

City of New York
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT

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Anastasia Coleman
Special Commissioner

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VIA ELECTRONIC MAIL

October 18, 2021

Honorable Margaret Garnett
Commissioner
New York City Department of Investigation
180 Maiden Lane
New York, NY. 10038

Re: Whistleblower Complaints and Statistics
for Fiscal Year 2021

Dear Commissioner Garnett:

The Special Commissioner of Investigation for the New York City School District (“SCI”) submits this report detailing complaints and statistics related to the New York City Whistleblower Law to the commissioner of the New York City Department of Investigation (“DOI”) in furtherance of the DOI commissioner’s obligation to report annually to the Mayor and the New York City Council the number and disposition of complaints under the statute.¹

The New York City Administrative Code § 12-113, commonly known as the Whistleblower Law, relates to employees of an agency of the City, or employees of vendors conducting business with the City, who report information concerning conduct which they know or reasonably believe to involve corruption, criminal activity, conflict of interest, gross mismanagement, or abuse of authority in City government to the DOI commissioner, the New York City Public Advocate, the New York City Comptroller, or a member of the New York City Council. In matters where the underlying claim includes allegations stemming from a report regarding the physical or educational welfare of a child, the statute includes reports made to the Mayor or to the head of an agency or that agency’s designee.²

For the purposes of SCI’s review of Whistleblower complaints, New York City Department of Education (“DOE”) employees are considered employees of a City agency. The Whistleblower Law prohibits another employee from taking any adverse personnel action against the reporting employee in

¹ This report will also be made available publicly on the SCI website at www.nycsci.org.

² For the purposes of reports regarding the New York City Department of Education, the “head of agency” title refers to the Chancellor or a deputy chancellor.

retaliation for making such a report. If an employee believes she has been the subject of such retaliatory adverse personnel action, she may report such conduct to the Commissioner of DOI or, in the case of complaints regarding the DOE, the Special Commissioner, who maintains the powers conferred upon a deputy to the Commissioner of DOI.

The Board of Education (“BOE”) Whistleblower Resolution (1992) prohibits adverse personnel actions against an officer or employee of the DOE who reports information concerning conduct which she knows or reasonably believes to involve corrupt or other criminal activity, conflicts of interest, unethical conduct or misconduct by another officer or employee of the City School District, or by persons dealing with the City School District, to SCI.³ SCI will then conduct an investigation into the matter. If SCI finds that an adverse personnel action was taken in retaliation for making such a report, the employee will be accorded protection and, if necessary, remedial relief, under the Whistleblower Law and the BOE resolution (together, the “WB Statutes”).

In Fiscal Year (“FY”) 2021, SCI received seven complaints from individuals alleging retaliation for having previously reported official wrongdoing. One of those matters was investigated and closed within the FY with no further action. One complaint was closed within days of receipt at the request of the complainant who later withdrew the complaint. Three additional complaints were evaluated and referred to the DOE after concluding that the complaint did not fall within the parameters of the WB Statutes.⁴ The chart below breaks down the complaints received by statutory subsection category in FY 2021:

| §2 (b)(1) | §2 (b)(2) | §2 (b)(5) |
|-----------|-----------|-----------|
| 6 | 0 | 1 |

In addition, three complaints received by SCI during previous FY, were closed without further action in FY 2021, after findings that the complainants were not entitled to protection under the WB Statutes.

Seven cases being evaluated under the WB Statutes remain open and under investigation by SCI that commenced in FY 2021 or earlier. The chart below breaks down the total open investigations under the WB Statutes by number of days active at the close of FY 2021:

| 90 – 179 Days | 180 – 364 Days | 365 – 729 Days | 730 or greater |
|---------------|----------------|----------------|----------------|
| 2 | 0 | 2 | 3 |

Finally, pursuant to New York City Administrative Code § 12-113, Section 4 (i)(5)(f), SCI currently employs approximately 24 full-time field investigators. Of those, 10 investigators are assigned

³ The Board of Education is now referred to as the Panel for Educational Policy of the Department of Education.

⁴ Complaints received that fail to meet basic statutory requirements under the WB Statutes, but nonetheless raise issues of concern, may still be investigated by SCI, or may be referred by SCI to the DOE Office of General Counsel, the DOE Office of Equal Opportunity and Diversity Management, or the DOE Office of Special Investigations.

to a select team who solely investigate matters involving sexual or other inappropriate conduct by DOE employees or those doing business with the DOE. Those investigators would likely not be assigned an investigation involving a potential violation of the WB Statutes. The remaining 14 field investigators would all be eligible to investigate allegations of retaliation under the WB Statutes, and may be assigned those investigations on a rolling basis.

Sincerely,

ANASTASIA COLEMAN
Special Commissioner of Investigation
for the New York City School District

By: /s/ Daniel I. Schlachet
Daniel I. Schlachet
First Deputy Commissioner

AC:DS:lr

cc: Carol Strickland, Esq.
Leslie Dubeck, Esq.