOE in the future.

Xenakis was charged pursuant to New York State Education Law §3020-a which resulted in a hearing. Upon review of the evidence presented, the hearing officer found Xenakis guilty. As a result, her employment was terminated and she was placed on the ineligible list.

### ***Alan Lasher***

In May 2002, the principal at MS 141 in District 10 in the Bronx contacted this office to report that he had received a letter from a former student describing the sexual contact she had with teacher Alan Lasher while she was in the 9<sup>th</sup> grade nearly 20 years earlier. The next day, the principal received a letter from another former student describing the circumstances of her smoking marijuana with Lasher while she was an 8<sup>th</sup> grade student.

We conducted an investigation and found that Lasher, now 55-years-old, had a sexual relationship with the former student beginning when she was 14-years-old. In fact, Lasher engaged in numerous sexual encounters with the girl between 1977 and 1978, when she attended the school. We also substantiated that Lasher kissed another former student on the lips during the 1976-1977 school year when the girl was 14-years-old. Moreover, we also learned that he had smoked marijuana with these two students as well as two others.

The sexual abuse victim, now 38-years-old, explained that her mother began dating Lasher in 1975, after she met him at a parent/teacher conference when the girl's brother was in Lasher's class. The next year, the victim entered the school and also had Lasher as a teacher. At the end of that school year, Lasher offered the girl a ride home and took her to an apartment where he was doing work. When they got in the elevator, Lasher pushed the stop button and told the student that he had not given her a birthday present yet. Lasher handed her a wooden box containing two marijuana cigarettes, rolling paper, and a "roach clip." Lasher then kissed the girl on the lips and placed his tongue in her mouth. According to the former student, the kiss lasted about a minute and then they went to the apartment where the teacher kissed her again.

Lasher's conduct continued into the next school year; in fact, Lasher initiated sexual encounters throughout the fall and winter of 1977-1978. It also escalated to touching and, eventually, oral sex. The last encounter with Lasher occurred in the spring of 1978. After school, Lasher took the girl to his parent's apartment in the Bronx while they were away on vacation. Lasher kissed the student, performed oral sex on her, inserted his fingers in her vagina, and had intercourse with her.

During an interview with investigators, Lasher admitted, both verbally and in writing, to committing sexual acts with the former student when she was a student at MS 141. He acknowledged having sexual intercourse with her two or three times, but did not recall ever having oral sex with her. The teacher explained that they would park in his car and "neck," which progressed into petting and touching, and then escalated to sex. Lasher had no recollection of kissing any other student or smoking marijuana with any of the students. However, he admitted that he smoked marijuana with the former student's mother.

## **Recommendations and Results**

We recommended that Alan Lasher be terminated from his position and that he be barred from future employment with the BOE.

Within days of the release of our findings, Lasher retired and was made ineligible for future employment.

## ARREST CASES

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### *Carlos Diaz*

On August 28, 2001, Carlos Diaz, a 60-year-old custodial cleaner at the Marta Valle Model High School, was arrested at the New York County District Attorney's Office after an investigation by this office substantiated that Diaz had sexually abused a 14-year-old female student.

As a result of our investigation, Diaz's employment was terminated and he was placed on the ineligible list. We recommended that he continue to be denied employment and that this matter be considered should he ever reapply for any position with the BOE.

Diaz was indicted by a Grand Jury on charges of Sodomy in the 3<sup>rd</sup> Degree, Forcible Touching, and Endangering the Welfare of a Child, and pleaded guilty to Forcible Touching. He was sentenced on March 1, 2002, and given a Conditional Discharge upon completion of a sex offender program.

### *Nathaniel Harvey*

On November 19, 1999, SCI investigators arrested Nathaniel Harvey, a 31-year-old social studies teacher at JHS 117 in Brooklyn's District 13, after an investigation by this office substantiated that Harvey had sexually abused a 13-year-old female student at that school on several occasions.

The victim provided investigators with details of her sexual relationship with Harvey, which included several encounters of sexual intercourse and oral sex in the classroom. An investigator from this office, working undercover, surreptitiously recorded a conversation with Harvey in which the teacher admitted having sexual intercourse with the girl.

