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AUTHORIZATION FOR THE DEPUTY COMMISSIONER OF INVESTIGATION FOR THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK TO ACT ON BEHALF OF THE CITY SCHOOL DISTRICT WITH REGARD TO INVESTIGATORY MATTERS

The following resolutions are submitted for adoption:

WHEREAS, the Joint Commission on Integrity in the Public Schools created by the Mayor, the Board and the Chancellor has recommended that the Office of the Inspector General of the Board of Education be made independent of the City School District, and the Board of Education has determined that such recommendation is in the best interests of the school system;

WHEREAS, the Mayor of the City of New York, by Executive Order No. 11 of 1990, in cooperation with the Board of Education and the Chancellor, has determined that a Deputy Commissioner position in the Department of Investigation be designated "Deputy Commissioner of Investigation for the City School District of the City of New York" (hereinafter "Deputy Commissioner");

WHEREAS, it is important that the Deputy Commissioner examine the impact of corruption and other illegal or improper conduct on the ability of the City School District, including the Board of Education, the Chancellor, Community School Boards, and Community Superintendents, to provide efficient and effective education programs;

WHEREAS, the Board of Education is authorized by Section 526 of the City Charter to investigate any subject of which it has cognizance or over which it has legal control, and is required by Education Law §2554 subd. 15a to promote the best interests of the schools; and whereas investigation into corruption and illegality in the school system will promote the best interests of the students and the school district;

WHEREAS, the Board is authorized by Education Law §2554 subd. 21 to appoint trial examiners to conduct investigations and hold hearings on its behalf; now, therefore, be it

RESOLVED, that the Board's resolution adopted on January 16, 1980 establishing the position and office of the Inspector General and the Board's resolution adopted on September 11, 1985 authorizing the Inspector General to compel the attendance of witnesses and the production of records are hereby repealed and any inconsistent provisions of any resolutions, bylaws, circulars, regulations, etc., are hereby superseded in order to effectuate the provisions set forth herein effective 60 days from adoption of this resolution or 15 days from the date of appointment of the Deputy Commissioner, whichever is earlier, provided however, that upon the appointment of the Deputy Commissioner, the Inspector General and all members of his staff shall be subject to the direction and control of the Deputy Commissioner and all of the provisions of this resolution shall be effective;

SPEC. BO. ED. MTC JUN 21 1990

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*signed 6/27/90*

RESOLVED, that the Deputy Commissioner of Investigation for the City School District of the City of New York appointed by the Commissioner of Investigation of the City of New York pursuant to Executive Order No. 11 of 1990 of the Mayor of the City of New York shall be the Deputy Commissioner of Investigation for the City School District;

RESOLVED, that the Deputy Commissioner shall exercise all those duties, powers and responsibilities of the Deputy Commissioner of Investigation set forth in Executive Order No. 11 of 1990 of the Mayor of the City of New York and shall have all those powers of the Board of Education and the Chancellor which are necessary to conduct as complete an investigation or to issue such reports as may be appropriate, including but not limited to the power to administer oaths and affirmations, to compel the attendance of witnesses and the production of documents, to examine witnesses in public or private hearings, to receive evidence, to preside at or conduct such hearings and investigations, and any other investigatory powers conferred on the Board of Education by the Education Law, the City Charter, or any other law;

RESOLVED, that the Deputy Commissioner and such deputies as he or she shall designate shall be deemed employees of the Board of Education assigned as trial examiners with authority under Education Law §2554, subd. 21 to conduct investigations and hold hearings on behalf of the Board of Education;

RESOLVED, that the Deputy Commissioner shall have authority to examine, copy or remove any document or other record prepared, maintained or held by the City School District of the City of New York, including the Board of Education, the Chancellor, Community School Boards, Community Superintendents and any other officer or employee of the school district, except those documents or other records which cannot be disclosed according to law;

RESOLVED, that the Deputy Commissioner shall have all those powers of the Board of Education and the Chancellor which are necessary for the Deputy Commissioner to require any officer or employee or former officer or employee of the City School District of the City of New York to attend an examination or hearing concerning any matter related to the performance of his or her official duties, and to require recipients of funds or services provided by or through the Board, or any person dealing with, or who has dealt with, the City School District of the City of New York or its officers and employees, to attend any examination or hearing concerning such dealings. If such a person declines to answer any question which is put to him or her, the Deputy Commissioner shall have the authority to advise the person that neither his nor her answer nor any information or evidence derived therefrom shall be used against him or her in a subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of an officer or employee of the City School District of the City of New York to answer questions on the condition described in this paragraph

