

March 6, 2006

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

Re: Platform Learning Inc.  
SCI Case #2004-2153

Dear Chancellor Klein:

This office conducted an investigation of certain Supplemental Educational Services (“SES”) providers. Under the Federal *No Child Left Behind Act* (“NCLB”), if a public school child is eligible for free lunch and attends a Title I school designated “in need of improvement” that child is eligible to enroll in an SES program.<sup>1</sup> SES offers extra academic help to students outside the regular school day and is funded by the Title I allocation that the Department of Education (“DOE”) receives from the Federal Government.<sup>2</sup> During the 2004-2005 school year, the Federal government allotted over \$851,000,000 to the DOE for Title I. \$80 million was paid out to SES providers who were permitted to charge a maximum of \$1,997 per student for 100% attendance in a program.<sup>3</sup> For the 2005-2006 school year, the Federal government has allotted over \$798,000,000 to the DOE for Title I and SES providers are permitted to charge a maximum of \$2,181.65 per student for 100% attendance.<sup>4</sup>

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<sup>1</sup> Information obtained from the New York City DOE NCLB Supplemental Educational Services Directory of Approved SES Providers 2004-2005. The New York State Education Department (“SED”) identifies schools that are “in need of improvement” as required under the NCLB rules.

<sup>2</sup> Information obtained from the New York City DOE NCLB Supplemental Educational Services Directory of Approved SES Providers 2004-2005.

<sup>3</sup> The NCLB Law establishes a joint funding mechanism for choice-related transportation and SES which can amount to 20 percent of Title I, Part A allocation. Accordingly, in school year 2004-2005, the DOE could have spent up to \$160 million on SES.

<sup>4</sup> This is a preliminary amount which will be adjusted throughout the year. For the 2005-2006 school year, certain Districts within the DOE are permitted to operate SES programs. The cost of these programs is \$1,000 per student for 100% attendance.

The investigation revealed that Platform Learning Inc. (“Platform”), Newton Learning (“Newton”), and several other SES providers engaged in a number of questionable business practices in their dealings with the DOE, with parents of DOE students and with students themselves.<sup>5</sup> These included misappropriation and misuse of confidential student information and the offering of self-serving incentive programs.<sup>6</sup> Furthermore, providers failed to conduct background and fingerprint checks on individuals who worked on school premises and who came in contact with New York City public schoolchildren.<sup>7</sup> In addition, we found that a number of DOE employees facilitated the questionable conduct of the SES providers.

This investigation also focused on improprieties committed by SES providers during efforts to enroll as many students as possible and to secure space in schools. Providers with in-school space enjoyed an obvious advantage in recruiting students for after-school tutoring as the students did not have to travel to an outside location. The DOE allowed the for-profit SES vendors to utilize DOE classroom space, essentially free of charge, if the decision to issue a permit was granted by the school’s principal and the Regional Operations Center.<sup>8</sup> SES providers lobbied to receive this coveted permit by “selling” their program to the principals. Due to the limited space available, principals had to decide which SES providers would be allowed to operate in-school programs. Once a decision was made, the principals and each chosen provider signed an agreement known as the SES Notice of Engagement (“SES Notice”) which memorialized the requirements that the SES providers would adhere to while operating an in-school

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<sup>5</sup> Newton is a division of Edison Schools Inc.

<sup>6</sup> A reference to an incentive program was contained in Platform’s application to the SED which was approved. According to Shelia Evans-Tranum, SED Associate Commissioner for New York City School and Community Services, as of February 2005, no other SES provider operating in the New York City School District included incentives in the application to the SED. Evans-Tranum stated that the SED used a private vendor for technical assistance in reviewing the applications of SES providers. The DOE has advised SES providers that only those who include an incentive package in their application to SED will be permitted to request permission from the DOE to offer incentives.

<sup>7</sup> Investigators from this office notified Alan Friedman, former Deputy Administrator for the DOE Office of Contract Management, and members of his department about this problem and his unit took steps to improve the background check section of the DOE’s contract with SES providers.

<sup>8</sup> Investigators questioned the propriety of allowing SES providers to use in-school space for little or no cost. For the 2005-2006 school year, SES providers seeking the privilege of operating their program using DOE classroom space were supposed to have agreed to a 9% reduction in the unit price for all services provided to students on school premises. However, according to David Ross, Executive Director of the DOE Division of Contracts and Purchasing, for the 2005-2006 school year, and SES providers that applied for a waiver of the 9% were granted one. Ross informed investigators that for the 2006-2007 school year, no waivers will be granted.

program.<sup>9</sup> In addition to “selling” their tutoring services to principals or in some instances “buying” the principals’ approvals, SES providers also engaged in questionable activities to entice parents and students to sign up for their programs. Because the payment of funds to providers was tied to student attendance, SES providers tried to ensure participation by providing incentives and rewards to the children. These included items of value such as CD players, sporting event tickets, and \$100 gift cards.

This investigation began in September 2004, when Region 5 Local Instructional Superintendent Martin Weinstein alleged that a Platform representative had approached several principals and offered to pay each of their schools \$5,000 if they enrolled 150 or more students in the Platform program. The investigation of this initial complaint substantiated that Michael Davis, a Platform representative, offered money to a DOE principal in exchange for a guarantee that at least 150 students from that school would enroll in Platform’s SES program.

After substantiating Davis’s conduct, we expanded the investigation to determine if the improprieties uncovered were indicative of a wider problem. A number of representatives from different SES providers were interviewed as were DOE employees, parents and students. We conducted over 100 interviews and reviewed thousands of pages of documents.

