

October 18, 2011

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

Re: Lenny Speiller
SCI Case #2011-1341

Dear Chancellor Walcott:

An investigation conducted by this office has substantiated that Department of Education (“DOE”) Office of Public Affairs Director Lenny Speiller caused DOE parent coordinators to promote a partisan political position through language in a petition seeking the political support of students, parents, and community members to repeal the New York State Education Law seniority layoff provisions relating to teachers.¹

This investigation began on March 22, 2011, when the Office of the Special Commissioner of Investigation (“SCI”) received correspondence, dated March 17, 2011, from United Federation of Teachers (“UFT”) President Michael Mulgrew, forwarded by UFT Special Counsel Adam Ross.² Mulgrew alleged that the DOE improperly directed parent coordinators to solicit the political support of students, parents, and community members to repeal the New York State Education Law seniority layoff provisions relating to teachers and, in doing so, violated article VII, § 8 (1) of the Constitution of New York

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

² Copies of all documents, including e-mail messages and other correspondence referred to in this report, were obtained by SCI investigators.

State which “expressly prohibit[ed] the use of public resources for such private political purposes.”³ Mulgrew reported that parent coordinators were instructed to distribute petitions which “presented one-sided propaganda and encouraged the public to notify elected officials of their support of the DOE’s partisan position” to eliminate the seniority statute. Mulgrew also asserted a violation of New York State Civil Service Law § 107 which prohibited certain activities by officers and employees.

On two occasions, SCI investigators met with DOE Office for Family Information & Action (“OFIA”) Executive Director Ojeda Hall who explained that OFIA’s mission was to engage families, educate them, and prepare their children for college and careers.⁴ OFIA sought to accomplish those goals through parent coordinators, Community Based Organizations, Faith Based Organizations, and school leadership teams.

Hall said that, sometime in January 2011, she had a conversation with OFIA Senior Education Relationship Manager Melissa Harris about the possibility of preparing a petition for “Lobby Week.” Hall added that, on February 28, 2011, Harris sent a “benign” copy of a petition to DOE Deputy Legal Counsel Robin Greenfield for approval. On March 11, 2011, Harris and OFIA Educational Relationship Manager Jaclyn Berryman attended a meeting with Director of Public Affairs Lenny Speiller who changed the wording of the petition, creating a second petition which now read:

Therefore, we urge our elected leaders to:

- Provide New York City with it’s [*sic*] fair share of state funds and restore the proposed cuts to our public schools;
- Reject the State’s proposed changes to Building Aid, which will delay the construction of thousands of new school seats in our neighborhood; and
- Allow the City to keep it’s [*sic*] most effective teachers by ending the State’s “Last In, First Out” [“LIFO”] policy, allowing teachers to be retained based on their performance, rather than just seniority.

According to Hall, at the meeting, Berryman expressed her disapproval of the reference to LIFO, but Speiller disagreed, and indicated that he did not think it would be a problem. Hall explained that OFIA staff relied on Speiller to finalize the presentation of the petition.

Hall was not aware that the first version of the petition went out to a limited number of parent coordinators. However, Hall acknowledged that such an action would have been consistent with what was initially planned. On March 16, 2011, Hall learned

³ In the course of the investigation, SCI received correspondence from New York State Assembly Member Deborah J. Glick who lodged a similar complaint. A second allegation reported by Assembly Member Glick was not substantiated.

⁴ In September 2011, Hall left her position at OFIA.

that the second petition had been disseminated to 400 parent coordinators. Hall said that she did not see or approve the second version of the petition because she was not copied on the e-mail message which distributed it. Hall did not recall reading an e-mail message from Harris, dated March 14, 2011, with the updated language to be used on the second petition. According to Hall, in a subsequent conversation with her, Speiller claimed that he “did not think that parent coordinators would be used for disseminating the petition.”

