

March 2014

Re: The Berta Dreyfus School
IS 49
Correction

The Office of the Special Commissioner of Investigation (“SCI”) has discovered an error in the SCI report regarding The Berta Dreyfus School, IS 49, issued publicly in April 2013. Specifically, the report indicated that particular documents were recovered from a search of the Department of Education computer which was assigned to Teacher Francesco Portelos at IS 49. However, those pages were printed from the Internet.

April 25, 2013

Hon. Dennis M. Walcott
Chancellor
New York City Public Schools
Department of Education
52 Chambers Street, Room 314
New York, NY 10007

Re: The Berta Dreyfus School IS 49

Dear Chancellor Walcott:

The office of the Special Commissioner of Investigation (“SCI”) has concluded a number of investigations involving allegations of misconduct made against personnel at IS 49 on Staten Island, The Berta Dreyfus School.

Between January 2012 and March 2013, SCI received more than 35 complaints about IS 49. Most were investigated by SCI, a handful were referred to units within the Department of Education (“DOE”), and some were closed with no action. Many of the allegations were made by or against either Teacher Francesco Portelos or Principal Linda Hill.¹ Other allegations were made against Assistant Principal Denise Diacomanolis and Assistant Principal Joanne Aguirre.² The investigations were handled by at least six investigators under the immediate supervision of four investigators and an attorney.

Portelos As The Subject

1.

The first investigation involving IS 49 began on January 30, 2012, when Principal Hill contacted SCI and lodged a complaint against Portelos. In the course of the investigation, 10 additional complaints, some with multiple allegations, were

¹ District 31 Superintendent Erminia Claudio reassigned Portelos on April 26, 2012. Hill was not reassigned.

² Diacomanolis and Aguirre were not reassigned.

incorporated into the investigation. The allegations included: conducting personal Real Estate and “faceshop.com” business during DOE hours; changing the accessibility to the school website and making himself the “super administrator” of it; reading and distributing private e-mail messages; posting student information on his “protectportelos.org” site; and installing a flash “pop up” on school computers. Additional allegations also were investigated, but the findings are not reported here.

The investigation confirmed most of the allegations reported here.

In an interview with investigators from this office, conducted in the presence of his attorney, Francesco Portelos said that he held a New York State Real Estate License and was associated with Our Island Real Estate. Portelos asserted that he was an active agent, but his activity was limited to helping friends and family. Portelos acknowledged that he performed personal work and work related to his Real Estate profession on the DOE desktop computer assigned to him. Portelos added that the work took place during his lunch period and after school hours. Portelos admitted that he also posted flyers in the teacher’s lounge advertising an apartment for rent. Portelos asserted that he did not perform personal work or Real Estate work during class time.

Portelos added that, during his lunch period and after school hours, he worked on his website, “faceshop.me,” using the DOE desktop computer assigned to him. Portelos said that he did not perform personal work or work related to faceshop.me during class time. Portelos asserted that Principal Hill knew he was staying late to do personal work on the DOE computer.

Portelos said that, during the 2009-2010 school year, he presented Principal Hill with the idea of a school website, dreyfus49, which would give students and staff e-mail access and provide school information to parents; Hill approved the website. Portelos and a former IS 49 teacher created the website and it was operational by October 2009. Portelos added that he paid the web hosting fees associated with the domain name dreyfus49 to Google and he was the administrator of the website.

Portelos explained that, on January 25 or 26, 2012, when he could not access the website, he contacted Google and learned that his administrator privileges had been revoked. Portelos reinstated his administrator privileges, using the alternate access point into the system which he had created when he launched the website. On January 28, 2012, Portelos could not access the website and he again reinstated his administrator privileges. Portelos reported that he also revoked administrative privileges for all others because he thought there was a problem with the system. That same day, the teacher who helped launch the site gave Portelos “the OK” to create “a backdoor” into the system in case the alternate access point shut down.

Portelos said that, in February 2012, during a meeting with District 31 Superintendent Erminia Claudio and Principal Hill, Portelos agreed to transfer ownership of the dreyfus49 website to Hill for the school. According to Portelos, he subsequently consulted with an Intellectual Property attorney and was advised to hold off on the transfer until the attorney could review the case.

