

November 15, 2000

Hon. Harold O. Levy  
Chancellor  
New York City Public Schools  
110 Livingston Street, Room 1010  
Brooklyn, NY 11201

Re: Veronica Hernandez  
SCI Case #2000-0954

Dear Chancellor Levy:

An investigation conducted by this office has substantiated that Veronica Hernandez, a teacher assigned to P.S. 91 in C.S.D. 10, in the Bronx, remained employed by the Board of Education (“BOE”) and ultimately received tenure despite an abysmal work history. Hernandez, who had three misdemeanor convictions before working as a teacher, was arrested nine more times resulting in three misdemeanor convictions during her employment with the BOE.<sup>1</sup> She failed to report these arrests to the Office of Personnel Investigation (“OPI”) in violation of Chancellor’s Regulation C-105. Moreover, between September 1993 and June 2000, she was frequently absent without an excuse. In addition, after being assigned to the district office in March 1998, if Hernandez showed up to work at all, she regularly came in late, left early, and sometimes disappeared during the workday with no notice and without authorization to do so. This investigation further substantiated that Hernandez lied on her application for a license to teach English as a Second Language, regarding her status as a criminal defendant. Further, even when the BOE finally removed Hernandez from the classroom, it took two years before charges were filed. During this time, Hernandez was paid to sit in the district office, while a replacement was paid to teach her class.<sup>2</sup>

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<sup>1</sup> Five of Hernandez’s cases are still pending and one was dismissed.

<sup>2</sup> On June 28, 2000, Hernandez was arrested on an outstanding warrant after she failed to appear in court. As a result, she was suspended without pay pending the outcome of a 3020-a hearing. The 3020-a hearing was originally scheduled for August 28, 2000. It was adjourned and is now scheduled to begin on December 15, 2000. One of her arrests occurred after she was suspended without pay.

This investigation began when Carmela Cuddy, an administrator at OPI, notified this office that Hernandez was arrested on February 25, 2000, for Assault in the Second Degree and failed to notify OPI as required. A review of her arrest history revealed that Hernandez had been arrested twelve times before the February 25<sup>th</sup> arrest, and once since then. Many of her convictions relate to the shoplifting of expensive items, such as coats from Bloomingdale's, and a computer and printer from a retail store.<sup>3</sup>

Hernandez's criminal history began before her employment with the BOE and continued after she was hired. We found that prior to her application:

- In May 1988, Hernandez was arrested for Petit Larceny and convicted of Disorderly Conduct.
- In November 1988, she was arrested for and convicted of Petit Larceny.<sup>4</sup>
- In July 1989, she was arrested for Robbery and Assault. The charges were later dismissed.
- In September 1989, she was arrested for Petit Larceny and pleaded guilty to that charge.
- In October 1990, she was arrested in New Jersey for Shoplifting and Assault and convicted of Shoplifting.<sup>5</sup>

After her employment with the BOE began, her criminal activity continued:

- In January 1995, Hernandez was arrested for Petit Larceny and Endangering the Welfare of a Child and convicted of Attempted Petit Larceny.
- In March 1997, she was arrested and convicted of Shoplifting in New Jersey.
- In August 1997, she was arrested and convicted of the crime of Disorderly Person in New Jersey.
- In March 1998, she was arrested for Attempted Grand Larceny. The case is pending.
- In June 1998, she was arrested for Issuing a Bad Check and Petit Larceny. The charges were later dismissed.

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<sup>3</sup> She was charged with taking the computer equipment off the shelves and seeking to "return" it for a cash refund.

<sup>4</sup> The disposition information comes from a document prepared by the Board of Education's Office of Personnel Investigation.

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- In September 1999, in connection with a criminal case pending in New Rochelle, Hernandez was held in contempt of court and served twenty days in jail. She was also charged with Resisting Arrest as part of that incident. That charge is pending.
- In November 1999, she was arrested for a Scheme to Defraud, Petit Larceny and Issuing a Bad Check. The case is still pending.
- In February 2000, she was arrested for Assault in the Second Degree. She failed to appear in court and a warrant was issued. Hernandez was returned on the warrant in June 2000. The case is pending.
- In July 2000, Hernandez was arrested in Florida and charged with Grand Larceny. That case is also pending.

Despite having been arrested fourteen times, Hernandez has managed, until recently, to build a successful career as a teacher in the New York City school system. Although her criminal record initially kept her out, her persistence prevailed. In 1992, Hernandez applied for a job as a substitute paraprofessional. Her application was denied because, according to the “Summary Document” in the OPI file, “The two recent misdemeanor convictions for Petit Larceny and Shoplifting occurred one year apart. The granting of employment would involve an unreasonable risk to the welfare and safety of the school population and its property.”<sup>6</sup> At the time, Hernandez’s New York State record included convictions in 1988 for Petit Larceny and Disorderly Conduct and another in 1989 for Petit Larceny. In addition, she had been convicted in 1990 for Shoplifting in New Jersey.<sup>7</sup> Despite her criminal history and the previous denial of employment, one year later, in 1993, when Hernandez applied for a teaching position, she was hired. Upon reviewing the file at our request, Lawrence Becker, who was then Counsel to the Chancellor and is presently Chief Administrator of the Division of Human Resources, presumed that Hernandez was hired because, between the two applications, she obtained a college degree and appeared to have turned her life around.

Appearances can be deceiving, however, and Hernandez did not abandon her criminal behavior after being employed by the BOE. In 1995, she was arrested for Petit Larceny and Endangering the Welfare of a Child.<sup>8</sup> On April 17, 1995, she pleaded guilty to Attempted Petit Larceny and was sentenced to one year of probation. On May 3, 1995, Hernandez sought a “Pedagogical License or Certificate” to teach English as a Second Language. A question on the

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<sup>6</sup> This is also the language used by Conrad Reitz, then OPI Director, in his letter to Hernandez, informing her that her application was being denied.

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application asked whether she was currently under the jurisdiction of a court as a result of being a defendant in a criminal action. She falsely answered “No” despite pleading guilty and being placed on probation just two and a half weeks earlier.<sup>9</sup>

Sporadic attendance did not impede her career, either. Hernandez received satisfactory ratings from P.S. 91 Principal Evelyn Centeno each year, even though she was absent frequently. Hernandez taught at P.S. 91 from September 1993 until March 1998, when she was transferred to the district office. During that time period, in addition to 33 days for which she provided a medical note, the teacher was absent without an excuse 59 times.<sup>10</sup> Moreover, she was late or left early a total of 39 days. Centeno defended her ratings and claimed that Hernandez was “the best teacher in the school.” According to the principal, she gave her good evaluations despite her poor attendance because it is only one of a number of factors taken into account in evaluating a teacher.<sup>11</sup> Moreover, Centeno explained that Hernandez had medical problems that contributed to her poor attendance record.<sup>12</sup> Nevertheless, in 1995, she warned Hernandez about her absences in a letter to her file and indicated on the 1994/1995 evaluation that the teacher had to improve her attendance.

Hernandez’s attendance problems did not end after she left P.S. 91. After being arrested again in March 1998, she was removed to the district office. While at that assignment, Hernandez was absent without an excuse on approximately 139 days.<sup>13</sup> Further, she failed to complete a full day of work on 80 occasions.<sup>14</sup>

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<sup>9</sup> Hernandez was granted a Certificate of Relief from Disabilities with this conviction. Thus, she was relieved from certain enumerated disabilities, forfeitures, or bars to her employment automatically imposed by law, as a result of this conviction. However, a certificate does not act as a pardon. Therefore, she still had an obligation to tell the truth on the application.

<sup>10</sup> This does not include the time she spent out on maternity leave from January 19, 1997 until April 6, 1997. While out on maternity leave, Hernandez was arrested and convicted of shoplifting.

<sup>11</sup> The Office of Appeals and Reviews’ publication, Rating Pedagogical Staff Members, guides principals and superintendents in evaluating teachers. The publication lays out the criteria to be used including attendance, lateness, personal and professional growth, pupil guidance and instruction, classroom management, participation in school, and community activities.

