

CITY OF NEW YORK
THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT

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**AN INVESTIGATION INTO THE DROWNING OF DANIEL
MARACALLO DURING THE I.S. 166 EIGHTH GRADE TRIP TO
DORNEY PARK AND WILDWATER KINGDOM**

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INTRODUCTION

On June 15, 1994, Daniel Maracallo, a slight, fourteen-year-old eighth grader, joined 137 classmates, five teachers, and an assistant principal on a school graduation trip to Dorney Park and Wildwater Kingdom in Allentown, Pennsylvania. At the end of the day, and known to the assistant principal supervising the trip, the school buses that had brought the eighth graders left the Pennsylvania park for home without Daniel. It was during this school trip to Dorney Park, in the "wave pool," that Daniel died by drowning. This investigation examines the circumstances leading up to Daniel's drowning and the events following the assistant principal's discovery that Daniel was missing, including her decision to return home without him.

Dorney Park and Wildwater Kingdom (hereafter, "Dorney Park") is an amusement park containing traditional attractions, such as roller coasters and ferris wheels, as well as water rides. The wave pool in which Daniel drowned is one of its most popular attractions. The pool contains machinery at its deep end which churns the water to create powerful waves at a rate faster than that generally occurring in the ocean.

Daniel Maracallo, a poor swimmer, ventured into the ten-foot area, the deepest section of the wave pool, at approximately 3:30 p.m. on June 15, 1994, to join his friend, Felix Martinez. As the wave machinery operated, the waves, measuring higher than the swimmers' heads, arrived every two to three seconds. The waves crashed into Daniel, dragging him under the water. Felix grabbed Daniel and pulled him to the water's surface, where Daniel gulped for air, flailed his arms and went under the water again--this time not to surface alive. Felix and two other friends of Daniel, Engelbert Toro and Angela Couvertier, called to lifeguards for help and told them that their friend went under the water. Three lifeguards looked in the direction where Felix and Engelbert pointed and, not immediately seeing anyone in distress, chose not to enter the pool to search for Daniel. Felix next looked for a teacher, but none of the six adults on the trip was in the wave pool area at the time.

Other lifeguards, apparently confusing Daniel with another child pulled out of the pool at about the same time, told Angela that her friend had been rescued. All three of the children eventually left the wave pool area, hoping the lifeguards were correct and that Daniel had somehow gotten out safely.

Between 5:00 and 5:30 p.m., Daniel's classmates boarded the three buses for their return to school, Intermediate School 166 in the Bronx. The five teachers and the assistant principal monitoring the trip realized for the first time that Daniel was missing. Engelbert Toro then described to a teacher and the assistant principal how Daniel had gone under in the deep section of the wave pool. Park security guards went to the wave pool, but did not find Daniel. A security guard later explained to the local police that he had only viewed the surface of the pool, never looking down into the water. Winsome Naylor, the assistant principal in charge of the trip, instructed two of the three buses to return home after determining that Daniel was on neither bus. The search for Daniel continued.

About one hour later, with Daniel still missing, Ms. Naylor and the remaining teacher boarded the last bus and headed home. Without even a simple exchange of telephone numbers between her and park security, Ms. Naylor and the teacher returned from Pennsylvania to the Bronx, leaving Daniel behind. Daniel Maracallo's grandmother and brother greeted the bus at I.S. 166, only to learn that Daniel was missing.

Back at Dorney Park, several hours later, at approximately 1:00 a.m., a park worker inadvertently discovered Daniel's body at the bottom of the deepest end of the wave pool. The coroner concluded that Daniel Maracallo drowned at a time consistent with his friends' calls for help to lifeguards--the same time that Felix also looked for help, without success, from teachers.

This investigation examines how Daniel came to die at Dorney Park on June 15 and why the assistant principal, along with all of the teachers, left the park for home with Daniel still unaccounted for. We examined not only the immediate circumstances of the drowning but also the wisdom of selecting a water amusement park for an eighth grade class trip, the planning for that trip, the supervision provided

by the teachers and the assistant principal, and the Board of Education rules governing school trips.