On three occasions, SCI investigators spoke with OFIA Educational Relationship Manager Jaclyn Berryman who reported directly to OFIA Senior Organizer for Community Strategic Partnerships Melissa Harris. Berryman said that, sometime in November 2010, she had a dialogue with Harris about “Lobby Week” which was to be held from March 21 through March 25, 2011. Berryman explained that the original plan was to travel to Albany that week, but a lack of funding put an end to that idea. Berryman added that, sometime between late January 2011 and early February 2011, a parent who attended an OFIA meeting suggested that a petition be presented in order to represent the parents on the issue of budget cuts.

Berryman continued that, on February 28, 2011, a petition was authored and sent to “DOE Legal” for approval. According to Berryman, subsequently, “Harris was told that we needed to run the information by Lenny Speiller.” On March 11, 2011, Berryman and Harris met with Speiller and his assistant, Elizabeth Haskins, at the DOE central headquarters at the Tweed building. At the meeting, Speiller presented “bullet points to be edited into the petition.” Berryman reported that, “Speiller said that, if we do not add the LIFO sentence, the politicians and parents would not know what we are for.” The immediate reaction by Berryman and Harris to Speiller’s proposed version was that “it was awkward and the parent coordinators would be getting this petition and they work with the teachers.” Berryman said that she and Harris “crossed out” portions of Speiller’s proposed petition which they believed should have been removed. Berryman explained that, normally when petitions were left in Albany, “leave behinds” or “policy papers” accompanied the petition to inform the recipient about the reasons behind the document. According to Berryman, Speiller’s idea was to include the language for LIFO directly in the petition rather than in a “leave behind” or “policy paper.” Berryman reported that, with Speiller’s edits, the petition was finalized on March 14, 2011, and on March 15, 2011, it was disseminated to the parent coordinators. Berryman felt that the “OFIA staff was misled by Speiller.”

On three occasions, SCI investigators interviewed OFIA Senior Organizer for Community Strategic Partnerships Melissa Harris who said that, on February 1, 2011, there was a professional development meeting, attended by parents and parent coordinators, where the Governor’s proposed budget and the hosting of “Lobby Week” was discussed. Harris explained that, in the past, there were trips to Albany, but at the meeting they discussed using petitions and “leave behinds” or “policy papers.” Harris

added that she gave the petition idea some thought and, on February 20, 2011, she created the first petition and “passed the petition on to Ojeda Hall, who might have modified a word or two on the text.” Hall told Harris to “run it past legal for approval.” Harris then corresponded with DOE Legal Counsel Robin Greenfield. On February 28, 2011, the first petition was approved, and Harris “shared the petition with a parent leadership committee.”

On the same date, Harris forwarded a copy of the petition to DOE Director of Public Affairs Lenny Speiller who asked for a meeting at Tweed. On March 11, 2011, Harris and Jaclyn Berryman met with Speiller and his associate, Elizabeth Haskins. According to Harris, “the first thing that Speiller mentioned” was that “the first petition was vague and he had updated language.” Harris confirmed that the updates included information concerning LIFO. Harris said that, historically, there had been “leave behinds” or “policy papers” left in Albany as a way of conveying a political agenda to the politicians. Harris added that she and Berryman informed Speiller that they “were uncomfortable with the text” he had written about abolishing LIFO.

Speiller explained to Harris and Berryman that his wording on the petition would take the place of not having a “leave behind or policy paper.” Harris said that, when the meeting ended, it was her understanding that they were “going to go with the second petition’s version.” Sometime after the meeting, Speiller e-mailed to Harris the updated version of the petition, the “second petition.” Harris reported that DOE Attorney Greenfield was not consulted about the second petition. Harris added that the second petition was disseminated to parent coordinators on March 14, 2011.⁵ According to Harris, she “believe[d] that Hall saw the updated language before the second petition went out,” because Harris sent a copy of the second petition language to Hall. Harris gave investigators an e-mail message, from Harris to Hall, dated March 14, 2011, which included Speiller’s edits. Harris also gave the assigned investigator an e-mail message, dated March 16, 2011, from Harris to Hall, which discussed the series of events leading up to the UFT’s outrage over the second petition and reported that Harris and Berryman had suggested that the reference to LIFO be removed. Harris added that, in an e-mail message, Speiller later claimed that, at the end of the meeting on March 11, 2011, he thought all who attended had agreed to “stay with the first petition” because it had already been sent out, and that the wording in the second petition would be used for parent volunteers, not parent coordinators. Speiller also maintained that he had checked with Elizabeth Haskins and she concurred with Speiller’s recollection.