***An investigator surreptitiously recorded a conversation with Harvey in which the teacher admitted having sex with the girl.***

In oral, written, and videotaped statements made upon his arrest, Harvey detailed his relationship with the underage student, in one account stating that he had "misjudged,

badly, my position as her teacher and as a male” and that “oral sex was our main sexual interaction.”

Following Harvey’s arrest, the BOE terminated the teacher’s employment and placed him on the ineligible list. This office recommended that Harvey continue to be denied employment and that this matter be considered should he reapply for any type of reemployment with the BOE. Harvey was indicted by a Brooklyn Grand Jury and pleaded guilty to Sodomy in the 2<sup>nd</sup> Degree in April 2001. He was sentenced in June of that year to 6 months in jail and Probation for a period of 5 years.

### ***Freddie Hood***

On February 9, 2001, investigators from this office arrested Freddie Hood, a 36-year-old SPARKS counselor assigned to Beach Channel High School in Queens, after an investigation substantiated that the teacher had engaged in oral sex with a 15-year-old female student at that school.

The investigation began when the girl’s mother, suspecting that an inappropriate relationship existed between Hood and her daughter, reported to the school principal that the teacher had been telephoning her daughter at home in the evenings. The principal then notified this office.

The victim confirmed to investigators that she and Hood performed oral sex on each other on two occasions in the school building. Telephone conversations between the girl and Hood, recorded under the supervision of our investigators and with her mother’s permission, confirmed their inappropriate relationship. Hood admitted his conduct to investigators and described the same encounters reported by the student. He acknowledged that he began to counsel the girl because of problems at home and that they grew to like each other.

Upon learning of our investigation, Hood resigned from his position at Beach Channel and was placed on the ineligible list after his arrest. We recommended that he continue to be denied employment and that this matter be considered should he apply for any type of reemployment.

Hood was indicted by a Queens Grand Jury on charges of Sodomy in the 3<sup>rd</sup> Degree, Sexual Abuse in the 3<sup>rd</sup> Degree, and Endangering the Welfare of a Child. On October 3, 2001, he pleaded guilty to all three charges. Hood, who was incarcerated for approximately one month following his arrest, was sentenced to time served, placed on Probation for a period of 5 years, and ordered to register as a sex offender.

### ***Loida Jimenez***

An investigation substantiated that Loida Jimenez, a 25-year-old paraprofessional assigned to P371, a special education facility in Brooklyn, engaged in sexual intercourse and oral sex with four male students, ranging between 15 and 16 years of age. Because Jimenez's conduct was criminal in nature, SCI referred the matter to the Kings County District Attorney's Office for appropriate action.

Jimenez resigned from the BOE after a disciplinary conference in early 2000. She was indicted by a Brooklyn Grand Jury and arrested on May 22, 2001, by the NYPD Warrant Squad. On January 25, 2002, Jimenez pleaded guilty to Rape in the 3<sup>rd</sup> Degree and was sentenced to Probation for a period of 5 years. She has been placed on the BOE ineligible list.

### ***Paul Kerner***

An investigation substantiated that Paul Kerner, a 61-year-old special education teacher assigned to Sheepshead Bay High School in Brooklyn, engaged in oral sex with a 16-year-old female student whom he had taken to Atlantic City. As a result of our findings, in April 2000, Kerner faced indictment in the U.S. District Court for the Eastern District of New York on two counts of knowingly and intentionally transporting an individual under the age of 18 across state lines with intent to commit sexual acts. Kerner pleaded guilty to one count in May 2000. On October 31, 2000, he was sentenced to 33 months in federal prison. Kerner retired from the BOE in March 2000 and the administrative case against him was subsequently closed. He has been placed on the BOE ineligible list.

## ***Nicole Matarese***

An investigation substantiated that 29-year-old Nicole Matarese, an English teacher at Canarsie High School in Brooklyn, had a sexual relationship with a 15-year-old male student whom she met while he attended that school. As a result, on May 10, 2000, investigators from this office arrested the teacher for Endangering the Welfare of a Child. The prosecution was handled by the Richmond County District Attorney's Office. On August 10, 2000, Matarese's case was Adjourned in Contemplation of Dismissal and an order of protection for a period of 6 months was issued on behalf of the student victim.