BACKGROUND OF OUR INVESTIGATION

In gathering evidence for this report, we interviewed Winsome Naylor, the assistant principal who organized and supervised the outing,¹ and the five teachers who, with Ms. Naylor, monitored the trip to Dorney Park. We also interviewed the principal, Nelson Abreu, who did not attend the trip. We spoke with many of the students who attended the outing and several of their parents. We attempted to meet with the Dorney Park lifeguards, medical personnel and security guards who worked that day, only to be told by Dorney Park's lawyers that they would not cooperate with our investigation and would not allow us to speak with park employees. However, we were assisted by and worked closely with members of the South Whitehall Township, Pennsylvania Police Department, whose jurisdiction includes Dorney Park, and have reviewed their reports and transcripts of their interviews of lifeguards, medical technicians and security guards.² To gain broader insight into the area of water park amusements and rides, we interviewed Wallace James, a professional consultant and expert in the field of water amusement park safety.³ We also reviewed the autopsy report and the statements made in a press conference by the coroner. Further, we reviewed Board of Education and Community School

¹Winsome Naylor was served a subpoena on July 9 to appear in our office on July 14, 1994. On July 13, at 8:15 p.m., Ms. Naylor left a message stating that she could not appear the next morning due to a death in her family and because her attorney was unavailable. Ms. Naylor's attorney, on July 14, informed us that Ms. Naylor would not appear in our office to answer questions until the week of August 22, claiming that Ms. Naylor was going out of town for several weeks and that he would thereafter be unavailable. Ms. Naylor's attorney refused to tell us where Ms. Naylor could be contacted and the reason for her departure. Ms. Naylor did not make herself available to our office until September 1, 1994.

² The South Whitehall Township Police Department conducted their own investigation into the drowning of Daniel Maracallo and provided us with Dorney Park lifeguard rescue reports, commonly called "save cards," Daniel Maracallo's autopsy report and relevant documents and transcripts prepared in the course of their investigation.

³Wallace James is the president of Con-Serv Associates, a risk management and operations company in the amusement park industry whose expertise is in the field of water amusement park safety, including wave pools. Mr. James provided information regarding the dimensions, water speeds and other aspects of wave pools. The information Mr. James provided, and references to Dorney Park's wave pool specifically, were corroborated by investigators during their two visits to Dorney Park after the drowning.

District Nine manuals and guidelines concerning field trips and reviewed all of the documents prepared before and after the trip by school personnel. We tried to meet with Daniel Maracallo's family, but, through their attorney, they expressed an unwillingness to discuss the incident. Finally, we traveled to Dorney Park on two occasions: once shortly after the drowning incident on a prearranged tour controlled by park personnel and, several weeks later, on an unannounced visit conducted without the park's knowledge.

WANT OF BOARD OF EDUCATION RULES GOVERNING SCHOOL TRIPS

At the time of Daniel Maracallo's drowning, there were no city-wide rules governing school trips. Nothing was in place that applied to all of the more than 1,000 schools in the city school district. Rules addressing, for instance, the ratio of children to adults, the educational value of trips, general safety plans, and parent permission simply did not exist.⁴ Rather, the Board of Education (hereafter, the "BOE"), according to Lawrence Becker, Counsel to the Chancellor, relied on each of the 32 community school districts and the high school division to create and implement their own rules.⁵ Mr. Becker admitted that the BOE did not know if school districts had, in fact, implemented any such rules. In a survey by this office of eight community school districts, including all of those in the Bronx, we learned that five districts have no written rules governing school trips, and, of the three districts that do have such rules, two specifically prohibit trips to amusement parks.

⁴ As a result of the Dorney Park trip, the Chancellor's office has drafted regulations governing field trips. The regulations, recently enacted, are addressed later in this report.