Portelos said that he took down the website as of March 19, 2012, after receiving a letter from Hill. Portelos added that he continued to have access to the archived information on the dreyfus49 server. Portelos admitted that, sometime after March 19, 2012, he looked into a teacher's dreyfus49 archived e-mail account because he wanted to see what was going on. Portelos explained that he reset the colleague's password, searched "Portelos" in his e-mail, and retrieved messages. According to Portelos, he read, but did not print or distribute the e-mail messages to anyone else.

Portelos admitted that he posted unredacted documents from Portelos's file, including letters to file and witness statements, on his "protectportelos" website and he had linked the "protectportelos" website to his Facebook page. Regarding the posting of names of or pictures which identified students on his "protectportelos" website, Portelos explained that "Joshua" and "Louis," referred to on the site, were fictitious names, and other students had graduated from IS 49 in 2009.

According to Portelos, he did not have a message, "Mr. Portelos's class is fun," as a pop up on the computers in the Science, Technology, Engineering, and Mathematics ("STEM") lab. Portelos admitted that he had an image of an ostrich, with a picture of Portelos in its mouth, which acted as a block on the student's computer screen. Portelos explained that, when a student acted up in his class, he pressed a "block screen button" and the ostrich appeared on the student's computer, saying "Sh!"

The SCI director of Information Technology reviewed the contents of Portelos's DOE desktop computer and found Real Estate related items on it. This information included: a Trulia price history report for a specific property on Staten Island, a Trulia home facts report for that property which named Portelos as the listing agent, a Zillow.com home details report for a property identifying Portelos as the listing agent, a Realtor.com agent profile of Portelos, and a Listbook.com profile of Portelos.

The assigned SCI investigator spoke by telephone with Principal Hill who acknowledged that teachers, including Portelos, stayed late in the school building; however, during the 2011-2012 school year, Hill instituted a new security protocol. Any staff member who wanted to be in the school building after 5:30 p.m. was required to send an e-mail message to Hill to obtain authorization to stay late. According to Hill, one night during the 2011-2012 school year, she saw Portelos outside of her office after 5:30 p.m. without permission and she "wrote him up." Hill added that she did not know

Portelos was staying in the building after school hours to perform work related to his Real Estate position and “faceshop.me” site. Hill also did not know that Portelos was using his DOE desktop computer for that work.

Documents from Our Island Realty, located on Staten Island, showed a house which was listed for sale by Portelos, with an asking price of \$299,000, and named the seller whom SCI identified as a teacher employed by the DOE at IS 49 from October 21, 1991 through November 1, 2011.³ The documents also showed that the house was sold for \$257,000 on January 25, 2012; a total of \$10,280.00 was paid in commissions, including a \$3,629.50 commission to Portelos.

Through his attorney, Francesco Portelos declined the opportunity to speak further with investigators from this office.

2.

On June 26, 2012, District 31 Superintendent Erminia Claudio contacted SCI and reported that Portelos had copied her on an e-mail message which Portelos sent to an SCI investigator regarding an incident at IS 49 [that matter involved Assistant Principal Diacomanolis and the investigation is discussed below]. Superintendent Claudio was concerned that someone had accessed footage from the IS 49 surveillance video system, downloaded it, and forwarded a segment of the video to Portelos. Claudio asserted that the unknown source did not have permission to access the camera surveillance system and disseminate information captured by it.

SCI investigators met with DOE Boro Safety Director Frank Jordan at IS 49. Jordan advised that the video surveillance footage at the school was no longer available. Jordan played the current surveillance video to compare the area in front of room 131 to the video link supplied by Portelos. Camera C107 was at the far end of the hallway, away from room 131, and the area in front of room 131 was not clear. The footage from this camera could not be zoomed in to show the area in front of room 131. Jordan determined that the video was not from a school surveillance camera.

In an interview with investigators from this office, conducted in the presence of his attorney, Francesco Portelos said that the video he referred to in the allegation under investigation by SCI [see below] was not a video sent to him. Portelos asserted that he recorded it with his cell phone. Portelos said that his reference to the camera outside of room 131 concerned another incident and he did not know whether the camera actually captured the incident.

³ The teacher relocated to Poland and was not interviewed.

3.

On September 7, 2012, Principal Hill reported a complaint about the computer lab where Portelos had been assigned. When the teacher now assigned to the lab turned on the computers, which were not configured to go online, a “Mr. Portelos” icon appeared and, upon clicking it, the user was directed to Portelos’s personal website, “protectportelos.” An administrator found the icon on computers #10 through #25 and was not able to log on to computer #28 and computer #30.