The investigation began when the victim's grandmother reported his relationship with Matarese to this office. According to her, she had delayed in revealing the information expecting that his involvement with the teacher would stop. Instead, however, it escalated.

Following her arrest, Nicole Matarese was terminated from her position at Canarsie High School and she was made ineligible to work for the Board of Education. We recommended that Matarese continue to be barred from employment and that this matter be considered should she ever attempt to be rehired in any capacity.

## ***Robert Nadal***

An investigation substantiated that 39-year-old Robert Nadal, a teacher and dean at Graphic Arts High School in Manhattan, inappropriately touched two 16-year-old female students. We found that the dean forced the students to bend down while he hit them on the buttocks. The teacher offered the students this "punishment" in exchange for not notifying their guardians about their problems at school.

We recommended that Nadal's employment be terminated and that this matter be considered should he ever apply for any type of reemployment with the BOE. We also referred our evidence to the New York County District Attorney's Office. Thereafter, Nadal was arrested and charged with Sexual Abuse in the 3<sup>rd</sup> Degree, Harassment in the 2<sup>nd</sup> Degree, and Endangering the Welfare of a Child. During a guilty plea to Harassment,



Nadal admitted that he had physical contact with the student victim. He waived sealing of the case and was sentenced to a Conditional Discharge. On January 31, 2002, Nadal resigned pursuant to a Stipulation of Settlement agreement and is barred from future employment with the BOE.

### ***Johnny Vargas***

In June 2001, investigators from this office arrested 25-year-old Spanish teacher Johnny Vargas after an investigation substantiated that Vargas, who was assigned to John Bowne High School in Queens, kissed a 16-year-old female student and acted in an inappropriate manner toward several other female students. The teacher was charged with Forcible Touching, Endangering the Welfare of a Child, Sexual Abuse in the 3<sup>rd</sup> Degree, and Harassment in the 2<sup>nd</sup> Degree. In April 2002, Vargas pleaded guilty to Harassment and was sentenced to a Conditional Discharge with an order of protection issued on behalf of his victim.

We recommended that Vargas, who was suspended without pay from his position and placed on the BOE's ineligible list on June 27, 2001, continue to be barred from employment with the BOE and that this matter be considered should he apply for any position with the school system in the future.

## STUDENT SUSPENSION HEARINGS

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### *Victims on Trial: The Treatment of Sex Abuse Victims and Victims of Other Serious Crimes in Board of Education Student Suspension Hearings*

An investigation by this office uncovered that BOE procedures in disciplinary hearings neglect the rights of victims of sexual abuse and other crimes. The report began by focusing on a single issue at student suspension hearings: the failure of BOE procedures to protect victims from improper cross-examination about their prior sexual experience. In that case, a 14-year-old female student was asked by the attorney for the 19-year-old male student accused of sexually attacking her whether she had “ever licked any other boy’s penis” and whether she had “ever had sex with a boy.” As we detailed in our report, that line of questioning is in sharp contrast with “rape shield” or “victim shield” laws enacted more than a generation ago for victims in criminal trials. Remarkably, there is no BOE regulation, State regulation, or State law to prevent a victim of sexual misconduct from being victimized again at a proceeding to discipline her attacker, by being compelled to answer embarrassing and irrelevant questions about her sexual history.

***Our investigation revealed that victims of sexual misconduct were being victimized again during BOE disciplinary hearings by being compelled to answer embarrassing and irrelevant questions about their sexual history.***

In addition to allowing improper questioning of victims, the BOE’s disciplinary procedures neglect the rights of victims in a variety of other ways. Specifically:

- Victims receive little advance notice of the hearings at which they are to testify, and are often unaware that they will be cross-examined by an attorney for the accused.

- Victims do not have the right to an attorney at the hearings; and, generally, no one is present to object or to otherwise protect the victim from harsh cross-examination or inadmissible evidence.
- There are no counselors to support victims when confronting their attackers in the hearing room.
- Victims who do not have a command of the English language do not have access to foreign language interpreters.
- Hearings are held in small offices in which victims must sit facing their alleged attackers across a narrow table with little or no security.
- The hearing undermines the prospects for a successful criminal prosecution of the accused. Indeed, schools rarely inform the police or prosecutors about the hearing.
- Victims often miss school because their attacker still attends that school. Even when there is an arrest, an accused student cannot be sent to another school until a disciplinary hearing is conducted.