⁵ The Office of Pupil Transportation published a booklet in 1990 concerning school trips and distributed it to all districts that year. However, it was advisory only, not made a part of any official regulations, and not distributed since 1990. None of the school personnel we spoke with, other than Mr. Becker, seemed to be aware of its existence.

In Community School District Nine (hereafter, "CSD 9"), where I.S. 166 is located, then-superintendent Felton Johnson issued rules governing trips in September 1991. The rules were contained in administrative memorandum number 17 (hereafter, "memorandum 17"), addressed to all principals in CSD 9. The memorandum directed principals to submit a safety plan seeking approval for all school trips held outside of New York City. Principals were instructed to submit the plan to the CSD 9 superintendent's office at least two weeks prior to the trip.

Principals were required to include the following information in the safety plan: a trip itinerary listing the educational value for each of the locations to be visited; the date of the trip and projected departure and arrival times; the name, address and telephone number of the carrier company used, identification numbers of the buses and the amount of insurance coverage; the name, address and telephone number of each student attending the trip; the names of parents accompanying the classes; the names of teachers and supervisors attending the trip; safety procedures to be followed while on the trip; the student to adult ratio, which could be no higher than 10 to 1; the name of the person in charge of the trip; a statement that parental consent was on file; and, finally, a sample letter to parents explaining the trip. Despite the requirement that the educational value of a proposed trip be stated, the memorandum did not specifically prohibit trips to amusement parks.

The substance of memorandum 17 was repeated in October 1993 in another memorandum from the superintendent to all CSD 9 principals. This memorandum addressed trips both within and outside of New York City. For trips outside of the city, principals were reminded of and directed to review memorandum 17, which was attached.

EDUCATIONAL VALUE AND SAFETY: WHY A WATER PARK?

It may seem obvious, quite apart from the provisions of memorandum 17, that the educational and student safety components of school-sponsored trips should be carefully considered. Yet neither was adequately addressed in preparing for the eighth grade trip to Dorney Park.

I.S. 166, an intermediate school with grades five through eight, holds a trip each year for its graduating students.⁶ The trip destination is decided by the students after being presented with choices by the student council, all of which are subject to school administration approval. For the 1994 trip, all five of the sites to choose from were amusement parks.⁷

The school administration approved the students' choice of a water park, despite the obvious lack of educational value. In fact, the principal, Mr. Abreu, said that although he approved the choice, upon Ms. Naylor's recommendation, he knew nothing about the park. The principal and the assistant principal, who supervised the trip, did not consider educational value in approving the water park, contending that they were not aware of any such requirement nor were they aware of memorandum 17 or the October 1993 memorandum addressing the same issue. Mr. Abreu said he had never received either memorandum 17 or the later memorandum. He did not offer an explanation.

Mr. Abreu's claim that he had not received memorandum 17 or the 1993 update is unconvincing. These memoranda were addressed to all principals and delivered in the same manner as all other memoranda coming from the superintendent's office, and Mr. Abreu, the principal at I.S. 166 since 1988, admitted that he regularly received memoranda from his superintendent. Also, memorandum 17, along with all other "administrative memoranda," are maintained for reference in the district office, which is where an investigator from this office found it. Further, this office randomly chose and questioned three principals in CSD 9, all of whom recalled having received both memoranda. In fact, one of the principals routinely

⁶Although there were almost 350 students in the graduating class, the trip was limited to the number that could be carried by three buses: in this case 138 students. Ms. Naylor explained that, based on her experience, 138 students represented the approximate number who attend trips in a class of 350. Ms. Naylor did not offer evidence for her estimate of 138 students. Ms. Naylor and another teacher on the trip said students were allowed to go on a "first come, first serve" basis. Two students, at least one of whom was turned away, went anyway, being driven to Pennsylvania by a teen-age friend, and Ms. Naylor herself turned away about ten other children. Despite this, one teacher was allowed to bring his daughter, who was not an I.S. 166 student.