SCI investigators met with Principal Hill who said that, immediately after Portelos was reassigned in April 2012, she had the locks to the computer room changed to deny Portelos access to the computers and the server. Hill added that, before Portelos was reassigned, he manipulated the computers in the lab to direct the user to his personal website when the machine was turned on. When Portelos was reassigned, Hill contacted DIIT; in May 2012, a technician responded to the school to reimage the computers and remove Portelos from the server as the administrator. On September 5, 2012, the teacher assigned to the computer lab turned the computers on and found a “Mr. Portelos” icon which directed the user to Portelos’s personal website. The technician had to return to the school to remove the Portelos icon.

SCI investigators spoke with the technician who confirmed that, in May 2012, he responded to IS 49 and reimaged each computer, which involved deleting and then reinstalling a new operating system. In September 2012, the technician returned to IS 49 because a shortcut icon to the former administrator’s website continued to appear on the school computers. The technician claimed that, when the individual computers were reimaged in May 2012, he did not remove the shortcut from the server, so it reappeared when the computers were activated in September 2012. The technician maintained that Portelos could not access the IS 49 computer system from a remote location.

A third assistant principal assigned to IS 49 informed investigators that, before school began in September 2012, she conducted an inspection of the computer lab and observed the “Mr. Portelos” icon on many of the computers, although the assistant principal understood that it had been removed. The assistant principal said that, upon clicking on the icon, she was directed to Portelos’s STEM website which had a link to the “protectportelos” site which contained content about Portelos’s ongoing issues with the DOE.

After conferring with one of his attorneys, Francesco Portelos agreed to speak with SCI investigators and scheduled a meeting. That appointment did not take place. A second attorney representing Portelos subsequently informed SCI that Portelos declined the opportunity to speak with investigators.

4.

By e-mail message dated November 28, 2012, Principal Hill reported that changes had occurred on the website mentioned in the outgoing message on the school phone. The message referred the caller to the “welearnandgrowtogether” website which jumped to another website that contained threatening and defamatory information about the school and Hill. Principal Hill said that Portelos set up the original system about four years earlier.

The assigned SCI investigator telephoned the IS 49 number and listened to the recorded message; it directed the caller to the “welearnandgrowtogether” site. The assigned investigator then attempted to access that website and automatically was directed to “occupywarrenstreet.org” which contained information derogatory to both IS 49 and Principal Hill.⁴

SCI’s computer technician learned that the web domain for the welearnandgrowtogether site was owned by Portelos. The technician explained that, as the owner of the site, Portelos was able to direct anyone attempting to access it to “occupywarrenstreet.org.”

SCI investigators met with Principal Hill who said that Portelos created the “welearnandgrowtogether” website for the school on his own initiative, but with her approval. Hill added that the recorded telephone message invited those who called the school to visit the website. Hill acknowledged that Portelos created, paid for, and owned the website. Hill was concerned because Portelos was using the school’s recorded telephone message to promote his website and disparage her and IS 49. Principal Hill was particularly concerned because the “occupy” website contained images of her timecards.

SCI investigators spoke with DOE Chief Information Security Officer Desmond White who said that DIIT created an official DOE website for each school and the DOE owned the content of those websites. White added that individual schools had the authority to create a website separate from the DOE school portal site and that the practice was quite common throughout the DOE.

White confirmed that Portelos created the “welearnandgrowtogether” website for IS 49 and registered the domain name with Google. According to White, Portelos owned the content of the website and the DOE had no legal recourse regarding the content contained on Portelos’s website. White maintained that redirecting a visitor to a website he registered and owned to another website which he registered and owned was within his right and the DOE had no authority over those sites.

⁴ IS 49 is located on Warren Street on Staten Island.

Through his attorney, Francesco Portelos declined the opportunity to speak with investigators from this office.

5.

On December 3, 2012, Principal Hill reported that a teacher informed her that Portelos telephoned the teacher's lounge and said that he had a camera in the room and was taping the staff. Hill added that another teacher reported that one of her students was on the dreyfus49 website and found a link which, when accessed, gave a "play by play" of Portelos's thoughts about the school and his removal to "the rubber room."