### **Recommendations and Results**

This office recommended a sweeping revision of the disciplinary procedures to take into account the rights of victims and their families and to address the specific failings detailed in our report.

In response, Chancellor Levy issued a statement announcing that he agreed with most of our recommendations and directing that new procedures be put in place before the start of the 2001-2002 school year. He formed an advisory committee for that purpose, led by the Deputy Counsel to the Chancellor. After study by the committee, the BOE set out to revise Chancellor's regulation A-443. The significant changes that were made are as followed:

- Rape shield protection language which establishes parameters for the admissibility of evidence regarding prior sexual history of a victim;
- Expansion of the school's right to have a staff advisor present at all suspension hearings;
- Inclusion of more detailed alternative instruction requirements.

## **HIRING AND PROMOTION PRACTICES**

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The high volume of cases that we have investigated involving students being sexually and/or physically abused in school led us to consider how the BOE hires and screens those who will have contact with children. Several investigations conducted by this office revealed serious flaws in terms of the due diligence the BOE performs on prospective hires and candidates for tenure, as well as the manner in which information is shared between BOE departments regarding employees.

Three cases detailed below illustrate the inherent problems. A simple background check of Biology Teacher Franklin Simon, for example, would have revealed that, prior to his employment by the BOE, Simon lost his license to practice medicine as a result of his sexual misconduct. Another investigation exposed how English as a Second Language Teacher Veronica Hernandez received tenure despite numerous arrests and chronic attendance problems. We also examined how Thomas L. Williams, a convicted felon, was able to falsify records and obtain a position as a substitute teacher.

## ***Franklin Simon: Hired by the BOE Without a Background Check Despite Having Lost His License to Practice Medicine for Sexual Misconduct***

An investigation substantiated that 60-year-old Franklin Simon, a biology teacher at Murry Bergtraum High School in Manhattan, never provided a résumé or references, left blank the portion of the application about prior employment, and lied about his past. Nevertheless, the BOE hired Simon almost immediately, without any check into his background. Simon's bizarre history included misconduct of a sexual nature, which had caused him to lose his license to practice medicine as a psychiatrist. Our investigation commenced after we received anonymous correspondence alleging that Simon, a former physician who had a history of sexual incidents with at least two patients, was working as a teacher for the BOE.

Although any review of Simon's disturbing history would have determined that he was not fit to be hired as a teacher, his background went undetected and he was allowed access to schoolchildren on a daily basis. Furthermore, we found that the BOE has no uniform procedure in place to review an applicant's history or check the status of past professional licenses. This case was at least the third time that our office criticized the BOE's failure to adequately screen prospective applicants and formally recommended substantial improvements.

### **Recommendations and Results**

As a result of our investigation, Franklin Simon's employment was terminated and he was placed on the ineligible list. This office recommended that he continue to be denied work in the public school system and that our findings be considered should Simon ever apply for any type of position with the BOE in the future.

Expanding upon our recommendations in two earlier SCI cases involving the hiring of individuals with questionable backgrounds, we recommended that the Chancellor and the BOE develop a procedure to probe an applicant's background, check prior employment, and verify professional licenses.

In May 2003, the New York City school system hired a company called Truescreen, Inc. to review the credentials of some applicants. This vendor will perform background investigations to verify the application information given by the prospective employee, such as social security numbers, prior employment, and educational background.

### ***Veronica Hernandez: Teacher Remained on BOE Payroll Despite Her Criminal History***

An investigation substantiated that Veronica Hernandez, a 4<sup>th</sup> grade teacher of English as a Second Language at PS 91 in District 10 in the Bronx, remained employed by the BOE and ultimately received tenure in 1996 despite an abysmal work history and an extensive arrest record.

Of Hernandez's fourteen arrests, six of them resulted in criminal convictions—three of them before she was hired by the BOE. Many of the charges against her have involved the shoplifting of expensive items, such as coats from Bloomingdale's. In addition, Hernandez had severe attendance problems at work, missing nearly 200 days without an excuse from the time she was hired in 1993 to November 2000. Notwithstanding her ongoing criminal conduct and frequent absences, Hernandez received "satisfactory" evaluations year after year until she ultimately received tenure in 1996. Despite her history, the principal at PS 91 went so far as to call Hernandez "the best teacher in the school."