Our investigation found that several providers engaged in questionable business practices all in efforts to attain the maximum amount of Federal dollars available under the SES program. In this pursuit, SES providers attempted to secure in-school space to foster the attendance of students through monetary donations to schools, the procurement and use of confidential student information, improper parent and student solicitation, and the offer of money to parent coordinators for the enrollment of students.<sup>10</sup> The SES providers also compromised the safety of students by failing to perform fingerprint and background checks of employees sent into schools.<sup>11</sup>

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<sup>9</sup> Under the terms of the 2004-2005 school year version of this agreement, section j read: “The provider shall ensure that only staff that has received fingerprint clearance and background check will be permitted in the school.” This section is more inclusive than the old contract section which required security clearance, including fingerprint check, only for those in direct contact with students.

<sup>10</sup> According to SES provider contracts, “Contractor shall not: give or offer to give money, gifts, or anything of value or any other benefit to a...public servant for any reason.”

<sup>11</sup> According to the SES Notice, section j: “The provider shall ensure that only staff that has received fingerprint clearance and background check will be permitted in the school.”

## The Initial Investigation

### Davis

Investigators spoke to a confidential source who reported receiving a telephone call from Michael Davis, Platform's Development Coordinator, in which Davis offered a payment of \$5,000 to the source's school as an incentive in exchange for the enrollment of more than 150 students in the Platform program.<sup>12</sup> During the conversation, Davis agreed to meet with the confidential source at a later date, but the Platform representative failed to appear for the appointment.

In the presence of his attorneys, investigators interviewed Davis on two occasions. He denied committing the conduct reported by the confidential source. Davis acknowledged that Platform representatives had proposed a "gold, platinum, and silver" incentive program, which the confidential source had described, but maintained that he never discussed this program with any DOE employee. Davis asserted that the purpose of this incentive program was for Platform to "reinvest" in a school through monetary donations to reimburse the school for the cost of resources used by Platform.<sup>13</sup> He explained that the reimbursement was termed "gold, platinum, and silver" based on student enrollment and attendance at the school. Davis repeatedly claimed that the program was discussed only at the Platform offices. However, Davis finally acknowledged that, during a conversation with Everett Hughes, principal at IS 292 in Brooklyn, the concept of giving funds to schools was raised. Still Davis claimed that no specific amounts were discussed.<sup>14</sup>

In the second interview, additional questionable business practices were confirmed. Davis admitted that personnel from two schools provided him with students' personal information. Specifically, the principal at one school in Brooklyn provided Davis with the students' telephone numbers to enable Platform to solicit the parents at their homes. Davis added that the company used a number of call lists to contact parents. Davis revealed that he discussed the fact that he was obtaining the students' telephone numbers with Matthew Fields, Vice President of Platform for the Northeast Region. Davis indicated that Fields responded "way to go" when he was informed of Davis's acquisition.<sup>15</sup>

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<sup>12</sup> Investigators have a tape of a telephone call in which Davis withdrew his offer of a payment of funds to the school. The offer was withdrawn after the fact of this investigation had been made public.

<sup>13</sup> According to Davis, Platform never initiated this program.

<sup>14</sup> Hughes denied having this conversation with Davis, but the confidential source reported that Hughes divulged details of the program from the discussion with Davis.

<sup>15</sup> Davis indicated that he knew of at least one other Platform employee who had secured a listing of the telephone numbers of DOE students. Davis speculated that additional Platform employees may have acquired the same information from other schools. Davis also described Fields as his "best" friend.

According to Davis, other Platform personnel, whom he could not identify, possessed copies of student rosters which listed confidential student pedigree information.<sup>16</sup> The Platform representative explained that at some schools the rosters were left in plain view by parent coordinators, but he claimed that he did not copy or gather any of the information contained in these documents.

Davis also reported that he knew of at least one parent coordinator who was hired by Platform to enroll students. Davis explained that he learned about that employment because the DOE later provided clarification on the conflicts of interest guidelines which caused the parent coordinator to stop working for Platform. Davis added that Platform did not pay any funds to this DOE employee.

Moreover, Davis admitted that he gave \$2,000 to a principal.<sup>17</sup> Specifically, Davis stated that he received a telephone call from Casper Cacioppo, principal of PS 89 in Queens, seeking a contribution to the school's renovation fund.<sup>18</sup> Davis explained that Platform operated an in-school program at PS 89 at the time of the solicitation and during the subsequent 2004-2005 school year.

Davis also confirmed our finding that Platform failed to conduct timely background and fingerprint checks on individuals who ultimately came in contact with New York City public schoolchildren. Davis acknowledged that he and other Platform representatives were not fingerprinted until after this investigation began. Davis stated that, after Platform launched its in-school programs, he received an e-mail from Matthew Fields which included the names of numerous individuals who were to be removed from the company's program with the DOE as a result of their fingerprint checks.

#### Fields

In addition to Davis, in the presence of his attorneys, investigators interviewed Matthew Fields on two occasions. During these interviews, Fields was, at times, evasive. However, he acknowledged personally requesting and receiving student information from DOE school personnel. Moreover, he confirmed that Platform both offered and actually donated sums of money to a number of DOE schools.

According to Fields, Platform was founded in early 2003.<sup>19</sup> Fields stated that it was his understanding that individuals working in Platform's SES program were required

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<sup>16</sup> Davis stated that in the spring of 2004, Platform's General Counsel advised him and other Platform staff members that they were no longer permitted to gather and use student rosters.