shall constitute cause for removal from office or employment or other appropriate penalty. The refusal of any person dealing with the City School District of the City of New York, including dealings with the Board of Education, the Chancellor, and Community School Boards and Community Superintendents to answer questions on the condition described in this paragraph shall, pursuant to the appropriate provision of any contract related to such business dealing, constitute cause for cancellation or termination of such contract with the City School District of the City of New York that said person or any firm, partnership or corporation of which he or she is a member, partner, director or officer has entered into. The City School District of the City of New York shall not incur any penalty or damages because of such cancellation or termination. All contracts, leases, licenses or other agreements entered into or issued by the Board of Education shall contain a provision, approved as to form by the Corporation Counsel of the City of New York, permitting the Board of Education to terminate such agreement or take other appropriate action upon the refusal of a person dealing with the Board of Education to answer questions in relation to such agreement on the condition described in this paragraph;

RESOLVED, that the Board of Education, the Chancellor, and all Community School Boards and Community Superintendents within the City School District of the City of New York shall make every reasonable effort to insure the full cooperation of all persons employed or supervised by them with investigations or inquiries conducted by the Deputy Commissioner;

RESOLVED, that the Board of Education, the Chancellor, and all Community School Boards and Community Superintendents and all other officers or employees of the City School District of the City of New York shall make available to the Deputy Commissioner such facilities, services, personnel and other assistance as may be necessary for the conduct of his or her investigations;

RESOLVED, that the Board of Education, the Chancellor, and all Community School Boards and Community Superintendents within the City School District of the City of New York shall provide to the Deputy Commissioner upon request any and all documents, records, reports, files or other information, except such documents as cannot be so disclosed according to law. To insure full availability of such records and documents to the Deputy Commissioner, the Board of Education, the Chancellor, and all Community School Boards and Community Superintendents shall make and retain copies of any documents, records or files provided to state or federal prosecutors, or other investigative bodies, pursuant to subpoena or otherwise;

RESOLVED, that every officer or employee of the City of New York, including members of the Board of Education, the Chancellor, members of all Community School Boards and Community Superintendents shall have the affirmative obligation to report, directly and without undue delay, to the Deputy Commissioner, any and all information concerning conduct which they know or should reasonably know to involve corrupt or other criminal

activity, conflicts of interest, unethical conduct or misconduct (i) by an officer or employee of the City School District, which concerns his or her office or employment, or (ii) by persons dealing with the City School District, which concerns their dealing with the school district, and shall proceed in accordance with the Deputy Commissioner's directions. The knowing failure of any officer or employee to so report shall constitute cause for removal from office or employment or other appropriate penalty;

RESOLVED, that the Board of Education, the Chancellor, all Community School Boards and all Community Superintendents, as appropriate, shall continue to be responsible for the preparation and prosecution of administrative removal, disciplinary and incompetency proceedings, including the preparation and prosecution of such proceedings based on unethical conduct or misconduct as the Deputy Commissioner shall refer. The Deputy Commissioner may request in writing that the Board of Education, the Chancellor, all Community School Boards and Community Superintendents, as appropriate, hold disciplinary or other administrative action in abeyance pending the completion of an investigation, if such disciplinary or administrative action would interfere with an investigation being conducted by his or her office. The Deputy Commissioner shall be notified in writing at least ten days before the initiation of disciplinary proceedings against an employee, except that in cases where the health, safety or welfare of students and/or staff is at risk, shorter notice may be given provided however, that in no event shall such notice be less than twenty-four (24) hours and shall be notified in writing of the disposition of all disciplinary proceedings. The Board or the Chancellor, as appropriate, shall have the power and shall take whatever actions deemed necessary to ensure compliance with the provisions of this paragraph;


RESOLVED, that the Deputy Commissioner, in consultation with the Board and the Chancellor, shall develop procedures to ensure the effective and timely implementation of this resolution;

RESOLVED, that the salaries and expenses of the Deputy Commissioner and his or her staff shall be borne by the Board of Education, within a budgetary allocation to be mutually agreed upon by the Board of Education and the City, provided however that such budgetary allocation shall be adequate to ensure the effective and independent performance of the duties and responsibilities of the Deputy Commissioner.

Respectfully submitted.

A TRUE COPY OF RESOLUTIONS ADOPTED  
BY THE BOARD OF EDUCATION ON JUN 27 1980

ASSISTANT SECRETARY, BOARD OF EDUCATION

  
Robert F. Wagner Jr.  
President of the Board