

August 19, 2009

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

Re: Jonathan Polayes
SCI Case #2009-0272

Dear Chancellor Klein:

An investigation conducted by this office has substantiated that 57-year-old Jonathan Polayes, a teacher assigned to Hostos-Lincoln Academy of Science (“Hostos-Lincoln”) in the Bronx, inappropriately touched a number of female students.¹

This investigation began in January 2009, when Hostos-Lincoln Principal Nicholas Paarlberg contacted the Office of the Special Commissioner of Investigation for the New York City School District (“SCI”) and reported a complaint lodged by a 15-year-old female student (“Student A”).² Student A alleged that Polayes touched her on the hip causing her to feel uncomfortable.³

SCI investigators interviewed Principal Paarlberg who said that he was informed about Student A’s complaint by Hostos-Lincoln Dean of Students Deryl Chandler Mason.

SCI investigators spoke with Dean Chandler Mason who confirmed that Student A asked to speak to her and then reported that Polayes touched her on the thigh and that she was uncomfortable with Polayes. Chandler Mason added that she notified Principal Paarlberg and Hostos-Lincoln Assistant Principal (“AP”) Marsha Armstrong about Student A’s disclosure.

¹ Polayes was not reassigned as a result of this investigation.

² Student A has turned 16-years-old.

³ By fax, Paarlberg provided SCI with a copy of Student A’s handwritten statement.

SCI investigators met with Student A who said that Polayes called her “Tiny.” In addition, in November 2008, Student A was next to a female student (“Student B”) in the classroom, when Polayes, who was the teacher, touched her thigh. Student A demonstrated how Polayes slid an open flat hand on her thigh and added that he did so twice. Student A explained that she was standing when Polayes touched her. Student A continued that she was uncomfortable with Polayes’s touch. Student A reported that Student B, who witnessed the touch, exclaimed: “Whoa.”

According to Student A, sometime in December 2008, near Christmas, she was coming from the cafeteria when she was informed by Student B that Polayes told Student B that Student A had big “bodooks.” Student B told Student A that Polayes was referring to Student A’s buttocks. Student A added that, recently, Polayes had rubbed her neck with a flat hand in a side-to-side motion.⁴

SCI investigators interviewed 15-year-old Student B, who said that, sometime in November 2008, she was in the lab room with Student A, Polayes, and her classmates.⁵ Student B added that Student A was standing and Polayes was sitting in Student A’s seat. Student B confirmed that she observed Polayes place his hand on Student A’s thigh and, when Polayes walked away, Student A told Student B that she did not like the way Polayes touched her. Student B replied that Student A should tell Polayes not to touch her.

Student B continued that, sometime in December 2008, she was leaving the cafeteria at the same time as Polayes. Student B said that Student A was in the “deli part” of the cafeteria and Student B could see Student A as she was leaving. Polayes asked Student B: “Where’s Tiny?” When Student B replied: “Tiny? Don’t you mean big?” Polayes answered: “I call her Tiny, but her ‘bodooks’ is big.” Student B added that Polayes pointed to his own buttocks. Student B confirmed that she told Student A about Polayes’s comment. According to Student B, Polayes did not touch her inappropriately.

SCI investigators interviewed seven students (“Student C” through “Student I”) who were selected at random. Sixteen-year-old male Student C and 15-year-old female Student D had Polayes as a teacher, but were not in his class with Student A.⁶ Neither Student C nor Student D heard any inappropriate comments or observed any improper actions by any teacher.

Fifteen-year-old female Student E, 17-year-old female Student F, 15-year-old male Student G, 15-year-old male Student H, and 15-year-old male Student I all had Polayes as a teacher and were in his class with Student A.⁷

⁴ The interview of Student A took place on February 3, 2009.

⁵ Student B has turned 16-years-old.

⁶ Student C has turned 17-years-old and Student D has turned 16-years-old.

⁷ Student G and Student H have turned 16-years-old.

Student E said that Student A told her that Polayes touched her on the leg and made a comment to Student B that Student A had a “big butt.” Student E did not witness the touch or the comment. Student E added that she was comfortable in the company of Polayes.