⁷During the same school year, eighth grade students at I.S. 166 were taken during the school day to see the movie *The Flintstones*. This class trip, like the one to Dorney Park, served no educational purpose and wasted the time and resources that could otherwise have been devoted to field trips that were both

time stamps memoranda, and the date of receipt of the October memorandum is within one day of its issue. Finally, Mr. Abreu, Ms. Naylor, and the five teachers on the trip--Daniel DelValle, James Jackson, Joseph Ragins, Natalie Gordon and Erica Myers--had all recently supervised field trips, although claiming ignorance of the rules governing them. They were responsible for knowing the rules, especially those involving student safety, and following them.

educational and fun.

Just as the Dorney Park trip lacked a sound educational purpose, foreseeable safety issues were ignored. No effort was made to determine the swimming ability of these eighth graders. It was assumed that children who could not swim or who were weak swimmers would by themselves avoid the almost a dozen water rides, completely overlooking the natural inclination of children to want to join in the fun with their friends. No provisions were made for the ten special education students on the trip. The only safety instructions given to all students on the morning of the trip were to stay with at least one other student and to search for a teacher if an emergency arose. The inadequacy of these instructions is underscored by the ratio of 23 children for each adult, the immense size of the 187-acre park, and the failure to station adults at key locations, instead of allowing them to ride amusements and wander the park, as they did.⁸

The most efficient way to determine each child's swimming preparedness for a water park would have been to ask their parents on the written permission forms. The written permissions, prepared by Ms. Naylor, not only failed to address swimming ability, but failed to inform the parents that swimming would be required for many of the attractions. Rather, the only hint of a warning to parents was that the park contained water rides and that a bathing suit was necessary. Parents were entitled to know, as the Park's own literature states, that Dorney Park "is a participatory park where you control your ride. Participants using water activities must accept responsibility for personal injuries arising out of the natural risk of participation in these activities." The very names of the water rides, printed in Dorney's brochure--*Wildwater River*, *Aquablast*, *Runaway River*, *Riptide Run*, *Torpedo Tubes* and, of course, the *Wave Pool*--could have alerted parents of weak and non-swimmers to the risks inherent in the trip.

⁸At times, teachers rode amusements either by themselves or with students. Indeed, two of the teachers, along with some students, tried to convince park employees to let them ride the roller coaster one more time, at 5:00, only to be told the park was by then closed.

The teacher assigned responsibility for the ten special education children on the trip was Mr. Jackson. He knew four of those students because they were in his class. However, the other six were unknown to him. No provision was made by Mr. Jackson to address the special needs of these learning disabled children. In fact, Mr. Jackson remained alone in the picnic area of the park all day, while the special education students roamed the park and used the water rides without supervision. At the time of Daniel's drowning, it was Felix Martinez, an unsupervised special education student from Mr. Jackson's class, who first attempted to save Daniel as he struggled in the wave pool.

Varying instructions were given to the children before entering the park: on all three buses, teachers told the children to remain with a classmate, known as the "buddy system," or to stay in a group; on Mr. Jackson's bus he added to his students that he would be near the park's entrance in the picnic area; on Ms. Naylor's bus she added that the students should look for a teacher if an emergency arose, but she did not tell them where a teacher could be found. In fact, one student who looked for a teacher could not find one.⁹ This was true at the most critical moment, when Daniel Maracallo was drowning.

⁹ Ms. Naylor informed our office that she told students that all of the teachers could be found in the water park. However, the teachers were not aware that they were to remain in the water park, and, with the exception of Mr. Jackson, they all, including Ms. Naylor, traveled throughout both halves of the park-- Wildwater Kingdom and Dorney Park. Further, the students we spoke with did not corroborate Ms. Naylor's statement. Lastly, even if Ms. Naylor did intend for teachers to remain in Wildwater Kingdom, where the water rides were located, this merely limited their presence to one half of a sprawling, 187-acre amusement park.