SCI investigators met with Principal Hill who confirmed that Portelos created, paid for, and owned the school's former website, dreyfus49, and was redirecting those who entered that website to "protectportelos.org," a blog which chronicled Portelos's ongoing issues with Hill and the DOE. Hill added that she had a filter placed on any website containing the word "dreyfus" and was unable to explain how the website was accessed.

According to Principal Hill, a teacher reported that she was in the teacher's lounge when she received a telephone call from Portelos who said that he had the teacher's lounge under video surveillance. Hill had the custodian search the lounge, but no camera was found.⁵

SCI investigators spoke with the teacher who explained that she was in the teacher's lounge with colleagues when the phone rang. She answered the telephone and asked who was calling, but the male caller kept saying: "Can't you guess?" Eventually, the teacher recognized the voice to be Portelos; he informed the teacher that he had the room under video surveillance and then asked whether the UFT representative had posted the union news. Portelos asked who else was in the room and continued to speak, but the teacher hung up on him. The teacher asserted that Portelos's comment about having the room under video surveillance made her nervous and uncomfortable, even though his question about who else was present indicated that he was not able to view the room.

A teacher who had used the computer lab told SCI investigators that she observed a student, who was online, viewing a photo of Portelos and his baby and questioned how the student had accessed the site. The student explained that she inadvertently entered the old website, "dreyfus49," rather than the new site, "berta49." The teacher then entered "dreyfus49" and was directed to the "protectportelos" website which detailed Portelos's time in "the rubber room."

⁵ A review of records relating to Portelos's cell phone did not reflect a call to the school at the relevant time.

Through his attorney, Francesco Portelos declined the opportunity to speak with investigators from this office.

6.

On December 14, 2012, SCI processed an e-mail message forwarded by Superintendent Claudio, in which Portelos questioned why Assistant Principal Denise Diacomanolis was allowed to be near children in light of a video which depicted inappropriate behavior on her part. In the e-mail message to Superintendent Claudio, dated December 12, 2012, Portelos reported that he shared the video with parents in the community, one of whom told him that the video would be posted on the website YouTube. Portelos did not name the parent.

Superintendent Claudio provided the audio recording of the Community Education Council meeting, held on December 3, 2012, at which Portelos spoke about Assistant Principal Diacomanolis acting inappropriately toward a student.

As detailed later in this report, an investigation into the allegation against Diacomanolis determined that there was nothing improper with the assistant principal's interaction with the female student.

Through his attorney, Francesco Portelos declined the opportunity to speak with investigators from this office.

7.

On January 8, 2013, SCI processed an e-mail message from a teacher at IS 49 who alleged that Portelos was harassing her by sending e-mail messages to parents which falsely reported that she was uncertified. Moreover, Portelos posted pictures of the teacher and other teachers online without their knowledge or consent.

SCI investigators met with the teacher who explained that Assistant Principal Diacomanolis was contacted by a parent who said that she received an e-mail message from Portelos with a link to "teachny.com" which informed the viewer that the teacher was not State certified and also provided personal information including her Social Security Number, date of birth, and home address. The teacher added that other parents also received the link. According to the teacher, when she accessed her information on the site, she was required to enter a password. The teacher did not understand how Portelos was able to forward a link to her personal page.

The teacher explained that she used to be friends with Portelos, but they had a falling out. The teacher added that the photograph of her which Portelos posted on his website was taken at a party at Portelos's residence.

SCI investigators spoke with Assistant Principal Diacomanolis who provided the identity of the parent. Diacomanolis assured the parent that the teacher held a substitute teacher's license and was eligible to teach.

SCI investigators met with the parent who said that, in early September 2012, she received an e-mail message from Portelos who wrote: "The teacher who sent your son to summer school is not a certified teacher."⁶ The message named the teacher and indicated that her certification had expired. The parent added that the message contained a link to the "nysed.gov" website. The parent accessed the site, entered the teacher's name, and confirmed that her certification had expired.

The parent continued that, after school began in September 2012, she received a second e-mail message from Portelos who wrote: "The teacher who sent your son to summer school is back in school." The parent was concerned and contacted Assistant Principal Diacomanolis who said that the teacher had the proper license to teach and the site was not up-to-date.⁷ According to the parent, neither the e-mail messages nor the website contained the teacher's Social Security Number, date of birth, or home address. The parent had deleted the e-mail messages.