***Despite Veronica Hernandez's extensive arrest record and excessive absences, the principal at PS 91 went so far as to call Hernandez "the best teacher in the school."***

It was not until December 1998, some nine months after Hernandez's tenth arrest, that the BOE recommended disciplinary charges against the teacher. Then, it still took more than a year before the charges actually were brought. During that time, Hernandez was arrested three more times and was held in contempt of court. In all, she spent more than two years assigned to the District 10 office, awaiting disciplinary charges and

proceedings. The teacher was paid throughout that period, while the BOE spent over \$100,000 for her replacement in the classroom.

### **Recommendations and Results**

We recommended that Hernandez's employment be terminated. On May 14, 2001, Hernandez was terminated from her teaching position for failing to report to work, and has been placed on the BOE's ineligible list.

Noting that relevant information about a teacher's history was not reaching individuals in charge of making tenure decisions, we further recommended that the BOE's Office of Personnel Investigations ("OPI") supply information about a teacher's criminal history automatically to the districts or that such data become a standard request in the tenure process. As of June 2003, this recommendation was not included in OPI's standard procedure for conveying criminal history information to the BOE's district offices.

We also urged the BOE to bring disciplinary charges against employees far more quickly, particularly where the individual awaiting action is receiving a salary essentially for doing nothing. According to the UFT contract signed in November 2000, BOE employees investigated by the board can be removed to a district office for no more than six months without charges being preferred.

Finally, we recommended that the BOE enforce the Chancellor's regulation requiring employees to notify OPI when they have been arrested. In response, OPI has reprimanded employees who failed to report their arrest by placing a letter in their file or by adding their name to the BOE's Ineligible List, which prohibits transfers or lucrative per session assignments. This investigation also raised concerns about the standard required for a teacher to receive a "satisfactory" evaluation and, thus, to qualify for tenure.

## ***Thomas L. Williams: Convicted Felon Falsified Documents to Obtain Position as a Substitute Teacher***

Investigators from this office arrested Thomas L. Williams (“Williams”), a 33-year-old convicted felon, after an investigation substantiated that Williams had impersonated a former New York City school teacher, named Thomas E. Williams (“Thomas E.”), in order to illegally work for the BOE as a regular substitute teacher. In total, Williams collected more than \$100,000 in wages during the 3½ years that he was employed as a public school teacher. Williams was charged with Grand Larceny in the 2<sup>nd</sup> Degree, Forgery in the 2<sup>nd</sup> Degree, Offering a False Instrument for Filing in the 1<sup>st</sup> Degree, Falsifying Business Records in the 1<sup>st</sup> Degree, Unauthorized Practice, Defrauding the Government—all felonies—and with the misdemeanors of Bail Jumping and Criminal Impersonation in the 2<sup>nd</sup> Degree.

***Williams stole the identity of a former NYC teacher and illegally collected more than \$100,000, while hiding his own criminal history.***

Williams’s scheme came to light when Thomas E., a former teacher with the BOE who relocated to Maryland in the summer of 1995, reported to this office that the Internal Revenue Service had notified him that he owed back taxes on money earned from the New York City public school system for a period of time after he had resigned. Investigators subsequently discovered that Williams obtained the social security number and employment history of Thomas E. and used this information to gain regular substitute teaching positions at several public schools in New York City. While working in the school system, Williams was able to hide his extensive criminal history which includes: six arrests, two misdemeanor convictions and one felony conviction—the latter a consequence of impersonating a registered nurse at Harlem Hospital.

### **Recommendations and Results**

We recommended that Thomas L. Williams’s employment with the BOE be terminated immediately and that this matter be considered should he ever reapply for any position.



Williams was arrested in September 1999. He was terminated from the BOE at the time of his arrest and placed on the ineligible list. Subsequently, he was indicted by a Manhattan Grand Jury for Grand Larceny in the 2<sup>nd</sup> Degree, Offering a False Instrument for Filing in the 1<sup>st</sup> Degree, Forgery in the 2<sup>nd</sup> Degree, and Falsifying Business Records in the 1<sup>st</sup> Degree, Defrauding the Government, and Unauthorized Practice.