<sup>17</sup> The investigation revealed that Davis also provided funds to Everett Hughes, principal of IS 292 in Brooklyn, however, Davis failed to disclose this information.

<sup>18</sup> After first refusing to speak to investigators, Cacioppo later acknowledged his request and receipt of funds from Platform.

<sup>19</sup> Fields described himself as one of the four founders of Platform.

to have fingerprint checks but could begin working in the DOE schools while awaiting the results.<sup>20</sup> Fields claimed that he did not offer any incentives or monetary amounts to schools, principals, assistant principals or parent coordinators, and was not aware of any Platform employee extending such an offer. Contrary to that assertion, he acknowledged the payment of funds, by Platform, to a number of schools.<sup>21</sup>

Fields admitted that during the 2003-2004 school year, there were instances in which DOE employees gave Platform representatives lists of telephone numbers relating to students not enrolled in the Platform program. Fields explained that in the following school year he “heard” that a list of student contact information, which may have contained addresses, social security numbers and dates of birth, was given to a Platform representative. According to Fields, during this same school year, it was his understanding that under the supervision of the principals or their designee, Platform could make use of student lists.<sup>22</sup>

Moreover, Fields stated that although he had been visiting schools since January 2004, he was not fingerprinted by the DOE until December 2004. Fields acknowledged that Platform had a number of individuals who worked in New York City public schools before being fingerprinted. Fields explained that it was not until December 2004, that he first became aware that some Platform workers may not have been fingerprinted.

Fields reported that the idea of a monetary offering for schools where Platform was providing services, dubbed the gold, platinum, silver program, was proposed during an internal discussion at Platform offices. Fields added that after further discussion it was decided that such a program could be perceived as an inappropriate offer. According to Fields, he did not know of any Platform employee who made an offer under this program. Fields stated that if he learned that a Platform employee had made such an offer he would recommend termination of that person’s employment.

Fields stated that it was his understanding that money, in the form of a donation, was given to PS 89 in Queens as a result of a request by the school’s principal, Casper Cacioppo, to Platform representative Davis. Fields reported that Platform also gave

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<sup>20</sup> The initial contract that the DOE signed with Platform stated that only individuals who were deemed to have direct contact with children needed to be fingerprinted and clearance was not required before beginning work in schools. However, under the terms of the 2004-2005 SES Notice, providers were required to ensure that only staff members who had received “fingerprint clearance and background check” were permitted in schools. The DOE has since changed the fingerprint and clearance section of the contract which now requires that no provider representatives may work in schools until fingerprint clearance has been given.

<sup>21</sup> At a later point during the interviews, Fields also acknowledged offering funds to parent coordinators for enrollment of students in the Platform SES program.

<sup>22</sup> According to Betty Arce, Director of NCLB/SES Implementation for the DOE, schools are not permitted to give student information to SES providers in this fashion.

funds to IS 292 in Brooklyn for what he described as a “scholarship fund.” It was Fields’s understanding that Everett Hughes, the school’s principal, requested the donation from Platform representative Davis.<sup>23</sup> Fields added that funds were offered to at least one other school.<sup>24</sup>

In addition, Fields stated that, during the 2003-2004 school year, Platform offered \$15 to parent coordinators for each student enrolled, but halted that practice after the DOE notified Platform that parent coordinators could not be hired by the vendor. Contrary to his earlier statements, Fields admitted that he offered a number of parent coordinators money to enroll students.

### The Expanded Investigation

Based on the results of our initial investigation, we expanded our inquiry and examined other practices engaged in by Platform, Newton and other SES providers.

### Platform

In addition to the practices reported above, our investigation substantiated that certain Platform representatives engaged in the following questionable activities at a number of schools. The instances cited represent only some examples of the conduct discovered.

- Requested and/or obtained confidential student information/labels: According to several principals and parent coordinators, various Platform representatives requested personal student information, including names, addresses and telephone numbers, as well as labels which contained pre-printed pedigree details. Many principals denied the requests; however, one parent reported that an uncompleted enrollment form was left at her home and affixed to the document was a label containing her son’s personal information which was on file at the school.<sup>25</sup> A second confidential source informed investigators that Matthew Fields directed various employees to obtain the student lists containing students’ names, addresses and telephone numbers.<sup>26</sup> Platform representative Deirdre Lizio wrote a letter to a principal at a Brooklyn school requesting labels to enable her to mail Platform program information directly to students’ homes.

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<sup>23</sup> In his interview, Davis did not reveal that funds were given to Hughes. In an interview with Hughes, the principal denied requesting a donation, although he acknowledged accepting funds from Platform. Hughes claimed that, at the request of Davis, he provided the money to a few graduating students.

<sup>24</sup> The investigation revealed that Platform offered items of value, including sums of United States currency, to a number of DOE schools.

<sup>25</sup> The label contained her child’s name, address, telephone number, date of birth, student identification number, grade, class number, room number, as well as both parents’ names.

<sup>26</sup> Despite the fact that both Fields and Davis used student lists at Platform’s office, Fields claimed that he advised Platform employees they should obtain student lists to be used as a means of soliciting parents only under the supervision of school principals.