Lastly, and maybe most importantly, there was only one adult for every 23 children. No effort was made to attract other teachers or parents. Several reasons were given for this: it was assumed by Ms. Naylor that other teachers would not be interested because the trip was scheduled to return after school hours; according to one of the teachers who attended the trip, parents were not asked because of the limited seating and the concern that students would then be turned away--it was Ms. Naylor's decision to hire only three buses thereby limiting the number of attendees and, as a result, many students were not allowed to go even though room was made for the non-student daughter of one of the teachers; and, lastly, according to a statement made by Ms. Naylor to our investigators, "some of these parents are more trouble than the students."

A limited survey of school systems indicates that a student to adult ratio of between 10 to 1 and 15 to 1 for field trips is most common. For instance, in Yonkers, New York, one of the largest school districts in the state, the ratio is 10 to 1, dropping to as low as 5 to 1 depending on the trip and the age of the children. In Old Bridge Township, New Jersey, the ratio is between 10 to 1 and 15 to 1, again dropping even lower depending on the trip, the special needs of the children, and the age of the children. In Dade County, Florida, which includes Miami, the ratio is 15 to 1, and field trips are canceled if that ratio cannot be met. None of the educators questioned for this survey considered 23 to 1 a safe ratio.

AT THE WATER PARK

The lack of preparation for addressing safety and supervision concerns was evident once the class entered Dorney Park. There was little, if any, supervision of the 138 children; the posted warnings at the water park were not heeded, even though Ms. Naylor admitted to our office that the water park posed "inherent dangers"; the clear risks posed by the wave pool, which even Ms. Naylor described as a scene of commotion, with people screaming and bumping into each other, were ignored; and over the course of the afternoon, at least nine students had to be saved by lifeguards at various water rides.

During the entire afternoon, Mr. Jackson stayed in the picnic area, near the park's entrance, where only the students from his bus knew where to find him. Mr. DelValle spent the afternoon visiting the amusements with his twelve-year-old daughter and some students. Ms. Myers, Ms. Gordon and Mr. Ragins used the wave pool and went on rides, with and without students. Ms. Naylor remained by the entrance gate of the park until 2:30, awaiting the late arrival of buses in order to hand out admission tickets. At times, she sat in the vicinity of the wave pool and swam in the shallow end. After the last bus arrived at Dorney Park, she roamed the park until its closing at 5:00.

THE WAVE POOL

The dangers the wave pool presented to unescorted eighth graders are immediately apparent. Upon entering the wave pool area, one is first greeted by a sign setting forth seventeen rules that visitors must follow. (*See photograph of the wave pool rules at the end of this section.*) Most significantly, visitors are warned that the wave pool is to be used by strong swimmers only. Weak swimmers are instructed to wear life jackets, but are not instructed where to find them. The sign further states that the waves are generated for ten minutes and turned off for ten minutes, allowing swimmers to rest. None of the teachers who monitored the trip mentioned that they saw the sign, though all of the teachers saw the wave pool and all but Mr. Jackson entered it. Ms. Naylor, however, recalled a sign with written warnings measuring about four feet high posted in front of the wave pool.¹⁰

The wave pool at Dorney Park is easily large enough to accommodate more than a hundred swimmers at one time. (*See photograph depicting a crowded area of the wave pool at the end of this section.*) The pool is inches deep at its shallow end and increases to a maximum depth of ten feet—referred to by the lifeguards as the "danger zone." On the day of the class trip, the wave pool was divided into two sections by a rope that spanned the length of the pool. One side of the pool was set aside for swimmers with small surf boards, used to ride the waves from the deep to the shallow end of the pool. The other side of the wave pool was set aside for swimmers only.

¹⁰ Our investigators observed two warning signs, at least one of which listed the seventeen cautionary instructions, including a warning that the wave pool was intended for "strong swimmers only."