<sup>12</sup> Hernandez was out approximately 48 days on maternity leave and had 33 excused absences.

<sup>13</sup> There were an additional three days that Hernandez claimed were bereavement days.

<sup>14</sup> These statistics are based on a time and attendance inquiry made of the New York City Public School Employee Information System. In addition to the absences noted in the text, Hernandez missed six additional days while in jail. According to Carlos Herrera, a BOE payroll supervisor, the rules regarding a teacher’s timekeeping consider the accumulation of 3 hours and 10 minutes of coming in late, leaving early or otherwise missing a part of a day, as missing a whole day. For purposes of this letter, full days absent were calculated separately from these.

Notwithstanding Hernandez's arrests and absenteeism, she was granted tenure in 1996.<sup>15</sup> Her record included five arrests that resulted in three misdemeanor convictions and one violation before applying to be a teacher, another arrest and conviction just before her probationary period ended, excessive absences from school, and a lie on her pedagogical application to teach English as a Second Language. Nevertheless, Hernandez was considered to have successfully completed her probationary period. According to Maria Quinones, Director of Personnel for C.S.D. 10, tenure is granted automatically unless an affirmative step is taken to stop it. Regardless of a teacher's history, three satisfactory evaluations plus the educational requirements result in tenure.<sup>16</sup>

Once Hernandez received tenure, she continued on her criminal path and proceeded to get arrested eight more times: twice in 1997, twice in 1998, twice in 1999, and twice in 2000.<sup>17</sup> Two resulted in misdemeanor convictions for Shoplifting and Disorderly Person. She was also held in Contempt of Court for misbehaving at legal proceedings. Charges are still pending in five others and one was dismissed.

Pursuant to Chancellor's Regulation C-105, all employees are required to notify OPI when they are arrested. However, Hernandez never reported her arrests to the BOE. When questioned by our investigators, the teacher claimed that she was not aware of this requirement.<sup>18</sup> However, in March 1993, as part of the hiring process, Hernandez initialed and signed a form acknowledging that she was given the opportunity to read Chancellor's Regulation C-105, which governs background investigations. Therefore, she knew or should have known of her obligation.

Even after learning of Hernandez's repeated arrests, the BOE was slow to take action:

- After Hernandez's 1995 arrest, she was removed from her teaching duties and assigned to the district office. However, that same day, she was returned to the classroom because of a shortage of teachers. She continued for two years in this position.

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<sup>15</sup> The BOE was aware of Hernandez's 1995 arrest. There is a letter in Hernandez's personnel file dated January 27, 1995 from OPI's Conrad Reitz to District 10 Superintendent Irma Zardoya regarding this arrest.

<sup>16</sup> District 10 did not know of Hernandez's arrests and convictions prior to her employment with the BOE, but OPI did.

<sup>17</sup> Hernandez has used four different aliases and four different social security numbers.

<sup>18</sup> At first, Hernandez spoke to our investigators in the presence of a union representative. After a few minutes, Hernandez refused to answer any more questions without an attorney. This office later received a letter from attorney Virginia LoPreto stating that Hernandez declined the opportunity to be interviewed further in connection with this investigation.

- On April 16, 1997, Hernandez was again removed from the classroom. The reason for this action is unclear. According to Lawrence Becker, she was placed in the district office when the BOE realized that she had not provided the disposition of her 1995 arrest.<sup>19</sup> However, according to Theresa Europe, Deputy Counsel to the Chancellor, and officials at the district office, this reassignment was based on her March 1997 arrest.<sup>20</sup>
- The discrepancy between Becker and Europe is significant because on June 6, 1997, Hernandez was cleared to return to teaching. According to Becker, this occurred when she supplied documentation regarding her 1995 conviction for attempted Petit Larceny.<sup>21</sup> According to Europe, however, her return was made with full knowledge of the March 1997 arrest and conviction.
- On March 3, 1998, Hernandez was arrested for attempted Grand Larceny. At that point, she was again removed from the classroom and assigned to the district office pending disciplinary charges. It was not until December 1998, some nine months later, that OLS first recommended that charges be preferred.
- In March 2000, two years after her arrest and reassignment and fifteen months after charges were recommended, OLS finally brought charges.<sup>22</sup>

Deputy Counsel Europe attempted to explain the delay in preferring charges based on her review of the file. She was not the attorney who handled the case. Europe stated that OLS was waiting for one of the post-1995 arrests to lead to a conviction, which would bolster the specifications relating to unsatisfactory evaluations and attendance. There are several problems with this explanation:

- Hernandez's 1997 conviction of Disorderly Person was a misdemeanor. Europe incorrectly believed that it was only a "violation" and thus did not form a strong basis for charges. After speaking to our investigator on September 19, 2000, however, Europe called the New Jersey court and learned that the charge was a misdemeanor.

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<sup>19</sup> Becker claims that the BOE was not immediately aware of either 1997 arrest because they occurred out of state and the Board was not automatically notified. They learned of the out of state arrests when they ran a federal search after Hernandez's March 1998 arrest.

<sup>20</sup> Europe's conclusion was based on a subsequent review of the file.

<sup>21</sup> There is no indication in Hernandez's file of what, if any, evaluation was done before she was returned to the classroom. According to Becker, Hernandez's return probably was based on the fact that her conviction for attempted Petit Larceny was nothing serious.

<sup>22</sup> The charges preferred were: (1) Just cause for disciplinary action under section 3020-a of the Education Law; (2) Conduct unbecoming Respondent's position and conduct prejudicial to the good order, efficiency, and discipline of the service; (3) Substantial cause rendering Respondent unfit to perform properly her obligations to the service; (4) A violation of the by-laws, rules and regulations of the City Board, Chancellor, or the Community School Board; (5) Excessive absenteeism; (6) Neglect of duty; and (7) Just cause for dismissal.

- In 1999, Hernandez was held in contempt of court and incarcerated for twenty days. This also could have been used as a basis for filing charges.<sup>23</sup>
- Finally, the March 1997 arrest had already led to a conviction. Since Europe concluded that this conviction was known to OLS when Hernandez was returned to the classroom that June, she was concerned that they could no longer make use of that crime in preferring charges. However, if Becker was correct, that arrest could certainly have been the basis for charges. Regardless, OLS ultimately included the March 1997 arrest and conviction in the charges.

For more than two years, while reassigned to the district office waiting for OLS to bring charges, Hernandez received her salary. Her reassignment has cost the district \$113,542 in compensation for a replacement teacher at the same time that she was paid \$80,190 to sit in the district office on administrative duty.<sup>24</sup>

OLS finally took an aggressive step when the teacher had another brush with law enforcement while the disciplinary charges were pending. When Hernandez was taken into custody on June 28, 2000, on an outstanding warrant from a prior arrest, OLS decided to suspend her without pay. When Europe learned of Hernandez's arrest on June 28<sup>th</sup>, she faxed a letter to Maria Quinones, directing that the teacher be removed from the payroll "immediately." Quinones, however, could not take action to stop Hernandez's summer checks because of BOE payroll procedures.<sup>25</sup> Since September 1, 2000, Hernandez has been suspended without pay and remains in that status, pending the outcome of a hearing before an arbitrator.<sup>26</sup>

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<sup>23</sup> In fact, Hernandez missed workdays from September 14, 1999 until October 4, 1999, while she was in jail.

<sup>24</sup> A replacement teacher was paid \$2,872 for the five weeks Hernandez was in the district office in 1997 and \$110,670 for the years she spent there from March 7, 1998 to June 28, 2000. Further, Hernandez's salary was \$31,938.24 in 1998; \$25,805.74 in 1999; and \$22,446.38 in 2000. Hernandez's salary dipped because she began to be docked as a result of her excessive absences.