Williams pleaded guilty to all the charges on February 1, 2000, and was subsequently sentenced to one year in jail.

## **ENROLLMENT AND ATTENDANCE**

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This office has always taken extremely seriously allegations of misconduct in the areas of enrollment and attendance practices. While seemingly mundane, the tasks of enrolling students and taking attendance play a critical role in the smooth functioning of our public schools. A school's enrollment number, for instance, determines the amount of resources, and in particular, the number of teachers assigned to that school. Accurate attendance is also critical to a host of functions. Excessive absences can be an indication of child abuse or neglect at home and should trigger an investigation into the child's attendance problems.

In *Grand Illusion: An Investigation Into Enrollment and Attendance Practices at Brandeis High School*, we revealed how over the course of a decade Brandeis Principal Marlene Lazar manipulated student attendance and enrollment figures in order to bolster her numbers and receive more resources for the school.

## ***Grand Illusion: An Investigation Into Enrollment and Attendance Practices at Brandeis High School***

An investigation by this office substantiated that student attendance and enrollment figures at Louis D. Brandeis High School in Manhattan were inflated over a decade. Our report described several deceptive schemes at Brandeis, starting several years ago with the manipulation of attendance reports, and culminating with nonexistent “phantom classes” in the 1996-97 academic year. The report also traced the origin and evolution of these schemes from 1990, the year in which Marlene Lazar became Principal of Brandeis, to 1998.

Within her first two years as principal of Brandeis, Lazar instructed the school’s computer services coordinator to alter attendance records every month to reach whatever percentage goal she specified. As attendance rates increased from year to year, so, too, did Lazar’s reputation as an administrator.

The phantom classes consisted of dropouts and chronic truants, whose names were used without their knowledge or consent. By using the fake classes to bolster enrollment, Brandeis received more resources. However, the resources gained by this fraud were of no benefit to Brandeis students. Lazar built a huge bureaucracy by taking teachers from the classroom and assigning them to administrative jobs as “perks.” Brandeis had one of the worst records in the City in terms of teacher time spent on instruction.

Lazar needed help to control the attendance and enrollment figures. Assistant Principal Jonathan Schein instructed teachers on how to fill out attendance and grade sheets for phantom classes. Guidance Counselor Judith Pearlman “registered” students for the phantom classes without their knowledge. Senior Grade Advisor Peter Trigledes handled much of the day-to-day paperwork for “Project Drop-In” and recorded the phantom class students as “discharged” from Brandeis at the end of the semester.

***Our investigation uncovered several deceptive schemes occurring over the course of a decade at Manhattan’s Brandeis High School, including the manipulation of attendance reports, and the creation of nonexistent “phantom classes.”***

## **Recommendations and Results**

Our report reviewed the flawed BOE attendance procedures that facilitated the fraud at Brandeis, and made recommendations to prevent other unscrupulous administrators from manipulating the records of unsuspecting students. In addition, we recommended that the employment of Marlene Lazar and Guidance Counselor Judith Pearlman be terminated and that this matter be considered should they ever reapply for a position with the BOE, including consulting work. We also recommended that Assistant Principal Jonathan Schein, who was no longer employed by the BOE at the time our report was released, not be rehired by the BOE in the event that he should ever seek employment or consulting work. Finally, we recommended that Senior Grade Advisor Peter Trigledas, who was retired from the BOE at the time our report was released but was working as a consultant, be terminated from that position and continue to be denied employment in the future.

Lazar retired in April 2002 pursuant to a formal settlement agreement with the BOE. In March 2001, the case against Pearlman was dismissed. According to the OLS attorney handling the matter, the statute of limitations expired. Both Peter Trigledas and Jonathan Schein were placed on the BOE's ineligible list.

## **CONFLICTS OF INTEREST**

Through the New York City Department of Investigation, SCI acts as the investigative arm of the New York City Conflicts of Interest Board (“COIB”) when BOE employees are alleged to have violated the conflicts of interest rules in Chapter 68 of the New York City Charter. These matters are, by law confidential unless made public for some intervening reason, such as a stipulation of settlement. In two such instances, Walter Steinhandler and Serge Rene, the resolutions were released publicly, allowing us to comment on these investigations in this report.