Through his attorney, Francesco Portelos declined the opportunity to speak with investigators from this office.

Portelos As The Complainant

1.

On June 19, 2012, Principal Hill forwarded to SCI an e-mail message from Portelos who reported that Assistant Principal Denise Diacomanolis placed her hands on several students in an inappropriate manner. Portelos asserted that staff members, whom he did not name, alleged that Diacomanolis was alone with a male student in a bathroom and a video recording showed Diacomanolis frisking a female student and going into her shirt. In the course of the investigation, Portelos made a number of additional allegations and factual assertions which were incorporated into the investigation.

SCI investigators met with Principal Hill who said that she did not know about any incident when Assistant Principal Diacomanolis touched any student inappropriately and made this complaint only because she was obligated to report allegations of misconduct. Hill added that no staff member, other than Portelos, had made an allegation against Diacomanolis.

⁶ Diacomanolis recalled that the e-mail message and conversation with the parent occurred in December or January.

⁷ SCI confirmed that the teacher held a certificate to teach.

In an interview with investigators from this office, conducted in the presence of his attorney, Francesco Portelos said that, in April 2012, he heard a commotion in the hallway outside his assigned classroom and went to investigate. Portelos asserted that he observed Diacomanolis trying to get an object from a female student (“Student A”). Portelos added that he began recording the incident on his cell phone. According to Portelos, it appeared to him that Diacomanolis was trying to retrieve an object which the girl was trying to hide. Portelos did not know what the object was or where Diacomanolis was placing her hands on Student A. Portelos said that the incident was not of a sexual nature.

Portelos informed the investigators that he was the UFT chapter leader at IS 49 and, in June 2012, he was in a bar with staff members from the school when those colleagues told him about witnessing inappropriate conduct committed by Diacomanolis. According to Portelos, the assistant principal’s actions included sitting with a student on a couch in her office, feeding an unidentified student a forkful of food, tutoring on Saturdays, and being alone in a bathroom with another unidentified male student. Citing his position as chapter leader, Portelos would not identify the witnesses until he conferred with them. Portelos added that an unknown person left a photograph in his mailbox; he maintained that it depicted Diacomanolis dressed inappropriately. Portelos provided a copy of that photograph.

The assigned SCI investigator subsequently received an e-mail message from Portelos’s attorney who forwarded a message from his client. Portelos reported that he would not provide the names of the staff members whom he asserted had made allegations against Diacomanolis. In that message, Portelos also directed the investigator to a particular DOE employee who had received complaints about Diacomanolis’s dress and he clarified that the Saturday tutoring allegation was that students saw Diacomanolis “in the projects” on a Saturday and questioned her presence. Diacomanolis responded that she was “tutoring students.”

The employee whom Portelos claimed had received complaints from parents denied that anyone complained to her about any inappropriate clothing worn by Diacomanolis and said that the only report made to her came from Portelos.

In an interview with investigators from this office, Denise Diacomanolis said that she never wore see through clothing to school. Diacomanolis viewed the photograph supplied by Portelos and responded that she wore that dress on her birthday and it was not see through. Diacomanolis said that she never touched a student inappropriately and never engaged in inappropriate conduct with any student. Diacomanolis added that she was never alone in a bathroom with any male student. Diacomanolis said that she never fed a student anything in her office and, usually, her office door was left open.

According to Diacomanolis, she did not tutor on Saturdays at IS 49, but had a second job at a location in Brooklyn.

Assistant Principal Diacomanolis viewed photographs taken from the video supplied by Portelos, which depicted her in the hallway of the school with an unidentified female student, and responded that she could not recall the details of the incident. However, Diacomanolis asserted that she certainly did not frisk the student as alleged in the complaint. Diacomanolis could not identify the student.

On a subsequent occasion, SCI investigators met with Assistant Principal Diacomanolis who viewed the video recording made by Portelos, with the accompanying audio, and responded that the girl was Student A. Diacomanolis said that Student A graduated in June 2012, and attended a high school on Staten Island.

SCI investigators spoke with 14-year-old female Student A who viewed the video with the accompanying audio and recalled the incident. Student A said that her zipper malfunctioned and she was embarrassed. Student A explained that she asked Assistant Principal Diacomanolis, known to her as Ms. D., to help her and Diacomanolis assisted her in fixing the zipper.