The wave-making machinery is slightly recessed into the wall at the deepest end of the pool, behind a large, dark metal grate. According to two of our investigators who swam in the pool, the apparent purpose of the metal grate is to protect people from drifting into or being pulled into the machinery as well as to prevent clothing or large pieces of debris from getting caught as the machinery sucks water in through the grate and churns it out in the form of waves measuring higher than the swimmers' heads. *(See photograph of the wave pool grate at the end of this section.)*

On June 28, 1994, an investigator from this office visited Dorney Park. The investigator was greeted and then accompanied by the park's deputy chief of security and a police officer from the South Whitehall Township Police Department. While observing the wave pool, the investigator was told that the wave-making machinery was on. There were ripples created in the water, but nothing resembling the strong waves reported to this office. On August 4, 1994, the investigator returned to the park, this time unannounced and accompanied by undercover investigators. During this unannounced visit, the investigators observed the wave pool for about one hour. The waves this time were large and powerful, consistently washing over the heads of the people in the pool, forcing them under water and into deeper waters. A new wave was created every two to three seconds, making it difficult for swimmers to regain their footing or catch their breath. The difference in the waves during the first visit and the second, unannounced visit was profound.

During our investigation, we contacted Wallace James, president of Con-Serv Associates, a risk management and operations company in the amusement park industry. According to Mr. James, a noted expert in the field of water amusement park safety, the most common form of injury suffered at a wave pool is death. Indeed, by July 23 of the 1994 summer season, at least three deaths and one serious injury had occurred in wave pools in the United States.

Mr. James stated that drownings in wave pools occur because the strength of the waves causes people to quickly tire, often without realizing it. He added that most drowning victims are poor or non-swimmers who go into deep waters. He was aware of no state or federal regulations governing wave pools and stated that each amusement park is responsible for implementing its own safety rules.

Mr. James explained that the wave-making machine generates waves at two to three second intervals, faster than those occurring in the ocean, and that swimming is impossible when the waves are flowing because the waves are simply too strong and too frequent. Mr. James explained that wave-making machines usually work on a ten minute on/ten minute off cycle in order to give swimmers time to rest, as is the case at Dorney Park. He added that this system is expensive to operate, and that it is less costly to leave the wave mechanism on. Furthermore, there are emergency switches that can immediately stop the wave-making mechanism, but which cannot stop the flow of waves that have already been generated.¹¹

Finally, on the day of this trip, nine of the 138 children from I.S. 166 who visited the water rides required rescuing by lifeguards. This number of rescues, or "saves," refers to those rescues for which a "save card" was prepared by a park medical technician. Of the nine students saved, two children were rescued from the wave pool and seven children were rescued from yet another water ride. In addition to Daniel Maracallo and the two students whose rescue from the wave pool was recorded in official Dorney Park documents, our office has learned that other students experienced trouble in the wave pool, some needing the help of other students.

Although Ms. Naylor said she spent most of her time in the water park area, she claimed to be unaware of any students requiring rescuing by lifeguards. In fact, none of the teachers admitted being aware that at least nine of the children, whom they were charged with supervising, had been rescued. However, two of the children rescued by lifeguards insisted to our office that they promptly made Daniel DelValle, a teacher, aware of their rescues.

¹¹ Although we possess no direct evidence indicating that lifeguards purposely did not use the emergency stop button due to the cost of stopping the wave mechanism, common sense suggests that this may have contributed to the reason why the emergency stop button was not utilized when Felix Martinez, Engelbert Toro and Angela Couvertier told the three lifeguards that their friend was drowning. Obviously, it would be easier to look for and assist a drowning victim in calm water than in turbulent water. As will be discussed later in this report, the investigators who visited Dorney Park unannounced on August 4, 1994 observed swimmers experiencing much difficulty in the wave pool because of the strength, height and frequency of the waves. At no time did the investigators observe the wave mechanism turned off to help

THE DROWNING OF DANIEL MARACALLO

Daniel Maracallo and his close friend Engelbert Toro rode to Dorney Park on the first bus to arrive, monitored by Winsome Naylor and Natalie Gordon. Engelbert did not know whether Daniel could swim, but said that while they were changing into bathing suits in the Dorney Park locker room, Daniel admitted that he was "not the best swimmer."