- Failed to fingerprint or do background checks on individuals who came into contact with students: A number of representatives working in schools were not fingerprinted on a timely basis. During the course of this investigation, Platform was forced to terminate the employment of a number of individuals who were not given clearance after they were ultimately fingerprinted.<sup>27</sup>
- Solicited in the schools: Several representatives improperly solicited parents inside schools. In one instance, a principal halted this activity and instructed the representatives that they may solicit only outside the school.
- Offered items of value to schools based on the number of students attending Platform classes: A Brooklyn principal reported that Platform representative Deirdre Lizio suggested supplying TVs to the school in order to boost enrollment of students.<sup>28</sup> The principal stated that she stopped Lizio from continuing with this offer. A Bronx principal reported that Platform representative Nilda Peraza offered her a trip to Puerto Rico for enrolling students in the Platform program.<sup>29</sup>
- Solicited parents: Many Platform representatives, assigned to student recruitment, went to parents' homes, suggested that the school had sent them, and advised that the parents must fill out the SES selection forms if they wanted their children to receive free lunch. A number of parents complained that Platform representatives possessed personal student information and repeatedly used it to solicit the parents at their homes. A Platform representative admitted that a Platform program manager, Kareem Hairston, for whom she was working, provided her with partially completed selection forms with the instruction to obtain the parents' signatures.<sup>30</sup> At a Bronx school, during a SES informational session, Nelson Maldonado, a Platform representative, asked parents how Platform could help the school.<sup>31</sup> One parent suggested a contribution for the playground. At the completion of the Platform program, Maldonado left a \$3,180 check at the school which was returned at the direction of the principal.
- Distributed backpack mailers to schools: Platform ordered over 200,000 backpack mailers which they delivered to a large number of schools for the purpose of sending the advertisement documents home with students. Many principals did not allow the mailers to be sent with the students because of the possible perception of a school endorsement, but others participated in Platform's self-promotion plan.

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<sup>27</sup> Several Platform employees failed to disclose their criminal records. Fingerprint checks revealed those individuals were arrested for crimes that included: attempted murder, attempted robbery, and the sale of narcotics.

<sup>28</sup> Lizio denied making this offer.

<sup>29</sup> Peraza denied making this offer.

<sup>30</sup> Hairston denied the allegation.

<sup>31</sup> This occurred at PS/MS 95 in the Bronx.



- Offered money to parent coordinators for recruitment of students: Fields admitted that during the 2004-2005 school year Platform may have hired parent coordinators and offered them money to enroll students. A parent coordinator confirmed that Davis offered her money to enroll students.<sup>32</sup> The parent coordinator stated that although she enrolled students for Platform, she was never compensated.
- Misstated student attendance: A parent received a perfect attendance form for her daughter although the child never attended the Platform program.<sup>33</sup>
- Promised and/or gave incentives/rewards/gifts to students: Platform created flyers in which they promised “boom boxes” and CD players to students participating in its program. According to a Brooklyn principal, a Platform representative informed her that the company provided incentives to the children in order to keep attendance up.
- Conducted a raffle at a school: The raffle, conducted as part of a SES provider informational session, required parents to submit a completed enrollment form in order to be eligible for the drawing. A Platform representative reported that during a training session she and other employees of the vendor were instructed to conduct raffles as a means of advertising the Platform program to parents.
- Recruited the President of a PTA to obtain a student roster: On Platform’s behalf, a PTA President requested that a parent coordinator provide her with a list of eligible students, including their addresses and telephone numbers. This request was denied.
- Gave funds to schools: Davis and Fields stated that funds were donated to IS 89 in Queens, after the principal requested a donation for the school.<sup>34</sup> Fields acknowledged that money was donated to IS 292 in Brooklyn after the principal requested a donation for a scholarship fund.<sup>35</sup> Moreover, Fields stated that Platform offered funds to a school in the Bronx for playground mats.<sup>36</sup> In addition, Platform gave a \$1,500 check to PS 123 in Manhattan.<sup>37</sup>

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<sup>32</sup> The parent coordinator stated that she ceased enrolling students when she was advised it was a conflict of interest.

<sup>33</sup> Although this parent enrolled her child in the Platform program, the girl never attended any session.

<sup>34</sup> Casper Cacioppo, the school’s principal, eventually acknowledged this request.

<sup>35</sup> Everett Hughes, the school’s principal, denied that he requested funds. However, Hughes acknowledged that Davis provided cash that was given to approximately 5 graduating students. After the interview, Hughes, through his attorney, provided the names of 4 of the students.

<sup>36</sup> The principal at this school advised investigators that she rejected these funds which had been left at the school by a Platform representative.

<sup>37</sup> Principal Beverly Lewis indicated that a Platform representative, whom she could not identify, gave the money to the school store.

- Exceeded Student to Instructor Ratios: Investigators discovered a number of occasions when the student to instructor ratio far exceeded those advertised and contractually agreed to by Platform.<sup>38</sup>
- Maintained student contact information on personal computer: A part-time Platform employee reported that he kept student contact information on his personal computer.

During the course of our investigation, Platform stopped engaging in some of the questionable activities that our investigators uncovered. Not all Platform representatives were fingerprinted on a timely basis but after fingerprint checks were performed several individuals were no longer permitted to work at DOE facilities. Platform eventually agreed that no Platform representative would be permitted to enter a school without being fingerprinted and given clearance.<sup>39</sup> Attorneys for Platform have indicated that the company has hired a compliance officer to address the questionable practices discovered.

#### Newton

Our investigation substantiated that certain Newton representatives engaged in the following questionable activities at a number of schools. The instances cited represent only some examples of the conduct discovered.