<sup>25</sup> Hernandez received her "summer" checks on June 28, 2000. These checks are post-dated throughout the summer. It was also Quinones' belief that the Payroll Management System for the City of New York, which is the agency that generates payroll checks, would automatically reduce the amount of those checks based on the days Hernandez was absent from work. However, according to Supervising Bookkeeper Fred Rodriguez from the BOE Payroll Staffing Unit, any deductions would not be reflected in Hernandez's paycheck until September 2000. Since Hernandez stopped receiving paychecks as of September, these adjustments may never be made.

<sup>26</sup> As stated above, the arbitration is now scheduled to begin on December 15, 2000. As per Education Law section 3020-a (b), the BOE may have to pay Hernandez her salary from the time she was taken off payroll until the time the arbitrator makes a decision.

### Recommendations

Veronica Hernandez's employment must be terminated. She was disqualified from employment as a substitute paraprofessional when she applied in 1992, but surprisingly enough was found fit to teach in the City schools when she applied in 1993. This office is well aware of the BOE's need for qualified teachers; but to hire someone with Hernandez's background and then not watch carefully as she spirals into a cycle of arrests and removals from the classroom is unacceptable. It is the recommendation of this office that Hernandez never be permitted to work again for the BOE. Moreover, greater care must be taken in hiring and monitoring teachers.

A teacher's history certainly must be scrutinized when tenure is about to be granted. Education Law section 2573, requires, with certain exceptions, three years of satisfactory evaluations and the completion of educational requirements. That Hernandez, with a pre-employment criminal history, a subsequent misdemeanor conviction, and almost 40 unexcused absences during her three-year probationary period, could be granted tenure is a clear indication that greater care is needed in the determination of what is "satisfactory." It seems apparent that the present BOE standard is not stringent enough to protect the schools and the students from sub-standard teachers.

To aid in the review of a teacher's complete history, there must be an improvement in the communication between the different agencies within the BOE. It is unacceptable for OPI to possess information relevant to district management decisions and for that information not to reach the decision-makers. In fact, on September 12, 2000, as a result of this investigation, a small step was taken in the right direction. An e-mail was sent to all superintendents and personnel directors, on behalf of Howard S. Tames, the Executive Director of the Division of Human Resources, by his secretary, Marie Desole. The e-mail instructs the administrators to check with OPI to determine whether a person being considered for tenure, who has been arrested during the probationary period, has any criminal history that would be relevant to their decision. It is imperative that this be taken even further. The information either must be supplied to the districts automatically or it must become a general request as part of the tenure process.

The disciplinary process must move at a faster pace. The first step in that process is OLS filing disciplinary charges. Prosecutors routinely submit criminal cases to a grand jury within a week of an arrest. There is no reason that the BOE should take months, and even years, to bring disciplinary charges. Upon gaining tenure, if a teacher acts in a way that puts her job in jeopardy, she should not be allowed to sit in the district office indefinitely and collect a salary while the BOE pays for a replacement in the classroom. The fact that it took the BOE nine months from the arrest to hold a Technical Assistance Conference and another fifteen months before charges

were preferred, is intolerable. Again, the failure of BOE officials to share necessary information added to the problem. Steps must be taken to ensure that the bringing of charges and determinations are made in an expedient manner. To its credit, OLS has been noticeably quicker in bringing charges in the last year. Still, in cases where this office made a recommendation of disciplinary action, it typically took several months before charges were filed.

Finally, it is imperative that the Chancellor's Regulation requiring employees to notify OPI when they are arrested be enforced. While the Division of Criminal Justice System usually provides notification of New York State arrests within 24 hours, the BOE does not learn of out of state arrests as a matter of course. Hernandez failed to notify OPI when she was arrested twice in New Jersey in 1997. The BOE remained unaware of these criminal cases for a year. In the meantime, she remained a teacher in the classroom.<sup>27</sup> It is no surprise that BOE employees do not report their arrests as required, because they are rarely penalized even if they are caught. Without punishment for non-reporting, there is simply no incentive to report arrests.

We are forwarding a copy of this letter to the Office of Legal Services. We are also forwarding it to the State Education Department for whatever action they deem appropriate. Should you have any inquiries regarding the above, please contact Vicki Multer, the attorney assigned to this case. She can be reached at the above address or at (212) 510-1454. Please notify Ms. Multer within thirty days of receipt of this letter of what, if any action has been taken or is contemplated against Veronica Hernandez. Thank you for your attention to this matter.

Sincerely,

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Edward F. Stancik  
Special Commissioner  
of Investigation for the  
New York City School District

EFS:RMB:VLM:ai

c: Chad Vignola, Esq.

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<sup>27</sup> Except for the period of time when she was removed from teaching for approximately two months in 1997.

November 15, 2000

Hon. William C. Thompson, Jr.  
President  
New York City Board of Education  
110 Livingston Street, Room 1118  
Brooklyn, NY 11201

Re: Veronica Hernandez  
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Dear President Thompson:

An investigation conducted by this office has substantiated that Veronica Hernandez, a teacher assigned to P.S. 91 in C.S.D. 10, in the Bronx, remained employed by the Board of Education (“BOE”) and ultimately received tenure despite an abysmal work history. Hernandez, who had three misdemeanor convictions before working as a teacher, was arrested nine more times resulting in three misdemeanor convictions during her employment with the BOE.<sup>1</sup> She failed to report these arrests to the Office of Personnel Investigation (“OPI”) in violation of Chancellor’s Regulation C-105. Moreover, between September 1993 and June 2000, she was frequently absent without an excuse. In addition, after being assigned to the district office in March 1998, if Hernandez showed up to work at all, she regularly came in late, left early, and sometimes disappeared during the workday with no notice and without authorization to do so. This investigation further substantiated that Hernandez lied on her application for a license to teach English as a Second Language, regarding her status as a criminal defendant. Further, even when the BOE finally removed Hernandez from the classroom, it took two years before charges were filed. During this time, Hernandez was paid to sit in the district office, while a replacement was paid to teach her class.<sup>2</sup>

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<sup>2</sup> On June 28, 2000, Hernandez was arrested on an outstanding warrant after she failed to appear in court. As a result, she was suspended without pay pending the outcome of a 3020-a hearing. The 3020-a hearing was originally scheduled for August 28, 2000. It was adjourned and is now scheduled to begin on December 15, 2000. One of her arrests occurred after she was suspended without pay.

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Pursuant to Chancellor's Regulation C-105, all employees are required to notify OPI when they are arrested. However, Hernandez never reported her arrests to the BOE. When questioned by our investigators, the teacher claimed that she was not aware of this requirement.<sup>18</sup> However, in March 1993, as part of the hiring process, Hernandez initialed and signed a form acknowledging that she was given the opportunity to read Chancellor's Regulation C-105, which governs background investigations. Therefore, she knew or should have known of her obligation.

Even after learning of Hernandez's repeated arrests, the BOE was slow to take action:

- After Hernandez's 1995 arrest, she was removed from her teaching duties and assigned to the district office. However, that same day, she was returned to the classroom because of a shortage of teachers. She continued for two years in this position.

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<sup>15</sup> The BOE was aware of Hernandez's 1995 arrest. There is a letter in Hernandez's personnel file dated January 27, 1995 from OPI's Conrad Reitz to District 10 Superintendent Irma Zardoya regarding this arrest.

<sup>16</sup> District 10 did not know of Hernandez's arrests and convictions prior to her employment with the BOE, but OPI did.

<sup>17</sup> Hernandez has used four different aliases and four different social security numbers.

<sup>18</sup> At first, Hernandez spoke to our investigators in the presence of a union representative. After a few minutes, Hernandez refused to answer any more questions without an attorney. This office later received a letter from attorney Virginia LoPreto stating that Hernandez declined the opportunity to be interviewed further in connection with this investigation.