When asked whether any of her teachers could be described as “touchy-feely,” Student F replied that Polayes occasionally touched her on the shoulder while he was helping her and she had observed him touch other students on the shoulder as well. Student F added that she had not heard any complaints by other students and she was not affected by Polayes’s touches.

Student G said that he did not observe any of his teachers inappropriately touch a student and did not hear any of his teachers speak inappropriately with a student.

According to Student H, during the school year, he observed Polayes touch female students on the neck with an open hand. Student H also witnessed Polayes hugging female students. Student H said that Student A told him that Polayes made a bad comment about her. Student H added that he did not hear Polayes make any inappropriate comments.

Student I reported that he had seen Polayes placing his hand on the shoulders or backs of male and female students. Student I added that he heard Student A complain about Polayes’s touches. Student I explained that Polayes did not touch him because he “find[s] some way to pull away.” Student I said that he did not hear any inappropriate comments from Polayes.

SCI investigators met with Hostos-Lincoln AP Armstrong who said that, on March 4, 2009, she observed an 11-year-old female student (“Student K”) sitting in the principal’s outer office.⁸ AP Armstrong asked Student K why she was not in class. Student K responded that she was not comfortable going to Polayes’s class, but did not elaborate, and wanted to speak with her counselor. Student K told Armstrong that she was not the only one and that another student (“Student J”) also was uncomfortable in Polayes’s class. AP Armstrong reported that she located 11-year-old female Student J and, when she learned that the counselor for Student J and Student K was not present, she brought Student J and Student K to speak to Hostos-Lincoln Social Worker Hilary Kopple.⁹

SCI investigators spoke with Student J on two occasions. During the first interview, Student J said that, sometime during the week of February 23, 2009, she was in Polayes’s classroom during 7th period, sitting at her desk near the front of the room, and was close to Polayes’s desk. Student J continued that Polayes was sitting at his desk in a chair that had wheels. Student J explained that she had a scarf with her that was

⁸ Student K has turned 12-years-old.

⁹ Student J has turned 12-years-old.

approximately three feet in length and two other female students (“Student L” and “Student M”) wanted to wrap Student J in the scarf.¹⁰ Student J added that she stood up, Student L held the corner of the scarf at her shoulder, and Student M began to wrap the scarf around Student J as she spun slowly. According to Student J, when the scarf was around her buttocks, Polayes rolled next to her, first lightly pressed, and then swiped his flat hand across the scarf that was on top of her buttocks, three times. Student J said that her buttocks were facing toward the classroom door and not at her classmates so she did not know whether anyone witnessed Polayes touch her buttocks. Student J reported that she was frightened by Polayes’s actions.

According to Student J, on two occasions, Polayes tickled her and had physical contact with her breasts. Student J explained that the first occasion was sometime in late January 2009. Student J described standing in line in the cafeteria and Polayes was behind her. Polayes then pushed his hands under Student J’s arms and tickled her with his fingertips. Student J said that Polayes’s fingertips touched the side of each of her breasts.

Student J explained that, on the second occasion, in February 2009, she left Polayes’s classroom and was in the hallway. Student J added that she was not wearing a jacket and there were other students in the hallway, changing classes. Polayes came from behind Student J, placed his hands on each of her arms, and began to tickle her using his fingertips. Student J said that she tried to pull away, but Polayes held her with his right hand and continued to tickle her with his left hand. Student J reported that, while Polayes tickled her, his left hand came to rest on top of her left breast. Polayes stopped tickling Student J and she walked away. Student J did not know whether anyone observed the tickling.

Student J continued that, at the end of February 2009, sometime after the two tickling events, she was sitting outside a classroom across from Polayes’s room waiting for her guitar class, when Polayes approached and told her that he would give her a candy bar if she was good and that she and Polayes could have fun in his classroom. Student J advised investigators that she was afraid of what Polayes might do to her if she were alone with him in his classroom.