SCI investigators spoke with a 14-year-old male student (“Student B”) who said that he liked and respected Assistant Principal Diacomanolis. Student B added that Diacomanolis never grabbed or pushed him in any way as alleged by Portelos in an e-mail message sent to the assigned SCI investigator.

The mother of a 16-year-old female student (“Student C”) refused to allow SCI investigators to speak with Student C concerning her interactions with Diacomanolis. Portelos provided only the first name of two other students. SCI investigators attempted to track them down and identified the student (“Student D”) who was alleged to be in the bathroom with Diacomanolis. Student D had been out of the school for approximately eight years and was “upstate.” The other student was not identified.

2.

In October 2012, in an e-mail message to SCI, Portelos reported that he received harassing e-mail messages which he asserted violated the DOE Internet Acceptable Use policy. Portelos said that he traced three of the messages to a DOE computer. The author of the messages said that Portelos was a “bum,” that he should be on the street not collecting a paycheck; that he was incompetent and was removed from his position appropriately; that he should not be in a position teaching kids; and that if he were a man of honor, then he would not accept a paycheck anymore. In a subsequent e-mail message to SCI, Portelos reported that he tracked the harassing messages to the home of the sender.

A review of the messages received by Portelos revealed that they emanated from a Yahoo! account address apparently associated with “Kimberly [name withheld].” SCI investigators learned that a DOE employee by that name had resigned to pursue a different career.

The assigned SCI investigator received a subsequent e-mail message from Portelos who explained that he did not find a name, but had tracked the IP addresses from the header file and submitted that information to SCI and DOE Tech Support. According to Portelos, Tech Support advised that they could trace it to a computer within the DOE. Portelos added that some of the IP addresses were associated with the DOE and one was a Time Warner account.

SCI investigators met with DIIT Chief Information and Security Director Desmond White and IT Forensic Investigator Diane Bellis; White acknowledged that DIIT had received the e-mail messages from Portelos. According to White, even if DIIT could identify the computer which was used to send the messages, it would be difficult to determine who had sent the messages because anyone could create an account and user name. White reported that former DOE employee Kimberly had not signed on to the DOE computer system since she left in 2008. Forensic Investigator Bellis subsequently informed the assigned investigator that the DOE computer could not be traced and identified.

Information obtained by SCI identified a Roadrunner and a Verizon subscriber associated with some of the IP addresses in question; that person was a male teacher employed by the DOE. SCI investigators interviewed the teacher who identified Kimberly as a friend whom he saw occasionally. The teacher described Kimberly as a “friend with benefits.” The teacher said that he no longer saw Kimberly and was not sure where she was living. The teacher knew about Portelos through New York Post articles and Portelos’s blog. The teacher had never met with or spoken to Portelos.

The teacher asserted that Kimberly had access to his apartment and may have used his computer.⁸ The teacher described Kimberly as being about 24 years old. The teacher said he never signed on to his computer using a Kimberly [name withheld] address and did not send the messages to Portelos. The teacher did not know whether Kimberly sent messages to Portelos or why she would send such messages.

The assigned SCI investigator spoke by telephone with 39-year-old Kimberly, the former DOE employee with the same name as the e-mail account. Kimberly did not know the male teacher associated with the IP addresses, and did not use the e-mail address in question. Kimberly never heard of Francesco Portelos and never sent any e-mail messages to him.

⁸ The teacher said that Kimberly also knew his parents. Another IP address used came from an account subscribed to by the male teacher’s father.

Additional attempts to identify users and trace IP addresses did not produce useful information.

3.

On February 5, 2013, SCI processed an e-mail message from the DOE Office of Equal Opportunity & Diversity Management (“OEO”) forwarding a message in which Portelos alleged that a paraprofessional, who was a witness in his current sexual harassment investigation pending at OEO, was promised a future position as a teacher at the school and given per session pay by Assistant Principal Joanne Aguirre in return for providing a statement favorable to the school.

SCI investigators met with the employee in question, a bilingual Special Education paraprofessional; Assistant Principal Aguirre was her direct supervisor. The paraprofessional reported that she held a Bachelors Degree in Spanish and was working toward becoming a certified teacher. The paraprofessional said that she was not promised any per session pay in return for providing favorable testimony at an OEO hearing. The paraprofessional added that Assistant Principal Aguirre did not promise her a future position as a teacher for providing favorable testimony at an OEO hearing. The paraprofessional reported that the allegations were not true.