- On April 16, 1997, Hernandez was again removed from the classroom. The reason for this action is unclear. According to Lawrence Becker, she was placed in the district office when the BOE realized that she had not provided the disposition of her 1995 arrest.<sup>19</sup> However, according to Theresa Europe, Deputy Counsel to the Chancellor, and officials at the district office, this reassignment was based on her March 1997 arrest.<sup>20</sup>
- The discrepancy between Becker and Europe is significant because on June 6, 1997, Hernandez was cleared to return to teaching. According to Becker, this occurred when she supplied documentation regarding her 1995 conviction for attempted Petit Larceny.<sup>21</sup> According to Europe, however, her return was made with full knowledge of the March 1997 arrest and conviction.
- On March 3, 1998, Hernandez was arrested for attempted Grand Larceny. At that point, she was again removed from the classroom and assigned to the district office pending disciplinary charges. It was not until December 1998, some nine months later, that OLS first recommended that charges be preferred.
- In March 2000, two years after her arrest and reassignment and fifteen months after charges were recommended, OLS finally brought charges.<sup>22</sup>

Deputy Counsel Europe attempted to explain the delay in preferring charges based on her review of the file. She was not the attorney who handled the case. Europe stated that OLS was waiting for one of the post-1995 arrests to lead to a conviction, which would bolster the specifications relating to unsatisfactory evaluations and attendance. There are several problems with this explanation:

- Hernandez's 1997 conviction of Disorderly Person was a misdemeanor. Europe incorrectly believed that it was only a "violation" and thus did not form a strong basis for charges. After speaking to our investigator on September 19, 2000, however, Europe called the New Jersey court and learned that the charge was a misdemeanor.

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<sup>19</sup> Becker claims that the BOE was not immediately aware of either 1997 arrest because they occurred out of state and the Board was not automatically notified. They learned of the out of state arrests when they ran a federal search after Hernandez's March 1998 arrest.

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<sup>22</sup> The charges preferred were: (1) Just cause for disciplinary action under section 3020-a of the Education Law; (2) Conduct unbecoming Respondent's position and conduct prejudicial to the good order, efficiency, and discipline of the service; (3) Substantial cause rendering Respondent unfit to perform properly her obligations to the service; (4) A violation of the by-laws, rules and regulations of the City Board, Chancellor, or the Community School Board; (5) Excessive absenteeism; (6) Neglect of duty; and (7) Just cause for dismissal.

- In 1999, Hernandez was held in contempt of court and incarcerated for twenty days. This also could have been used as a basis for filing charges.<sup>23</sup>
- Finally, the March 1997 arrest had already led to a conviction. Since Europe concluded that this conviction was known to OLS when Hernandez was returned to the classroom that June, she was concerned that they could no longer make use of that crime in preferring charges. However, if Becker was correct, that arrest could certainly have been the basis for charges. Regardless, OLS ultimately included the March 1997 arrest and conviction in the charges.

For more than two years, while reassigned to the district office waiting for OLS to bring charges, Hernandez received her salary. Her reassignment has cost the district \$113,542 in compensation for a replacement teacher at the same time that she was paid \$80,190 to sit in the district office on administrative duty.<sup>24</sup>

OLS finally took an aggressive step when the teacher had another brush with law enforcement while the disciplinary charges were pending. When Hernandez was taken into custody on June 28, 2000, on an outstanding warrant from a prior arrest, OLS decided to suspend her without pay. When Europe learned of Hernandez's arrest on June 28<sup>th</sup>, she faxed a letter to Maria Quinones, directing that the teacher be removed from the payroll "immediately." Quinones, however, could not take action to stop Hernandez's summer checks because of BOE payroll procedures.<sup>25</sup> Since September 1, 2000, Hernandez has been suspended without pay and remains in that status, pending the outcome of a hearing before an arbitrator.<sup>26</sup>

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<sup>23</sup> In fact, Hernandez missed workdays from September 14, 1999 until October 4, 1999, while she was in jail.

<sup>24</sup> A replacement teacher was paid \$2,872 for the five weeks Hernandez was in the district office in 1997 and \$110,670 for the years she spent there from March 7, 1998 to June 28, 2000. Further, Hernandez's salary was \$31,938.24 in 1998; \$25,805.74 in 1999; and \$22,446.38 in 2000. Hernandez's salary dipped because she began to be docked as a result of her excessive absences.

<sup>25</sup> Hernandez received her "summer" checks on June 28, 2000. These checks are post-dated throughout the summer. It was also Quinones' belief that the Payroll Management System for the City of New York, which is the agency that generates payroll checks, would automatically reduce the amount of those checks based on the days Hernandez was absent from work. However, according to Supervising Bookkeeper Fred Rodriguez from the BOE Payroll Staffing Unit, any deductions would not be reflected in Hernandez's paycheck until September 2000. Since Hernandez stopped receiving paychecks as of September, these adjustments may never be made.

<sup>26</sup> As stated above, the arbitration is now scheduled to begin on December 15, 2000. As per Education Law section 3020-a (b), the BOE may have to pay Hernandez her salary from the time she was taken off payroll until the time the arbitrator makes a decision.

### Recommendations

Veronica Hernandez's employment must be terminated. She was disqualified from employment as a substitute paraprofessional when she applied in 1992, but surprisingly enough was found fit to teach in the City schools when she applied in 1993. This office is well aware of the BOE's need for qualified teachers; but to hire someone with Hernandez's background and then not watch carefully as she spirals into a cycle of arrests and removals from the classroom is unacceptable. It is the recommendation of this office that Hernandez never be permitted to work again for the BOE. Moreover, greater care must be taken in hiring and monitoring teachers.

A teacher's history certainly must be scrutinized when tenure is about to be granted. Education Law section 2573, requires, with certain exceptions, three years of satisfactory evaluations and the completion of educational requirements. That Hernandez, with a pre-employment criminal history, a subsequent misdemeanor conviction, and almost 40 unexcused absences during her three-year probationary period, could be granted tenure is a clear indication that greater care is needed in the determination of what is "satisfactory." It seems apparent that the present BOE standard is not stringent enough to protect the schools and the students from sub-standard teachers.

To aid in the review of a teacher's complete history, there must be an improvement in the communication between the different agencies within the BOE. It is unacceptable for OPI to possess information relevant to district management decisions and for that information not to reach the decision-makers. In fact, on September 12, 2000, as a result of this investigation, a small step was taken in the right direction. An e-mail was sent to all superintendents and personnel directors, on behalf of Howard S. Tames, the Executive Director of the Division of Human Resources, by his secretary, Marie Desole. The e-mail instructs the administrators to check with OPI to determine whether a person being considered for tenure, who has been arrested during the probationary period, has any criminal history that would be relevant to their decision. It is imperative that this be taken even further. The information either must be supplied to the districts automatically or it must become a general request as part of the tenure process.

The disciplinary process must move at a faster pace. The first step in that process is OLS filing disciplinary charges. Prosecutors routinely submit criminal cases to a grand jury within a week of an arrest. There is no reason that the BOE should take months, and even years, to bring disciplinary charges. Upon gaining tenure, if a teacher acts in a way that puts her job in jeopardy, she should not be allowed to sit in the district office indefinitely and collect a salary while the BOE pays for a replacement in the classroom. The fact that it took the BOE nine months from the arrest to hold a Technical Assistance Conference and another fifteen months before charges

were preferred, is intolerable. Again, the failure of BOE officials to share necessary information added to the problem. Steps must be taken to ensure that the bringing of charges and determinations are made in an expedient manner. To its credit, OLS has been noticeably quicker in bringing charges in the last year. Still, in cases where this office made a recommendation of disciplinary action, it typically took several months before charges were filed.

Finally, it is imperative that the Chancellor's Regulation requiring employees to notify OPI when they are arrested be enforced. While the Division of Criminal Justice System usually provides notification of New York State arrests within 24 hours, the BOE does not learn of out of state arrests as a matter of course. Hernandez failed to notify OPI when she was arrested twice in New Jersey in 1997. The BOE remained unaware of these criminal cases for a year. In the meantime, she remained a teacher in the classroom.<sup>27</sup> It is no surprise that BOE employees do not report their arrests as required, because they are rarely penalized even if they are caught. Without punishment for non-reporting, there is simply no incentive to report arrests.