- Failed to conduct fingerprint and background investigations of employees/subcontracted workers who came into contact with students: Newton permitted both employees and subcontracted workers to enter schools and to come in direct contact with students prior to receiving the appropriate fingerprint clearance.<sup>40</sup>
- Offered money to a school based on the number of students recruited: A DOE teacher, working as a Newton instructor, reported that Newton representative Fred Salon offered her a bonus based on student attendance.<sup>41</sup> Moreover, this same Newton representative stated that the company would pay funds to the school based upon student attendance. According to the school's principal, Newton never paid any funds to the school.

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<sup>38</sup> In its original contract, Platform listed its instructor to student ratio as 1: 4-7. In its recent contract Platform listed its instructor to student ratio as 1: 4-10, on average.

<sup>39</sup> The DOE had changed the relevant contract clause to require fingerprinting and clearance for all working in schools.

<sup>40</sup> Fingerprint checks conducted on Newton employees revealed that individuals were arrested for various crimes including: robbery, criminal sale of a controlled substance, and criminal mischief. Subcontracted workers, who were never fingerprinted, were hired to perform solicitation skits in the students' classrooms.

<sup>41</sup> Salon acknowledged making this offer. The teacher did not receive any money from Newton.

- Directly solicited students: Students confirmed that Newton representatives directly solicited them at school and advised the students they would receive money based on their attendance. Moreover, a principal permitted Newton to have subcontracted workers perform skits in classrooms promoting the Newton program to students.<sup>42</sup>
- Recruited students after being warned by the DOE not to solicit: DOE personnel reported that Newton representatives solicited students even after being told to cease that activity. Newton's attorney acknowledged that the company had been told by the DOE to refrain from such conduct.
- Offered \$100 and \$50 gift certificates to students for attendance: Several school employees and students reported that Newton offered gift certificates.<sup>43</sup>
- Used a parent coordinator and a principal to promote program: Newton representative Fred Salon sent a letter to a parent coordinator which promoted Newton as the provider of choice.<sup>44</sup> The parent coordinator in turn placed the information on the school's letterhead and the principal signed the document which was distributed to students.

Throughout the course of our investigation, Newton stopped engaging in some questionable practices uncovered by our investigators. Newton's General Counsel reported that Newton representatives were no longer permitted to enter a school prior to fingerprint clearance. Moreover, the company stopped soliciting students inside schools.

#### Other SES providers

Although the expanded investigation focused primarily on Platform and to a lesser degree Newton, there was information to suggest that those companies were not the only SES providers that engaged in questionable practices. During the course of this investigation we discovered a number of SES providers that failed to fingerprint their representatives and improperly requested student confidential information and student labels. In addition, providers have failed to adequately explain to parents that they may enroll their child in only one SES program per school year. This office continued to receive complaints even after the completion of this investigation.

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<sup>42</sup> According to Betty Arce, Director of NCLB/SES Implementation for the DOE, only parents are permitted to enroll their children in an SES program. Moreover, the providers are not permitted to directly solicit students.

<sup>43</sup> Newton's General Counsel believed that the company failed to include any mention of incentives to students in its application to the SED. This was confirmed by Shelia Evans-Tranumn, SED Associate Commissioner for New York City School and Community Services.

<sup>44</sup> Salon acknowledged sending the letter to the parent coordinator.

### DOE Employees

It is important to reiterate the competitive edge held by the SES vendor selected as the in-school provider. This highly coveted designation by the principal allows the provider access to students who are already present at the school. The expanded investigation disclosed that DOE personnel improperly provided access to student information to certain providers and permitted SES representatives to enter schools and directly solicit students. The instances cited represent some examples of the conduct discovered.

- Principals/parent coordinators/other DOE employees provided student rosters, labels with student information, and student telephone numbers: According to Fields, a parent coordinator provided him with a handwritten listing of information for approximately 100 students.<sup>45</sup> A parent reported that an enrollment form was left at her home and affixed to the document was a label containing her son's personal information.<sup>46</sup> In addition, a parent reported that a parent coordinator informed her that she provided student labels to Platform representatives.
- Principals directed parent coordinators to give student labels to provider: Parent coordinators stated principals directed the distribution of student labels to Platform representatives and other SES providers.
- Principal sent out flyer endorsing one provider: A principal endorsed a Newton advertisement flyer and permitted its dissemination to parents and students. The flyer, which was created by a Newton representative, stated that "Newton is the best SES choice."
- Limited providers selection/pre-populated forms: A parent reported that she received a SES enrollment form which had the provider already selected. According to the parent, when she called the school regarding the form, she was advised that she could choose from only three providers.

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<sup>45</sup> Fields stated that during the 2004-2005 school year it was his understanding that with the supervision of the principal or his/her designee, Platform could make use of a student list. However, Fields, Davis and other Platform representatives received personal student information which was used at Platform's offices and outside principals' supervision. According to Betty Arce, Director of NCLB/SES Implementation for the DOE, student lists should not be provided to SES providers for use either on or off school premises.

<sup>46</sup> The label contained her child's name, address, telephone number, date of birth, student identification number, grade, class number, and room number, as well as both parents' names.

- Principal allowed soliciting of parents: Several principals permitted Platform representatives to include a Platform flyer along with the DOE Directory of SES Providers sent home from the school to parents.<sup>47</sup>
- Assistant principal allowed provider to speak to students in school: An assistant principal permitted Newton representatives to set up a table in the cafeteria and to solicit students during their school day.
- Principals accepted money for the school: Several principals accepted money from Platform representatives.
- Did not sign in at schools: Investigators discovered that at a number of schools SES representatives were not required to sign in upon entering.
- Parent coordinators failed to safeguard labels and student rosters: Parent coordinators and SES representatives often shared office space in rooms where the DOE employees kept student labels and student rosters.<sup>48</sup> Some parent coordinators acknowledged that this information frequently was left unattended, in plain view or in unlocked drawers.