Our investigations into the conduct of Rene and Steinhandler go to the heart of the conflicts of interest rules. For years, physical education teacher Walter Steinhandler ran bus tours for the BOE through his private company in direct violation of the rule prohibiting a City employee from owning or working for any firm which engages in business dealings with the BOE. Likewise, Rene violated a key Chapter 68 provision barring a City employee from soliciting a subordinate for campaign contributions.

### ***Walter Steinhandler***

An investigation substantiated that for a period of seven years, Walter Steinhandler, a physical education teacher at Edward R. Murrow High School, and his business partner, were organizing bus trips through their company Scholastic Tours, Inc. for students at Murrow and other New York City public schools. In our report, we recommended that appropriate disciplinary action be taken against Steinhandler.

Pursuant to a three-way Stipulation of Settlement involving Steinhandler, the BOE, and the COIB, effective June 2001, Steinhandler admitted his wrongdoing and agreed to pay a \$1,500 fine.

### ***Serge Rene***

We substantiated that Serge Rene pressured BOE employees under his supervision to contribute to the re-election campaign of a Community School Board 19

member while he was the principal of PS 72 in Brooklyn. In our report, we recommended that strong disciplinary action be taken against Rene, which could include termination of his employment.

Pursuant to a three-way Stipulation of Settlement agreement between Rene, the BOE, and the COIB, signed in October 1999, the former principal admitted that he had violated the Conflicts of Interest Law and agreed to pay a \$2,500 fine. A letter of reprimand was placed in his file.

# ADMINISTRATIVE OUTCOMES<sup>1</sup>

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## **I. *Disciplinary Recommendations***

SCI made 566 disciplinary recommendations against 409 individuals to the Board between September 1, 1999 and June 30, 2002. The following is a detailed breakdown of those recommendations:

<u>RECOMMENDATION</u>	<u>NUMBER OF INDIVIDUALS</u>
TERMINATION	156
STRONG DISCIPLINARY ACTION WHICH COULD INCLUDE TERMINATION	47
STRONG DISCIPLINARY ACTION	20
DISCIPLINARY ACTION OR REVIEW	92
DO NOT CONSIDER IF REAPPLIES FOR EMPLOYMENT WITH THE BOE <sup>2</sup>	193
RESTITUTION	10
VENDOR ACTION OR REVIEW	11
OTHER DISCIPLINE	37

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<sup>1</sup> The statistics included in this section were calculated on December 2, 2003.

<sup>2</sup> This recommendation typically occurs in two ways: in conjunction with a recommendation of termination or when we find misconduct by an employee who has already left employment with the BOE.

## **II. Outcomes**

During the period between September 1, 1999 and June 30, 2002 the BOE resolved the cases of 332 of the 409 individuals referred to them by our office. The other 77 cases were still pending as of June 30, 2002. The outcomes of the 332 resolved cases are listed below:

<b><u>OUTCOME</u></b>	<b><u>NUMBER OF INDIVIDUALS</u></b>
TERMINATED	92
RESIGNED/RETIRED	40
WILL NOT BE CONSIDERED FOR FUTURE EMPLOYMENT WITH THE BOE	146
LETTER OF REPRIMAND PLACED IN FILE	96
FINED	5
SUSPENDED WITHOUT PAY	8
DISCIPLINED VERBALLY	5
RESTITUTION RECEIVED	4
VENDOR ACTION	4
OTHER DISCIPLINARY ACTION	30
NO DISCIPLINARY ACTION TAKEN	18



### ***III. Outcomes of Cases From Prior Reporting Period Resolved in This Period***

Several cases from the prior reporting period—involving a total of 139 individuals—were also resolved between September 1, 1999 and June 30, 2002. The outcomes are detailed below:

<b><u>OUTCOME</u></b>	<b><u>NUMBER OF INDIVIDUALS</u></b>
TERMINATED	17
RESIGNED/RETIRED	21
WILL NOT BE CONSIDERED FOR FUTURE EMPLOYMENT WITH THE BOE	32
LETTER OF REPRIMAND PLACED IN FILE	15
FINED	6
SUSPENDED WITHOUT PAY	10
VENDOR DISCIPLINARY ACTION	1
OTHER DISCIPLINARY ACTION	11
NO DISCIPLINARY ACTION TAKEN	26