Should you have any inquiries regarding the above, please contact me or First Deputy Commissioner Robert M. Brenner. He can be reached at the above address or at (212) 510-1414.

Sincerely,

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Edward F. Stancik  
Special Commissioner  
of Investigation for the  
New York City School District

EFS:RMB:VLM:ai

c: Members of the Board

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<sup>27</sup> Except for the period of time when she was removed from teaching for approximately two months in 1997.

November 15, 2000

Hon. Edward J. Kuriansky  
Commissioner  
New York City Department of Investigation  
80 Maiden Lane, 17<sup>th</sup> Floor  
New York, NY 10038

Re: Veronica Hernandez  
SCI Case #2000-0954

Dear Commissioner Kuriansky:

An investigation conducted by this office has substantiated that Veronica Hernandez, a teacher assigned to P.S. 91 in C.S.D. 10, in the Bronx, remained employed by the Board of Education (“BOE”) and ultimately received tenure despite an abysmal work history. Hernandez, who had three misdemeanor convictions before working as a teacher, was arrested nine more times resulting in three misdemeanor convictions during her employment with the BOE.<sup>1</sup> She failed to report these arrests to the Office of Personnel Investigation (“OPI”) in violation of Chancellor’s Regulation C-105. Moreover, between September 1993 and June 2000, she was frequently absent without an excuse. In addition, after being assigned to the district office in March 1998, if Hernandez showed up to work at all, she regularly came in late, left early, and sometimes disappeared during the workday with no notice and without authorization to do so. This investigation further substantiated that Hernandez lied on her application for a license to teach English as a Second Language, regarding her status as a criminal defendant. Further, even when the BOE finally removed Hernandez from the classroom, it took two years before charges were filed. During this time, Hernandez was paid to sit in the district office, while a replacement was paid to teach her class.<sup>2</sup>

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<sup>1</sup> Five of Hernandez’s cases are still pending and one was dismissed.

<sup>2</sup> On June 28, 2000, Hernandez was arrested on an outstanding warrant after she failed to appear in court. As a result, she was suspended without pay pending the outcome of a 3020-a hearing. The 3020-a hearing was originally scheduled for August 28, 2000. It was adjourned and is now scheduled to begin on December 15, 2000. One of her arrests occurred after she was suspended without pay.

This investigation began when Carmela Cuddy, an administrator at OPI, notified this office that Hernandez was arrested on February 25, 2000, for Assault in the Second Degree and failed to notify OPI as required. A review of her arrest history revealed that Hernandez had been arrested twelve times before the February 25<sup>th</sup> arrest, and once since then. Many of her convictions relate to the shoplifting of expensive items, such as coats from Bloomingdale's, and a computer and printer from a retail store.<sup>3</sup>

Hernandez's criminal history began before her employment with the BOE and continued after she was hired. We found that prior to her application:

- In May 1988, Hernandez was arrested for Petit Larceny and convicted of Disorderly Conduct.
- In November 1988, she was arrested for and convicted of Petit Larceny.<sup>4</sup>
- In July 1989, she was arrested for Robbery and Assault. The charges were later dismissed.
- In September 1989, she was arrested for Petit Larceny and pleaded guilty to that charge.
- In October 1990, she was arrested in New Jersey for Shoplifting and Assault and convicted of Shoplifting.<sup>5</sup>

After her employment with the BOE began, her criminal activity continued:

- In January 1995, Hernandez was arrested for Petit Larceny and Endangering the Welfare of a Child and convicted of Attempted Petit Larceny.
- In March 1997, she was arrested and convicted of Shoplifting in New Jersey.
- In August 1997, she was arrested and convicted of the crime of Disorderly Person in New Jersey.
- In March 1998, she was arrested for Attempted Grand Larceny. The case is pending.
- In June 1998, she was arrested for Issuing a Bad Check and Petit Larceny. The charges were later dismissed.

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<sup>3</sup> She was charged with taking the computer equipment off the shelves and seeking to "return" it for a cash refund.

<sup>4</sup> The disposition information comes from a document prepared by the Board of Education's Office of Personnel Investigation.

<sup>5</sup> Unless otherwise indicated, the arrest took place in New York.

- In September 1999, in connection with a criminal case pending in New Rochelle, Hernandez was held in contempt of court and served twenty days in jail. She was also charged with Resisting Arrest as part of that incident. That charge is pending.
- In November 1999, she was arrested for a Scheme to Defraud, Petit Larceny and Issuing a Bad Check. The case is still pending.
- In February 2000, she was arrested for Assault in the Second Degree. She failed to appear in court and a warrant was issued. Hernandez was returned on the warrant in June 2000. The case is pending.
- In July 2000, Hernandez was arrested in Florida and charged with Grand Larceny. That case is also pending.

Despite having been arrested fourteen times, Hernandez has managed, until recently, to build a successful career as a teacher in the New York City school system. Although her criminal record initially kept her out, her persistence prevailed. In 1992, Hernandez applied for a job as a substitute paraprofessional. Her application was denied because, according to the "Summary Document" in the OPI file, "The two recent misdemeanor convictions for Petit Larceny and Shoplifting occurred one year apart. The granting of employment would involve an unreasonable risk to the welfare and safety of the school population and its property."<sup>6</sup> At the time, Hernandez's New York State record included convictions in 1988 for Petit Larceny and Disorderly Conduct and another in 1989 for Petit Larceny. In addition, she had been convicted in 1990 for Shoplifting in New Jersey.<sup>7</sup> Despite her criminal history and the previous denial of employment, one year later, in 1993, when Hernandez applied for a teaching position, she was hired. Upon reviewing the file at our request, Lawrence Becker, who was then Counsel to the Chancellor and is presently Chief Administrator of the Division of Human Resources, presumed that Hernandez was hired because, between the two applications, she obtained a college degree and appeared to have turned her life around.

Appearances can be deceiving, however, and Hernandez did not abandon her criminal behavior after being employed by the BOE. In 1995, she was arrested for Petit Larceny and Endangering the Welfare of a Child.<sup>8</sup> On April 17, 1995, she pleaded guilty to Attempted Petit Larceny and was sentenced to one year of probation. On May 3, 1995, Hernandez sought a "Pedagogical License or Certificate" to teach English as a Second Language. A question on the

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<sup>6</sup> This is also the language used by Conrad Reitz, then OPI Director, in his letter to Hernandez, informing her that her application was being denied.

<sup>7</sup> The Petit Larceny and Shoplifting convictions were misdemeanors and Disorderly Conduct was a violation.

<sup>8</sup> Hernandez had her child with her while shoplifting.

application asked whether she was currently under the jurisdiction of a court as a result of being a defendant in a criminal action. She falsely answered “No” despite pleading guilty and being placed on probation just two and a half weeks earlier.<sup>9</sup>

Sporadic attendance did not impede her career, either. Hernandez received satisfactory ratings from P.S. 91 Principal Evelyn Centeno each year, even though she was absent frequently. Hernandez taught at P.S. 91 from September 1993 until March 1998, when she was transferred to the district office. During that time period, in addition to 33 days for which she provided a medical note, the teacher was absent without an excuse 59 times.<sup>10</sup> Moreover, she was late or left early a total of 39 days. Centeno defended her ratings and claimed that Hernandez was “the best teacher in the school.” According to the principal, she gave her good evaluations despite her poor attendance because it is only one of a number of factors taken into account in evaluating a teacher.<sup>11</sup> Moreover, Centeno explained that Hernandez had medical problems that contributed to her poor attendance record.<sup>12</sup> Nevertheless, in 1995, she warned Hernandez about her absences in a letter to her file and indicated on the 1994/1995 evaluation that the teacher had to improve her attendance.