#### Improper Actions by DOE Principals/Assistant Principal

In his initial interview with investigators, Everett Hughes, principal at IS 292 in Brooklyn, claimed that Davis informed him that the vendor could provide incentives to the students, but that the Platform representative failed to elaborate. Hughes added that he never received any money from Davis only picture frames, pencils and T-shirts, which were distributed to the students. In his next interview with investigators, this time under oath and in the presence of his attorney, Hughes maintained that he never received any money or gifts from Platform. He claimed he would never compromise his position and that if any incentives had been discussed he would have notified the Region immediately. Despite this, Platform representatives stated that Hughes requested and accepted funds for a scholarship program at the school.<sup>49</sup> In his third interview with investigators, again under oath and in the presence of his attorney, after compelling his testimony, Hughes admitted that Platform representative Michael Davis had given him several envelopes

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<sup>47</sup> Betty Arce, Director of NCLB/SES Implementation for the DOE, advised investigators that no provider is permitted to send advertisements with school materials.

<sup>48</sup> According to Betty Arce, providers are only allowed to utilize school premises to store SES learning materials.

<sup>49</sup> Platform representatives believed that they provided Hughes with a check, however, they were unable to produce a cancelled one.

containing sums of United States currency totaling \$500.<sup>50</sup> Hughes stated that at the request of Davis, he handed the cash filled envelopes to certain graduating students. Hughes denied requesting the funds provided by Platform.

Platform representatives stated that Casper Cacioppo, principal at PS 89 in Queens, requested and accepted funds for a school beautification project. According to an employee at the school, Cacioppo directed her to print out all the student labels and supply them to a Platform representative. Another school employee confirmed that Cacioppo gave this instruction. In an initial interview, upon advice of counsel, Cacioppo refused to answer any questions.

In a second interview with investigators, conducted under oath and in the presence of his attorney, after compelling his testimony, Cacioppo admitted that he solicited funds from Platform and received a check in the amount of \$2,000.<sup>51</sup> Cacioppo maintained that he received permission from his superior to solicit funds from private companies. However, Cacioppo acknowledged that he failed to advise his superior that he had requested the funds from a SES provider conducting an in-school program.<sup>52</sup> Cacioppo stated he was uncertain if he instructed any school employee to provide student labels to a Platform representative or any SES representative.

According to Kim Day, parent coordinator at JHS 284 in Brooklyn, Platform representative Fields requested a listing of confidential student information which she provided to Platform after receiving an instruction to do so from Principal Prescilla Williams.<sup>53</sup> Day reported that she did not receive any money from Platform for that task.

Marilyn Smith, principal at PS 66 in the Bronx, acknowledged that she signed a letter promoting Newton and permitted its dissemination to students.<sup>54</sup> Noemi Intriago, parent coordinator at the school, reported that she received a promotional letter from Newton representative Fred Salon, placed it onto the school letterhead, and had the principal sign it. Intriago added this letter was distributed to students.

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<sup>50</sup> Hughes invoked his 5<sup>th</sup> Amendment privilege against self incrimination at which point he was granted use immunity in connection with his testimony and advised that his statements would not be used against him in any subsequent criminal prosecution other than for perjury or contempt arising from his testimony. This interview was conducted with Hughes under oath and in the presence of the principal's attorney.

<sup>51</sup> Cacioppo invoked his 5<sup>th</sup> Amendment privilege against self incrimination at which point he was granted use immunity in connection with his testimony and advised that his statements would not be used against him in any subsequent criminal prosecution other than for perjury or contempt arising from his testimony.

<sup>52</sup> Platform operated an in-school program at IS 89 during school years 2003-2004 and 2004-2005. The donation was received in April of 2004.

<sup>53</sup> Williams has since retired from the DOE and investigators were unable to locate her. Fields acknowledged that he requested and was provided with this information.

<sup>54</sup> Smith stated that at the time she signed the letter she was not familiar with the DOE policies prohibiting promoting SES providers.

According to Julie Anne Lizardi, parent coordinator at PS 98 in the Bronx, at the direction of Principal Alan Geller, she provided a student listing containing confidential information to representatives from Platform. Principal Geller maintained that he never gave Lizardi permission to supply student information to Platform, but could not recall whether he was the direct source of the supplied information.

Assistant Principal Monica Wachter assigned to IS 180 in Queens indicated that she could not recall if she gave Newton representatives permission to speak directly to students.<sup>55</sup>

#### Improper Actions of DOE Parent Coordinators/Paraprofessional

In his first interview with investigators, Gerald Rodriguez, parent coordinator at IS 292 in Brooklyn, stated that no one from Platform offered him any incentive to solicit or recruit students. However, in a subsequent interview, Rodriguez admitted that a Platform representative, Matthew Fields, offered him money to enroll students.<sup>56</sup>

According to Radames Robles, parent coordinator at PS/IS 123 in the Bronx, he kept the student labels in his unlocked desk in an office which he shared with representatives from Platform and Pathway for Youth Boys & Girls Club (“Pathway”).<sup>57</sup>

Milagros Colon, parent coordinator at PS 110 in the Bronx, told investigators that she shared her office with representatives from Platform and Kaplan K12 Learning Services and that she kept the student labels in her unlocked desk in that office.<sup>58</sup>

Kim Day, parent coordinator at JHS 284 in Brooklyn, reported that Platform representative Matthew Fields offered her money to enroll students.<sup>59</sup> Day admitted that she did enroll a number of students.