According to Student J, sometime during the week of March 9, 2009, Polayes grabbed her arm as she walked in the hallway and asked why she did not come to his class anymore. Student J responded that it was because of “private things.” Polayes replied to Student J: “You know that I always treated you like a young lady.” Student J reported that, as she walked away, Polayes looked angry and his look scared her.

SCI investigators interviewed Student K who said that Polayes was “abusing” and “sexually harassing” girls at the school. Student K explained that, in September 2008,

¹⁰ Student L was not interviewed because her parent declined to give consent for her to meet with investigators.

Polayes placed a female student ("Student P") in a bear hug and lifted Student P off the ground while hugging her. Student K demonstrated that Polayes had one of his hands around Student P's torso, while his other hand was underneath Student P, and he used that hand to tap Student P's buttocks.

Student K added that, in September 2008, while in the computer lab, she observed Polayes rub Student J on the buttocks. Student K also reported that, in November 2008, she was walking in the classroom when Polayes, who was walking behind her, tapped her on the buttocks. Student K continued that, on one or two occasions, Polayes called her up to his desk where he was seated, put his hand on her hip, and pulled her close to him so she could pick out a game for the class. According to Student K, Polayes had tickled her on the waist on more than one occasion.

On March 4, 2009, Student K did not want to go to Polayes's class, and she advised him of that fact. Student K added that Polayes walked her to the main office where AP Armstrong observed her.

SCI investigators interviewed Social Worker Kopple who had Student J and Student K prepare written statements when AP Armstrong brought them to meet with her.¹¹ Kopple said that the handwritten statement prepared by Student J accurately reflected what Student J told Kopple on March 4, 2009, except that Student J did not tell her that Polayes touched Student J on the buttocks. Student J informed Kopple that, when the scarf was close to Student J's buttocks, Polayes moved slower. Kopple added that, when she asked Student J whether Polayes had any physical contact with Student J's breasts, Student J responded: "No."

Kopple continued that the statement written by Student K accurately reflected what Student K told Kopple on March 4, 2009, except that Student K never used the term "sexual abuse" and Student K said that Polayes only attempted to touch Student K's buttocks.

SCI investigators spoke with 12-year-old Student P who said that, sometime before Halloween in 2008, Polayes began to tickle and hug her. Student P explained that Polayes used his fingertips and tickled her on the waist. Student P added that Polayes hugged her shoulder to shoulder, usually just to say "Hi." Student P asserted that Polayes never gave her a hug in which they were chest to chest or which caused her to be lifted off the floor. According to Student P, Polayes never touched her "boobs" or "butt" and she never observed Polayes touch the "boobs" or "butts" of any student. Student P said that Polayes never kissed her.

Student P reported that Student J told her that Polayes touched Student J on the buttocks and maintained that Student J was laughing as she told her. Student P was in the classroom on the day when Student J was wrapped in her scarf. Student P asserted that

¹¹ SCI was provided with the statements prepared by Student J and Student K.

she witnessed Polayes wrapping the scarf around Student J and she saw Polayes's hand on Student J's hip and not her buttocks. According to Student P, on numerous occasions, she saw Polayes tickling Student J because Student J was always upset and tickling made her feel better.

SCI investigators interviewed 11-year-old Student M who said that Polayes "likes to hug a lot of the girls in the class." Student M added that, during the 2008-2009 school year, she observed Polayes touching Student P's buttocks. Student M continued that she saw Polayes pick up Student P from the floor in a hug. Student M also observed Polayes touching the buttocks of Student J and pick up Student J from the floor in a hug.

According to Student M, she and Student J "keep a watch out on [Polayes]." Student M reported that Polayes hugged her on many occasions and his "hugs" bothered her. Student M said that, on more than 10 occasions during the 2008-2009 school year, Polayes tickled her under her arms and on her stomach.

SCI investigators spoke with a 12-year-old female student ("Student N") who said that, in February 2009, Polayes began to hug her and blow in her ear. Student N explained that she did not like to be hugged by Polayes and did not like it when Polayes blew in her ear. Student N added that, on one occasion sometime after February, Polayes tickled her at the waist. According to Student N, she observed Polayes tickle Student J and witnessed Polayes hugging her female classmates.