Hernandez’s attendance problems did not end after she left P.S. 91. After being arrested again in March 1998, she was removed to the district office. While at that assignment, Hernandez was absent without an excuse on approximately 139 days.<sup>13</sup> Further, she failed to complete a full day of work on 80 occasions.<sup>14</sup>

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<sup>9</sup> Hernandez was granted a Certificate of Relief from Disabilities with this conviction. Thus, she was relieved from certain enumerated disabilities, forfeitures, or bars to her employment automatically imposed by law, as a result of this conviction. However, a certificate does not act as a pardon. Therefore, she still had an obligation to tell the truth on the application.

<sup>10</sup> This does not include the time she spent out on maternity leave from January 19, 1997 until April 6, 1997. While out on maternity leave, Hernandez was arrested and convicted of shoplifting.

<sup>11</sup> The Office of Appeals and Reviews’ publication, Rating Pedagogical Staff Members, guides principals and superintendents in evaluating teachers. The publication lays out the criteria to be used including attendance, lateness, personal and professional growth, pupil guidance and instruction, classroom management, participation in school, and community activities.

<sup>12</sup> Hernandez was out approximately 48 days on maternity leave and had 33 excused absences.

<sup>13</sup> There were an additional three days that Hernandez claimed were bereavement days.

<sup>14</sup> These statistics are based on a time and attendance inquiry made of the New York City Public School Employee Information System. In addition to the absences noted in the text, Hernandez missed six additional days while in jail. According to Carlos Herrera, a BOE payroll supervisor, the rules regarding a teacher’s timekeeping consider the accumulation of 3 hours and 10 minutes of coming in late, leaving early or otherwise missing a part of a day, as missing a whole day. For purposes of this letter, full days absent were calculated separately from these.

Notwithstanding Hernandez's arrests and absenteeism, she was granted tenure in 1996.<sup>15</sup> Her record included five arrests that resulted in three misdemeanor convictions and one violation before applying to be a teacher, another arrest and conviction just before her probationary period ended, excessive absences from school, and a lie on her pedagogical application to teach English as a Second Language. Nevertheless, Hernandez was considered to have successfully completed her probationary period. According to Maria Quinones, Director of Personnel for C.S.D. 10, tenure is granted automatically unless an affirmative step is taken to stop it. Regardless of a teacher's history, three satisfactory evaluations plus the educational requirements result in tenure.<sup>16</sup>

Once Hernandez received tenure, she continued on her criminal path and proceeded to get arrested eight more times: twice in 1997, twice in 1998, twice in 1999, and twice in 2000.<sup>17</sup> Two resulted in misdemeanor convictions for Shoplifting and Disorderly Person. She was also held in Contempt of Court for misbehaving at legal proceedings. Charges are still pending in five others and one was dismissed.

Pursuant to Chancellor's Regulation C-105, all employees are required to notify OPI when they are arrested. However, Hernandez never reported her arrests to the BOE. When questioned by our investigators, the teacher claimed that she was not aware of this requirement.<sup>18</sup> However, in March 1993, as part of the hiring process, Hernandez initialed and signed a form acknowledging that she was given the opportunity to read Chancellor's Regulation C-105, which governs background investigations. Therefore, she knew or should have known of her obligation.

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### Recommendations

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Should you have any inquiries regarding the above, please contact me or First Deputy Commissioner Robert M. Brenner. He can be reached at the above address or at (212) 510-1414.

Sincerely,

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Edward F. Stancik  
Special Commissioner  
of Investigation for the  
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<sup>27</sup> Except for the period of time when she was removed from teaching for approximately two months in 1997.

November 15, 2000

Hon. Richard P. Mills  
Commissioner  
New York State Department of Education  
Washington Avenue  
Albany, NY 12231

Re: Veronica Hernandez  
SCI Case #2000-0954

Dear Commissioner Mills:

An investigation conducted by this office has substantiated that Veronica Hernandez, a teacher assigned to P.S. 91 in C.S.D. 10, in the Bronx, remained employed by the Board of Education (“BOE”) and ultimately received tenure despite an abysmal work history. Hernandez, who had three misdemeanor convictions before working as a teacher, was arrested nine more times resulting in three misdemeanor convictions during her employment with the BOE.<sup>1</sup> She failed to report these arrests to the Office of Personnel Investigation (“OPI”) in violation of Chancellor’s Regulation C-105. Moreover, between September 1993 and June 2000, she was frequently absent without an excuse. In addition, after being assigned to the district office in March 1998, if Hernandez showed up to work at all, she regularly came in late, left early, and sometimes disappeared during the workday with no notice and without authorization to do so. This investigation further substantiated that Hernandez lied on her application for a license to teach English as a Second Language, regarding her status as a criminal defendant. Further, even when the BOE finally removed Hernandez from the classroom, it took two years before charges were filed. During this time, Hernandez was paid to sit in the district office, while a replacement was paid to teach her class.<sup>2</sup>

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<sup>1</sup> Five of Hernandez’s cases are still pending and one was dismissed.

<sup>2</sup> On June 28, 2000, Hernandez was arrested on an outstanding warrant after she failed to appear in court. As a result, she was suspended without pay pending the outcome of a 3020-a hearing. The 3020-a hearing was originally scheduled for August 28, 2000. It was adjourned and is now scheduled to begin on December 15, 2000. One of her arrests occurred after she was suspended without pay.

This investigation began when Carmela Cuddy, an administrator at OPI, notified this office that Hernandez was arrested on February 25, 2000, for Assault in the Second Degree and failed to notify OPI as required. A review of her arrest history revealed that Hernandez had been arrested twelve times before the February 25<sup>th</sup> arrest, and once since then. Many of her convictions relate to the shoplifting of expensive items, such as coats from Bloomingdale's, and a computer and printer from a retail store.<sup>3</sup>

Hernandez's criminal history began before her employment with the BOE and continued after she was hired. We found that prior to her application:

- In May 1988, Hernandez was arrested for Petit Larceny and convicted of Disorderly Conduct.
- In November 1988, she was arrested for and convicted of Petit Larceny.<sup>4</sup>
- In July 1989, she was arrested for Robbery and Assault. The charges were later dismissed.
- In September 1989, she was arrested for Petit Larceny and pleaded guilty to that charge.
- In October 1990, she was arrested in New Jersey for Shoplifting and Assault and convicted of Shoplifting.<sup>5</sup>

After her employment with the BOE began, her criminal activity continued:

- In January 1995, Hernandez was arrested for Petit Larceny and Endangering the Welfare of a Child and convicted of Attempted Petit Larceny.
- In March 1997, she was arrested and convicted of Shoplifting in New Jersey.
- In August 1997, she was arrested and convicted of the crime of Disorderly Person in New Jersey.
- In March 1998, she was arrested for Attempted Grand Larceny. The case is pending.
- In June 1998, she was arrested for Issuing a Bad Check and Petit Larceny. The charges were later dismissed.

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<sup>3</sup> She was charged with taking the computer equipment off the shelves and seeking to "return" it for a cash refund.

<sup>4</sup> The disposition information comes from a document prepared by the Board of Education's Office of Personnel Investigation.

<sup>5</sup> Unless otherwise indicated, the arrest took place in New York.

- In September 1999, in connection with a criminal case pending in New Rochelle, Hernandez was held in contempt of court and served twenty days in jail. She was also charged with Resisting Arrest as part of that incident. That charge is pending.
- In November 1999, she was arrested for a Scheme to Defraud, Petit Larceny and Issuing a Bad Check. The case is still pending.
- In February 2000, she was arrested for Assault in the Second Degree. She failed to appear in court and a warrant was issued. Hernandez was returned on the warrant in June 2000. The case is pending.
- In July 2000, Hernandez was arrested in Florida and charged with Grand Larceny. That case is also pending.