Carolyn Quiles, parent coordinator at IS 141 in Queens, stated that Platform representative Michael Davis offered her money to enroll students. Quiles acknowledged that she did enroll a number of students. Quiles later learned that her efforts on

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<sup>55</sup> Newton representatives informed investigators that Wachter gave them permission to speak to the students.

<sup>56</sup> Although he enrolled students, Rodriguez did not receive any payment for his services.

<sup>57</sup> Principal Virginia Connelly acknowledged that she permitted the SES providers to share office space with Robles, however, she did not know that the parent coordinator kept the student labels in his unlocked desk.

<sup>58</sup> Jean Mirvel, principal at the school, stated that he permitted the SES providers to share space with Colon, but he was unaware that the parent coordinator maintained the student labels in an unlocked desk. In fact, Mirvel reported that he informed Colon that the labels contained confidential information and that they should be locked up at all times.

<sup>59</sup> According to Day, she did not receive any funds from Platform.

Platform's behalf were a possible conflict of interest and she did not receive any funds from Platform for the work she performed.

According to Noemi Intriago, parent coordinator at PS 66 in the Bronx, she supplied student labels to Tiffany Holt, president of Test Quest Inc., a SES service provider.<sup>60</sup> Intriago reported that a representative from Pathways offered her \$150 a week to recruit students. The parent coordinator stated she refused this offer. Intriago explained that she received a promotional letter from a Newton representative which she placed onto the school letterhead and had Principal Marilyn Smith sign. Intriago stated this letter was distributed to students. Principal Smith acknowledged that she signed the promotional letter and permitted its dissemination to students.<sup>61</sup>

Jesus Rodriguez, a paraprofessional assigned to PS 66 in the Bronx, informed investigators that a Pathways representative offered him \$50 per day to recruit students. Rodriguez reported that although he recruited a number of students, he was not paid for his work.

Julie Anne Lizardi, parent coordinator at PS 98 in the Bronx, stated that at the direction of Principal Alan Geller, she provided representatives from Platform a student listing containing confidential information. According to Lizardi, Platform representatives also used DOE phones to solicit parents of DOE students. Principal Geller maintained that he never gave Lizardi permission to supply student information to Platform, but could not recall whether he supplied the information directly.

### Conclusions and Recommendations

Our investigation substantiated that several SES providers engaged in improprieties. Moreover, several DOE employees either purposely or unwittingly assisted the providers in questionable actions. In addition, the administrative procedures employed to maintain attendance and billing records were not and are not adequate to prevent fraud and the current procedures for obtaining space in schools also needs improvement.

During the course of our investigation, investigators advised the DOE of some of the problems we discovered and made recommendations to the DOE. As a result, certain

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<sup>60</sup> Holt denied receiving this information. She claimed she only received labels for students enrolled in the Test Quest Inc. program.

<sup>61</sup> Smith indicated that at the time she signed the letter she was not familiar with the DOE policies prohibiting promoting SES providers.



modifications were made and contract provisions were strengthened. For example, the fingerprint and clearance section of the contract now requires that no provider representatives may work in the school until fingerprint clearance is given.<sup>62</sup> The contract was also changed to notify vendors that they “shall not offer any rewards, gift, and/or incentives to students and/or parents/guardians of students for any reason whatsoever...without written approval of the Board [DOE].”<sup>63</sup>

It is apparent that the SES programs in use in New York City public schools, although evolving, are still susceptible to unfair business practices. Steps must continue to be taken to make certain that the programs are carried out properly and that every effort is made to ensure the safety of the students. Changes need to occur to bring more accountability into the system. The following is a series of recommendations to aid in this process:

- All providers must be reminded that they are responsible for the actions of their employees and subcontracted workers.
- Parents should submit enrollment documents directly to the schools which will forward them to the Regions. The Regions should then notify the providers of the enrollment status of each student.
- To ensure the integrity of the attendance process students should be required to sign in at both the beginning and completion of each program session. We also recommend that all SES providers use a uniform student attendance sheet which must be signed by instructors who thereby certify its accuracy.<sup>64</sup> The document should note the disciplinary and criminal penalties which can stem from the approval of false information. In addition, on-site non-instructor provider personnel must conduct an attendance roll call at the beginning of each instruction period and co-sign the certified attendance sheet.<sup>65</sup>
- Provider personnel must be required to wear an identification badge and sign into schools upon entering.

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<sup>62</sup> Under the former contract provision only individuals who were deemed to have direct contact with children needed to be fingerprinted and clearance was not required before the individuals worked in schools.

<sup>63</sup> In order for the Board [DOE] to even consider such a program, a provider must include an incentive/rewards program in its application to the SED and receive approval for it. According to SES provider contracts, “Contractor shall not: give or offer to give money, gifts, or anything of value or any other benefit to a...public servant for any reason.”

<sup>64</sup> Instructors must certify the accuracy at the beginning and end of each session.

<sup>65</sup> Although instructors should sign the attendance certification, in light of the fact that instructor salary is tied to attendance, to promote integrity in the process, another SES representative must counter-sign the attendance certification.