The paraprofessional explained that she performed a per session activity on June 12, 2012, to assist with the processing of the State Science Test; her hours were approved by Principal Hill.⁹ The assignment took place after school and no students were present. The paraprofessional did not grade the tests. The paraprofessional reported that this was the only time she received per session pay in the more than three years she had been employed at IS 49; she was paid for four and ½ hours.

In an interview with investigators from this office, Joanne Aguirre explained that the employee in question was a Special Education alternate placement paraprofessional who was bilingual and assisted Spanish speaking Special Education students. Aguirre said that she never promised anyone, including the paraprofessional, who was a witness in a sexual harassment investigation at OEO, a future position or per session pay in return for providing favorable testimony to OEO. Aguirre asserted that the allegations were “absolutely not true.” Aguirre acknowledged that she was a subject of an OEO case which she believed was closed, but she did not know the outcome.

Assistant Principal Aguirre said that she was not in charge of approving per session activities at the school; that was Principal Hill’s responsibility. Aguirre reviewed a per session assignment time report for the paraprofessional and responded that she did

⁹ The paraprofessional’s per session time report indicated that the assignment took place on June 12, but her per session timecard had handwritten entries next to June 13. Upon further review, Principal Hill reported that the per session activity occurred on June 13, 2012.

not know what the per session activity was and did not approve the hours. Aguirre added that she did not recognize the initials on the paraprofessional's per session timecard and they were "not [her] initials."

SCI investigators met with Principal Hill who reviewed the paraprofessional's time report and responded that she approved the per session activity which was to assist with the processing of the State Science Test. Principal Hill explained that she needed extra hands and the paraprofessional was assigned to make sure that all the bubbled information was filled in and that the tests were intact.

Principal Hill reviewed the paraprofessional's per session activity timecard and acknowledged that it had not been punched. Hill explained that it was handwritten and approved by the most senior Science teacher assigned to the administration of the test because the assistant principal of Science was out sick at the time.¹⁰

SCI learned from OEO that none of the witnesses interviewed during the investigation, including the paraprofessional, supported Portelos's allegations and the matter was closed. OEO's investigation also did not support the additional allegation that the paraprofessional provided false information to obtain a teaching position.

A Confidential Complaint

On June 18, 2012, DOE Ethics Officer Samantha Biletsky forwarded to SCI an e-mail message from a confidential source who lodged a complaint against Principal Hill, Assistant Principal Diacomanolis, and a former teacher at the school. The source alleged illegal conduct committed by Hill in the selection of the SES provider at IS 49 and also alleged that the former teacher supervised Diacomanolis who worked for the employee's tutoring business.

SCI investigators spoke with a number of IS 49 staff members, including Portelos, Hill, and Diacomanolis, as well as the owner of the SES company, the former teacher, his wife, and the DOE SES director. Some witnesses were interviewed more than once. SCI investigators obtained and reviewed documents, including SES records, school fund account ledgers, personal bank account records, and a purchase order.

¹⁰ SCI investigators spoke with the Science teacher who said that she verified the paraprofessional's per session hours and then initialed her timecard to approve the hours. The investigators also spoke with the assistant principal of Science who confirmed that she had been out sick.

The investigation did not find evidence to support the allegations.

Conclusion

We refer our findings for your review and any action you deem appropriate.

We note that some of the conduct described here may violate the conflicts of interest provisions of the New York City Charter which is administered by the New York City Conflicts of Interest Board.

We are forwarding a copy of this letter to the Office of Legal Services. We also are sending our findings to the New York State Education Department for whatever action it deems appropriate. Should you have any inquiries regarding the above, please contact Ann E. Ryan, the attorney assigned to the case. She can be reached at (212) 510-1493. Please notify Ms. Ryan within 30 days of receipt of this letter of what, if any, action has been taken or is contemplated regarding this report. Thank you for your attention to this matter.

Sincerely,

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

By: _____

Regina A. Loughran
First Deputy Commissioner

RJC:RAL:gm

c: Courtenaye Jackson-Chase, Esq.
Laura Brantley, Esq.
Katherine Rodi, Esq.