Despite having been arrested fourteen times, Hernandez has managed, until recently, to build a successful career as a teacher in the New York City school system. Although her criminal record initially kept her out, her persistence prevailed. In 1992, Hernandez applied for a job as a substitute paraprofessional. Her application was denied because, according to the "Summary Document" in the OPI file, "The two recent misdemeanor convictions for Petit Larceny and Shoplifting occurred one year apart. The granting of employment would involve an unreasonable risk to the welfare and safety of the school population and its property."<sup>6</sup> At the time, Hernandez's New York State record included convictions in 1988 for Petit Larceny and Disorderly Conduct and another in 1989 for Petit Larceny. In addition, she had been convicted in 1990 for Shoplifting in New Jersey.<sup>7</sup> Despite her criminal history and the previous denial of employment, one year later, in 1993, when Hernandez applied for a teaching position, she was hired. Upon reviewing the file at our request, Lawrence Becker, who was then Counsel to the Chancellor and is presently Chief Administrator of the Division of Human Resources, presumed that Hernandez was hired because, between the two applications, she obtained a college degree and appeared to have turned her life around.

Appearances can be deceiving, however, and Hernandez did not abandon her criminal behavior after being employed by the BOE. In 1995, she was arrested for Petit Larceny and Endangering the Welfare of a Child.<sup>8</sup> On April 17, 1995, she pleaded guilty to Attempted Petit Larceny and was sentenced to one year of probation. On May 3, 1995, Hernandez sought a "Pedagogical License or Certificate" to teach English as a Second Language. A question on the

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<sup>6</sup> This is also the language used by Conrad Reitz, then OPI Director, in his letter to Hernandez, informing her that her application was being denied.

<sup>7</sup> The Petit Larceny and Shoplifting convictions were misdemeanors and Disorderly Conduct was a violation.

<sup>8</sup> Hernandez had her child with her while shoplifting.

application asked whether she was currently under the jurisdiction of a court as a result of being a defendant in a criminal action. She falsely answered “No” despite pleading guilty and being placed on probation just two and a half weeks earlier.<sup>9</sup>

Sporadic attendance did not impede her career, either. Hernandez received satisfactory ratings from P.S. 91 Principal Evelyn Centeno each year, even though she was absent frequently. Hernandez taught at P.S. 91 from September 1993 until March 1998, when she was transferred to the district office. During that time period, in addition to 33 days for which she provided a medical note, the teacher was absent without an excuse 59 times.<sup>10</sup> Moreover, she was late or left early a total of 39 days. Centeno defended her ratings and claimed that Hernandez was “the best teacher in the school.” According to the principal, she gave her good evaluations despite her poor attendance because it is only one of a number of factors taken into account in evaluating a teacher.<sup>11</sup> Moreover, Centeno explained that Hernandez had medical problems that contributed to her poor attendance record.<sup>12</sup> Nevertheless, in 1995, she warned Hernandez about her absences in a letter to her file and indicated on the 1994/1995 evaluation that the teacher had to improve her attendance.

Hernandez’s attendance problems did not end after she left P.S. 91. After being arrested again in March 1998, she was removed to the district office. While at that assignment, Hernandez was absent without an excuse on approximately 139 days.<sup>13</sup> Further, she failed to complete a full day of work on 80 occasions.<sup>14</sup>

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<sup>9</sup> Hernandez was granted a Certificate of Relief from Disabilities with this conviction. Thus, she was relieved from certain enumerated disabilities, forfeitures, or bars to her employment automatically imposed by law, as a result of this conviction. However, a certificate does not act as a pardon. Therefore, she still had an obligation to tell the truth on the application.

<sup>10</sup> This does not include the time she spent out on maternity leave from January 19, 1997 until April 6, 1997. While out on maternity leave, Hernandez was arrested and convicted of shoplifting.

<sup>11</sup> The Office of Appeals and Reviews’ publication, Rating Pedagogical Staff Members, guides principals and superintendents in evaluating teachers. The publication lays out the criteria to be used including attendance, lateness, personal and professional growth, pupil guidance and instruction, classroom management, participation in school, and community activities.

<sup>12</sup> Hernandez was out approximately 48 days on maternity leave and had 33 excused absences.

<sup>13</sup> There were an additional three days that Hernandez claimed were bereavement days.

<sup>14</sup> These statistics are based on a time and attendance inquiry made of the New York City Public School Employee Information System. In addition to the absences noted in the text, Hernandez missed six additional days while in jail. According to Carlos Herrera, a BOE payroll supervisor, the rules regarding a teacher’s timekeeping consider the accumulation of 3 hours and 10 minutes of coming in late, leaving early or otherwise missing a part of a day, as missing a whole day. For purposes of this letter, full days absent were calculated separately from these.

Notwithstanding Hernandez's arrests and absenteeism, she was granted tenure in 1996.<sup>15</sup> Her record included five arrests that resulted in three misdemeanor convictions and one violation before applying to be a teacher, another arrest and conviction just before her probationary period ended, excessive absences from school, and a lie on her pedagogical application to teach English as a Second Language. Nevertheless, Hernandez was considered to have successfully completed her probationary period. According to Maria Quinones, Director of Personnel for C.S.D. 10, tenure is granted automatically unless an affirmative step is taken to stop it. Regardless of a teacher's history, three satisfactory evaluations plus the educational requirements result in tenure.<sup>16</sup>

Once Hernandez received tenure, she continued on her criminal path and proceeded to get arrested eight more times: twice in 1997, twice in 1998, twice in 1999, and twice in 2000.<sup>17</sup> Two resulted in misdemeanor convictions for Shoplifting and Disorderly Person. She was also held in Contempt of Court for misbehaving at legal proceedings. Charges are still pending in five others and one was dismissed.

Pursuant to Chancellor's Regulation C-105, all employees are required to notify OPI when they are arrested. However, Hernandez never reported her arrests to the BOE. When questioned by our investigators, the teacher claimed that she was not aware of this requirement.<sup>18</sup> However, in March 1993, as part of the hiring process, Hernandez initialed and signed a form acknowledging that she was given the opportunity to read Chancellor's Regulation C-105, which governs background investigations. Therefore, she knew or should have known of her obligation.

Even after learning of Hernandez's repeated arrests, the BOE was slow to take action:

- After Hernandez's 1995 arrest, she was removed from her teaching duties and assigned to the district office. However, that same day, she was returned to the classroom because of a shortage of teachers. She continued for two years in this position.

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<sup>15</sup> The BOE was aware of Hernandez's 1995 arrest. There is a letter in Hernandez's personnel file dated January 27, 1995 from OPI's Conrad Reitz to District 10 Superintendent Irma Zardoya regarding this arrest.

<sup>16</sup> District 10 did not know of Hernandez's arrests and convictions prior to her employment with the BOE, but OPI did.

<sup>17</sup> Hernandez has used four different aliases and four different social security numbers.

<sup>18</sup> At first, Hernandez spoke to our investigators in the presence of a union representative. After a few minutes, Hernandez refused to answer any more questions without an attorney. This office later received a letter from attorney Virginia LoPreto stating that Hernandez declined the opportunity to be interviewed further in connection with this investigation.

- On April 16, 1997, Hernandez was again removed from the classroom. The reason for this action is unclear. According to Lawrence Becker, she was placed in the district office when the BOE realized that she had not provided the disposition of her 1995 arrest.<sup>19</sup> However, according to Theresa Europe, Deputy Counsel to the Chancellor, and officials at the district office, this reassignment was based on her March 1997 arrest.<sup>20</sup>
- The discrepancy between Becker and Europe is significant because on June 6, 1997, Hernandez was cleared to return to teaching. According to Becker, this occurred when she supplied documentation regarding her 1995 conviction for attempted Petit Larceny.<sup>21</sup> According to Europe, however, her return was made with full knowledge of the March 1997 arrest and conviction.
- On March 3, 1998, Hernandez was arrested for attempted Grand Larceny. At that point, she was again removed from the classroom and assigned to the district office pending disciplinary charges. It was not until December 1998, some nine months later, that OLS first recommended that charges be preferred.
- In March 2000, two years after her arrest and reassignment and fifteen months after charges were recommended, OLS finally brought charges.<sup>22</sup>

Deputy Counsel Europe attempted to explain the delay in preferring charges based on her review of the file. She was not the attorney who handled the case. Europe stated that OLS was waiting for one of the post-1995 arrests to lead to a conviction, which would bolster the specifications relating to unsatisfactory evaluations and attendance. There are several problems with this explanation:

- Hernandez's 1997 conviction of Disorderly Person was a misdemeanor. Europe incorrectly believed that it was only a "violation" and thus did not form a strong basis for charges. After speaking to our investigator on September 19, 2000, however, Europe called the New Jersey court and learned that the charge was a misdemeanor.