- The DOE should continue the process of hiring monitors to make school-site observations of the adequacy of the programs being provided to the students, as well as to review attendance practices.<sup>66</sup>
- Contracts should include a reporting obligation which requires SES providers to notify this office about any DOE employee wrongdoing they discover.
- Student to teacher ratio should be enforced and the contract should also include a “not to exceed ratio.”
- SES providers should be required to submit detailed financial reporting including itemizing the percentage of income that covers the cost of services, overhead and the profits.<sup>67</sup> Those vendors unwilling to produce such documentation should not be permitted to use school space. Moreover, random audits should be conducted to ascertain the accuracy of the financial data given.
- The process of allowing SES for-profit vendors the “free” use of schools from 3 p.m. to 6 p.m. on weekdays and a discounted charge for weekend use needs to be reviewed.
- Providers enter into 3 year contracts with the DOE. However, the Federal Government increases the permissible student rate on a yearly basis and providers have changed their programs slightly to take advantage of the higher rates. This practice should be fully examined.
- A mandatory code of ethics should be established for all providers. Moreover, if a provider is barred from conducting business either by the DOE or by another school district, that provider should be prohibited from doing business with the DOE for a period of 5 years.
- SES providers must explain to parents that they may enroll their child in only one program per school year.
- In order to place all providers, including the DOE, on an even plane, no incentives or rewards should be permitted to be given to students, parents, schools or to DOE personnel.<sup>68</sup>

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<sup>66</sup> The monitors are responsible for determining whether various SES provider requirements are being implemented and performed.

<sup>67</sup> During the 2005-2006 school year the DOE required some financial paperwork from vendors seeking to waive the discount of 9% to the DOE for conducting in-school programs.

<sup>68</sup> In certain Regions the DOE has been permitted to offer its own SES program.

In addition, all SES providers must be reminded that strict adherence to the contract and engagement notice provisions is mandatory and that any failure to abide by them could result in termination of the contract.

#### Platform Recommendations

Michael Davis was less than truthful in his interviews with this office. Although we taped the conversation in which Davis withdrew his offer of funds to a school, he repeatedly denied extending such an offer.

Matthew Fields, at times Davis's supervisor, was less than forthcoming in interviews at our office. Despite the fact that Fields was aware of "donations" to several schools, under oath he denied that anything of value, including money, was ever offered to schools.

During their interviews Davis and Fields each contradicted their prior assertions of a lack of knowledge of questionable practices by Platform despite their personal involvement in the improper conduct. It is the recommendation of this office that neither Davis nor Fields be allowed to represent Platform in dealings with the DOE. In addition, the other Platform representatives named herein, including Deirdre Lizio, Nilda Peraza, Kareem Hairston, and Nelson Maldonado all of whom engaged in questionable business practices, should be barred from continuing to work for Platform in DOE sessions.

#### Newton Recommendations

It is the recommendation of this office that Newton be reminded of the DOE's current policy on incentives. In addition, Newton should be advised that the company and its representative must adhere to the contract and engagement notice provisions and that any future failure to do so could result in termination of the contract.

#### DOE Personnel Recommendations

In the 2004-2005 school year, SES providers operated in over 200 schools. We did not interview DOE personnel at all these schools nor did this investigation focus on the actions of DOE employees. However, our investigation led us to speak to a number of principals, assistant principals, parent coordinators and teachers. Some of these individuals acknowledged engaging in questionable activities. Others, despite evidence to the contrary, either denied culpability or refused to answer our questions. It is therefore the recommendation of this office that the DOE take disciplinary action against the employees named herein, where appropriate.

- DOE personnel must be advised of the limited and permissible circumstances under which student information can be disseminated to a SES service provider.

- To prevent the unintended disclosure of confidential student information, school office space should not be shared with SES providers. Vendors should be given limited school space meant only to store educational materials.
- Some principals requested and/or accepted funds from providers. In light of the importance that is associated with a provider receiving permission to operate an in-school program, the acceptance of any gift or donation gives the appearance of impropriety and suggests that the SES provider-donor could receive preferential treatment.<sup>69</sup> DOE employees should be instructed to refrain from soliciting any thing of value from SES providers and SES providers must not make donations directly to schools.<sup>70</sup>

We note that the conduct engaged in by certain SES providers and some DOE employees may have violated the Conflicts of Interest provisions of the New York City Charter which are administered by the New York City Conflicts of Interest Board.

We are forwarding a copy of this letter and of our report concerning this investigation to the Office of Legal Services. We are also sending our findings to the State Education Department for whatever action it deems appropriate. Should you have any inquiries regarding the above, please contact Eileen Daly, the attorney assigned to this case. She may be reached at (212) 510-1407. Please notify Ms. Daly within thirty days of the receipt of this letter of what, if any, action has been taken or is contemplated against Platform, Newton, and named DOE employees. Thank you for your attention to this matter.

Sincerely,

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

By: \_\_\_\_\_  
 Regina A. Loughran  
 First Deputy Commissioner

RJC:RAL:ECD:gm  
 c: Michael Best, Esq.  
 Theresa Europe, Esq.

<sup>69</sup> In 2005 the DOE issued an addendum to requirements agreements for supplemental educational services. This included an agreement that the contractors [SES providers] accepted a nine percent (9%) reduction in the unit price of services per child per year for all services conducted in DOE classroom space. However, according to David Ross, Executive Director of the Division of Contracts and Purchasing, all the SES providers that applied were granted a waiver of this reduction.

<sup>70</sup> Any SES provider seeking to donate anything of value directly to the DOE, rather than to individual schools, should contact the Fund for Public Schools, a non-profit unit of the DOE.