SCI investigators interviewed Associate to the Executive Director of Public Affairs Elizabeth “Lily” Haskins who said that the “Lobby Week” initiative began with preliminary meetings in October and November 2010. Haskins confirmed that the initial plan for Lobby Week was a trip to Albany, New York. Haskins explained that she was

⁵ The second petition was circulated on March 15, 2011.

involved in the small level tasks, such as finding caterers and locating space to meet in Albany. At the end of January 2011, Melissa Harris informed Haskins that, because of financial constraints, there would be a “Lobby Day” in New York City, instead of upstate in Albany. Haskins confirmed that, on March 11, 2011, there was a meeting held at Tweed which was attended by Haskins, Speiller, and OFIA staff members Melissa Harris and Jaclyn Berryman. Haskins said that, at the meeting, her role was to work off a list of elected officials and set up meetings with them regarding State budget cuts and other issues. Haskins knew that Speiller was involved in editing the DOE agenda and the parent training. Haskins recalled seeing e-mail messages about Speiller’s edits on the petition and the training for parents.

Haskins reported that the petition papers did not fall within the scope of her responsibilities and she did not recall the wording used in the edits. Haskins said that her “most potent recollection of a conversation” she had with Speiller, when he called from Albany on March 15 or 16, 2011, was that Speiller “uttered confusing words” to her. Haskins added that Speiller was “muttering intangibles” and Haskins was not informed enough to take a position. Haskins explained that she “was sort of placating” Speiller. Haskins referred to the e-mail message, from Speiller to Harris, in which Speiller indicated: “Checked with Lily to make sure I wasn’t out to lunch. It is also her firm recollection that we agreed at the meeting to stay with the petition that was already out there (non-LIFO version) since parents were already collecting signatures with that one, and it didn’t make sense to present two sets of petitions to elected officials.” Haskins reported that the information in Speiller’s message was not accurate. According to Haskins, it was not fair that Speiller was “trying to put words in my mouth.” Haskins asserted that her response to Speiller was non-specific and that she “really did not say anything back” to Speiller.

Haskins reiterated that her role was to schedule appointments with elected officials and perform other mundane tasks. Haskins produced a string of e-mail messages, dating back to December 1, 2010, in which Melissa Harris asked Speiller for a LIFO bill memo and bill language and Speiller responded by providing Harris with the LIFO legislation that was distributed to key OFIA personnel. In another e-mail message, dated February 7, 2011, Harris asked Speiller:

- 1 - What days are legislators usually in the district office?
- 2 - Are we actually pushing forward the LIFO bill or should our focus be just on the budget?
- 3 - Do we want parents to just leave behind materials or actually meet with someone?
- 4 - Are we still using the same legislative targets?
- 5 - Is there a “win” in this for the DOE or just extra work for us?

Speiller replied:

- 1 - [the link to the Legislative schedule in Albany]
- 2 - my instinct is budget and LIFO
- 3 - Both. They should meet with their actual representatives and have a one pager or a letter they leave behind.
- 4 - yes
- 5 - the win is two-fold: one, allows OFIA to grow and develop it's [sic] pool of active, mobilized parents and two, creates some local pressure on legislators on these issues.