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<sup>19</sup> Becker claims that the BOE was not immediately aware of either 1997 arrest because they occurred out of state and the Board was not automatically notified. They learned of the out of state arrests when they ran a federal search after Hernandez's March 1998 arrest.

<sup>20</sup> Europe's conclusion was based on a subsequent review of the file.

<sup>21</sup> There is no indication in Hernandez's file of what, if any, evaluation was done before she was returned to the classroom. According to Becker, Hernandez's return probably was based on the fact that her conviction for attempted Petit Larceny was nothing serious.

<sup>22</sup> The charges preferred were: (1) Just cause for disciplinary action under section 3020-a of the Education Law; (2) Conduct unbecoming Respondent's position and conduct prejudicial to the good order, efficiency, and discipline of the service; (3) Substantial cause rendering Respondent unfit to perform properly her obligations to the service; (4) A violation of the by-laws, rules and regulations of the City Board, Chancellor, or the Community School Board; (5) Excessive absenteeism; (6) Neglect of duty; and (7) Just cause for dismissal.

- In 1999, Hernandez was held in contempt of court and incarcerated for twenty days. This also could have been used as a basis for filing charges.<sup>23</sup>
- Finally, the March 1997 arrest had already led to a conviction. Since Europe concluded that this conviction was known to OLS when Hernandez was returned to the classroom that June, she was concerned that they could no longer make use of that crime in preferring charges. However, if Becker was correct, that arrest could certainly have been the basis for charges. Regardless, OLS ultimately included the March 1997 arrest and conviction in the charges.

For more than two years, while reassigned to the district office waiting for OLS to bring charges, Hernandez received her salary. Her reassignment has cost the district \$113,542 in compensation for a replacement teacher at the same time that she was paid \$80,190 to sit in the district office on administrative duty.<sup>24</sup>

OLS finally took an aggressive step when the teacher had another brush with law enforcement while the disciplinary charges were pending. When Hernandez was taken into custody on June 28, 2000, on an outstanding warrant from a prior arrest, OLS decided to suspend her without pay. When Europe learned of Hernandez's arrest on June 28<sup>th</sup>, she faxed a letter to Maria Quinones, directing that the teacher be removed from the payroll "immediately." Quinones, however, could not take action to stop Hernandez's summer checks because of BOE payroll procedures.<sup>25</sup> Since September 1, 2000, Hernandez has been suspended without pay and remains in that status, pending the outcome of a hearing before an arbitrator.<sup>26</sup>

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<sup>23</sup> In fact, Hernandez missed workdays from September 14, 1999 until October 4, 1999, while she was in jail.

<sup>24</sup> A replacement teacher was paid \$2,872 for the five weeks Hernandez was in the district office in 1997 and \$110,670 for the years she spent there from March 7, 1998 to June 28, 2000. Further, Hernandez's salary was \$31,938.24 in 1998; \$25,805.74 in 1999; and \$22,446.38 in 2000. Hernandez's salary dipped because she began to be docked as a result of her excessive absences.

<sup>25</sup> Hernandez received her "summer" checks on June 28, 2000. These checks are post-dated throughout the summer. It was also Quinones' belief that the Payroll Management System for the City of New York, which is the agency that generates payroll checks, would automatically reduce the amount of those checks based on the days Hernandez was absent from work. However, according to Supervising Bookkeeper Fred Rodriguez from the BOE Payroll Staffing Unit, any deductions would not be reflected in Hernandez's paycheck until September 2000. Since Hernandez stopped receiving paychecks as of September, these adjustments may never be made.

<sup>26</sup> As stated above, the arbitration is now scheduled to begin on December 15, 2000. As per Education Law section 3020-a (b), the BOE may have to pay Hernandez her salary from the time she was taken off payroll until the time the arbitrator makes a decision.

### Recommendations

Veronica Hernandez's employment must be terminated. She was disqualified from employment as a substitute paraprofessional when she applied in 1992, but surprisingly enough was found fit to teach in the City schools when she applied in 1993. This office is well aware of the BOE's need for qualified teachers; but to hire someone with Hernandez's background and then not watch carefully as she spirals into a cycle of arrests and removals from the classroom is unacceptable. We have recommended to the Board of Education that Hernandez never be permitted to work again for the Board. Moreover, greater care must be taken in hiring and monitoring teachers.

A teacher's history certainly must be scrutinized when tenure is about to be granted. Education Law section 2573, requires, with certain exceptions, three years of satisfactory evaluations and the completion of educational requirements. That Hernandez, with a pre-employment criminal history, a subsequent misdemeanor conviction, and almost 40 unexcused absences during her three-year probationary period, could be granted tenure is a clear indication that greater care is needed in the determination of what is "satisfactory." It seems apparent that the present BOE standard is not stringent enough to protect the schools and the students from sub-standard teachers.

To aid in the review of a teacher's complete history, there must be an improvement in the communication between the different agencies within the BOE. It is unacceptable for OPI to possess information relevant to district management decisions and for that information not to reach the decision-makers. In fact, on September 12, 2000, as a result of this investigation, a small step was taken in the right direction. An e-mail was sent to all superintendents and personnel directors, on behalf of Howard S. Tames, the Executive Director of the Division of Human Resources, by his secretary, Marie Desole. The e-mail instructs the administrators to check with OPI to determine whether a person being considered for tenure, who has been arrested during the probationary period, has any criminal history that would be relevant to their decision. It is imperative that this be taken even further. The information either must be supplied to the districts automatically or it must become a general request as part of the tenure process.

The disciplinary process must move at a faster pace. The first step in that process is OLS filing disciplinary charges. Prosecutors routinely submit criminal cases to a grand jury within a week of an arrest. There is no reason that the BOE should take months, and even years, to bring disciplinary charges. Upon gaining tenure, if a teacher acts in a way that puts her job in jeopardy, she should not be allowed to sit in the district office indefinitely and collect a salary while the BOE pays for a replacement in the classroom. The fact that it took the BOE nine months from the arrest to hold a Technical Assistance Conference and another fifteen months before charges

were preferred, is intolerable. Again, the failure of BOE officials to share necessary information added to the problem. Steps must be taken to ensure that the bringing of charges and determinations are made in an expedient manner. To its credit, OLS has been noticeably quicker in bringing charges in the last year. Still, in cases where this office made a recommendation of disciplinary action, it typically took several months before charges were filed.

Finally, it is imperative that the Chancellor's Regulation requiring employees to notify OPI when they are arrested be enforced. While the Division of Criminal Justice System usually provides notification of New York State arrests within 24 hours, the BOE does not learn of out of state arrests as a matter of course. Hernandez failed to notify OPI when she was arrested twice in New Jersey in 1997. The BOE remained unaware of these criminal cases for a year. In the meantime, she remained a teacher in the classroom.<sup>27</sup> It is no surprise that BOE employees do not report their arrests as required, because they are rarely penalized even if they are caught. Without punishment for non-reporting, there is simply no incentive to report arrests.

We are forwarding this letter concerning our investigation for whatever action you deem appropriate. Should you have any inquiries regarding the above, please contact me or First Deputy Commissioner Robert M. Brenner. He can be reached at the above address or at (212) 510-1414.

Sincerely,

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Edward F. Stancik  
Special Commissioner  
of Investigation for the  
New York City School District

EFS:RMB:VLM:ai  
c: Peter Sherman, Esq.

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<sup>27</sup> Except for the period of time when she was removed from teaching for approximately two months in 1997.