SCI investigators met with an 11-year-old male student ("Student Q") who said that, at various times, he saw Polayes hug Student J and Student K. Student Q added that he witnessed Polayes lift Student J off the floor and hold her like he was cradling her. According to Student Q, at various times during the school year, he observed Polayes tickle Student J at her waist.

This is not the first time that Polayes has been found to have behaved inappropriately toward female students. In fact, Polayes has a history of touching female students. In 1994, an assistant principal issued Polayes a "strong and final warning" letter regarding his touching of students. In 2001, disciplinary charges were preferred against Polayes and, in a decision dated May 13, 2002, Beverly Gross, the Hearing Officer who presided over the Section 3020-a Education Law Proceeding, found Polayes guilty of misconduct for touching a student and imposed "a penalty of one term's suspension without pay and a strong warning against touching students even if intended only as a friendly or encouraging gesture."

In an interview with investigators from this office, Jonathan Polayes did not recall an arbitrator's decision warning him against physical contact with students. Polayes asserted that he did not hug students. He maintained that students hugged him, including

Student F, Student P, and another female student ("Student R"). Polayes claimed that he never hugged or lifted a student off the floor and never tickled a student. Polayes denied that he ever reached under or through the armpits of any student s to lift them or for any other purpose. Polayes said that he never had any contact with the breasts of any female student.

Polayes maintained that he did not have any contact with Student J's buttocks when he stopped Student J from spinning and attempted to unwrap the scarf from around her. According to Polayes, on May 5, 2009, Student J came to him and asked to be back in his class so that she could participate in a scavenger hunt. Polayes named Student J, Student K, and Student M as disciplinary problems in his classroom.

Polayes asserted that he did not know any student with the nickname "Tiny" and that he never referred to any student as "Tiny." Polayes claimed that he never commented about the buttocks of any student and did not refer to buttocks as "bodooks." Polayes denied touching the necks or shoulders of students seated at computer desks in his classroom.

SCI investigators interviewed 11-year-old Student R, one of the students whom Polayes claimed had hugged him. Student R said that she had hugged female teachers, but not any of the male teachers. Student R reported that Polayes had hugged her. Student R added that, during the school year, she observed Polayes hug Student P or Student P hug Polayes "every day." According to Student R, sometime before Christmas in 2008, Polayes picked up Student J and "held her like a baby." Student R demonstrated that Polayes held Student J horizontally in a cradling motion.

During a second interview with SCI investigators, Student J confirmed that, over the course of three weeks in February 2009, while she was seated in her chair in Polayes's classroom, Polayes picked her up by placing one arm underneath her knees and putting his other arm across her back with his hand in her armpit. As he held her, Polayes carried Student J from her seat in the rear of the classroom to the front of the classroom. Student J said that Polayes then placed her down on a desktop in the front of the classroom. Student J added that Polayes picked her up because she was "mad or sad."

Despite his denials, we credit the evidence provided by numerous students, male and female, ranging in age from 11-years-old to 17-years-old. It is the recommendation of this office that Jonathan Polayes's employment be terminated, that he be made ineligible for work with the Department of Education, and that this matter be considered should he apply for any position in a New York City public school in the future.

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

We are forwarding a copy of this letter and of our report concerning this investigation to the Office of Legal Services. We also are sending our findings to the State Education Department for whatever action it deems appropriate. Should you have any inquiries regarding the above, please contact First Deputy Commissioner Regina Loughran, the attorney assigned to the case. She can be reached at (212) 510-1426. Please notify First Deputy Commissioner Loughran within 30 days of receipt of this letter of what, if any, action has been taken or is contemplated regarding Jonathan Polayes. Thank you for your attention to this matter.

Sincerely,

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

By: _____

Regina A. Loughran
First Deputy Commissioner

RJC:RAL:gm

c: Michael Best, Esq.
Theresa Europe, Esq.