SCI investigators interviewed Lenny Speiller who confirmed the meeting he held on March 11, 2011, which was attended by his associate, Haskins, and Harris and Berryman from OFIA. Speiller acknowledged that Harris showed him a copy of the first petition which already had been disseminated, but he thought it needed improvement and "offered alternative language." According to Speiller, at the conclusion of the meeting, he believed that OFIA would redistribute a copy of the first petition to parent coordinators without his "improved language." Speiller asserted that there must have been a miscommunication between Speiller and the OFIA staff. Speiller maintained that it did not make any sense to have two different petitions presented with two different positions and Speiller believed that Haskins concurred. Speiller admitted that, approximately one hour after the meeting concluded on March 11, 2011, he sent Harris an e-mail message which contained the language about LIFO and added "here's the text." Speiller claimed that the updated language concerning LIFO was an edit for a petition connected to a parent information session held by OFIA and he did not expect the language to be used in a petition meant for parent coordinators.

Speiller acknowledged that, by e-mail, he sent a copy of the first petition and a copy of the second petition which contained Speiller's improved language to Director of the Mayor's Office of State Legislative Affairs Micah Lasher. Speiller did not know whether Lasher actually read the message because he received a response from Lasher's assistant, Steve Williams.⁶

The assigned SCI investigator examined that e-mail exchange. The review revealed that, on March 7, 2011, Speiller sent Lasher an e-mail message on the subject "Lobby Day-downstate" which contained copies of both petitions. One was marked the original draft and the other was Speiller's proposed edits. As a follow up, on March 9, 2011, Speiller sent an e-mail message to Lasher stating, "Any thoughts on this... getting pushed by our friends in OFEA [sic]." That same day, Steve Williams replied, "I prefer your revisions to the original. How much support do you think they can generate for the petition?" In another e-mail message, dated March 9, 2011, Speiller informed Berryman and Harris that he had e-mailed some proposed changes to Micah Lasher and was waiting to hear back from Lasher.

⁶ Williams was copied on Speiller's e-mail message to Lasher.

SCI investigators re-interviewed Jaclyn Berryman who said that it “does not make sense” that Speiller believed the text he sent on March 11, 2011, was meant to be used for a parent information session held by OFIA or that Speiller did not expect the language to be used in a petition meant for parent coordinators. Berryman explained that the information Speiller meant for use at the parent information session on March 14, 2011, was clearly marked “Information Session Outline” on his e-mail message. Berryman added that, in the e-mail message he sent on March 11, 2011, Speiller included the proposed edits to the text of the petition because it was supposed to be used for Lobby Day, in lieu of “leave behinds” or “policy papers,” and was not for the parent information session.

SCI investigators re-interviewed Melissa Harris who said that the first petition was sent out by e-mail to a small group of parent coordinators whom OFIA staff spoke to on a regular basis. Harris added that “Lenny Speiller was clear” that OFIA was updating the language on the petition with his edits and that their plan was to send out the updated, second petition on Monday, March 14, 2011, “in an e-mail blast” and “that’s why Speiller sent the updated text” after the meeting at Tweed on March 11, 2011. According to Harris, “Speiller was clear” that the updated language on the second petition was necessary because it would serve as the leave behind or policy paper.

SCI investigators interviewed Robin Greenfield who recalled reviewing the first petition sometime near the end of February 2011, when Melissa Harris sent her a copy and asked for feedback. Greenfield said that she had a series of questions about the petition for Harris and informed Harris that the petition should not be put on DOE letterhead. Greenfield reported that she had no part in adding the language pertaining to LIFO in the second petition.

On March 16, 2011, the DOE issued a statement acknowledging that the petition was not appropriate and was not authorized by the Mayor or then-Chancellor Black.

Although Speiller maintained that he did not expect his language to be used in a petition meant for parent coordinators, SCI credits the statements of all the participants who attended the March 11, 2011, meeting who reported that Speiller did expect his language to be adopted. We find that Speiller’s use of public resources – parent coordinators – to promote a partisan position – overturning LIFO – violated the Constitution of New York State.⁷ We did not find New York State Civil Service Law § 107 to be applicable.

⁷ The DOE receives funds from New York State. Article VII § 8 (1) of the Constitution of New York State relates to State finances, while article VIII § 1 relates to local subdivisions.

We refer our findings for your review and appropriate action.

We note that the conduct committed by Lenny Speiller 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 and of our report concerning this investigation to the Office of Legal Services. 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 Lenny Speiller. 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.