Daniel and Engelbert used the wave pool several times that day, at first venturing only into the shallow end where both 5'2" Daniel and 5'9" Engelbert could stand. The wave machinery was off during their first visit. During a later visit, Engelbert and Daniel ventured into the seven-foot-deep section. The wave machinery was on this time. Neither Engelbert nor Daniel could stand in such deep water, but, according to Engelbert, they were able to remain afloat because Engelbert knew how to tread water and Daniel, who did not, held onto the rope that spanned the length of the pool. Engelbert stated that after several large waves passed, he grabbed Daniel and "threw him on [his] back and then swam back." They left the wave pool for a while.

At approximately 3:30, Daniel and Engelbert returned to the wave pool. During this last visit, Engelbert saw Felix Martinez, another friend, in the ten-foot section--the deepest area of the pool--and joined him. Other friends, including Daniel, remained in the shallow end for a while. The waves were rolling in. Engelbert admitted that this section of the pool was difficult because as each wave forced him underwater, requiring him to swim to the surface, another wave drove him under again.

After several minutes with Felix, Engelbert swam to the shallow area to rejoin Daniel. Engelbert, Felix and Angela each described, with some variation, what happened next. According to Engelbert, upon not finding Daniel in the shallow end of the pool, he swam back to the deep end and found Daniel next to Felix. Engelbert continued:

a swimmer, and at no time did they observe a lifeguard enter the pool to provide assistance.

...and then when he was with Felix, like Felix was trying to help him, to grab him from like the arm and tried to lift him up, and then...when I went back to Danny, I saw Danny go under, then when I'd seen him go under I swam to the lifeguard. And I told the lifeguard, "somebody went under." She said but she don't see nobody. I got out the water, I stood next to her, I told her, "somebody went under over there in that area." She said but she don't see nobody. I said, "but go check." She said, but she don't see nobody. So I said, "alright." So I swam back and when I swam back I asked Felix and I was like, "where's Danny?" and he was like, that he went under and he never came back up. Felix told me that he went under and he grabbed onto his foot and he never came back up. So then, since Danny knew, only knew how to swim under water, so I thought he just swam under water and to where he could just stand at. Then after that, I didn't see him no more...

Felix recalled that Engelbert swam into the deepest section with Daniel on his back. Once there, Daniel either slipped or jumped off Engelbert's back and disappeared under the water. Felix's account of events from that point is similar to Engelbert's:

So when he went under he had his hand up like for help and I grabbed his hand since I was the closest one to him, I grabbed his hand, I brung him up and I was too far from the rope, so I couldn't, you know, push him to the rope. So when I picked him up, when I picked him up I couldn't catch my balance, then I went under the water, so when I came up, he went under the water, then he pulled my legs. When I went down he came up.

Felix knew that Daniel was in serious trouble when, after pulling Daniel to the surface, Daniel gasped for air and flailed his arms. Daniel pulled Felix underwater a few times as Felix attempted to save him. After struggling for several seconds, Felix lost sight of Daniel. Felix next swam to a lifeguard and screamed for help.

Angela described how, as Daniel struggled in the water, the waves kept coming every two to three seconds and increased in strength.¹² Angela recalled how Felix reached Daniel first and tried to

¹² Our investigators and Wallace James corroborate Angela Couvertier's description of the increasing intensity of the waves over each ten minute cycle.

rescue him:

... he went for him first. So then, the waves kept on coming so he was holding him, and I guess he was panicked or something because he was pulling Felix down into the water; so then Engelbert was screaming to me, "go get the lifeguard, go get the lifeguard." So I screamed for my friend Sharon and we all started screaming to the lifeguard and then Engelbert started saying, "he's going under, he's going under"...

Engelbert, Felix and Angela, at first separately and then together, called to at least three lifeguards for help. The children pointed to where they last saw Daniel and screamed, "Somebody's drowning, somebody's drowning." None of the lifeguards entered the pool, nor did they turn the wave machine off. Rather, they looked in the direction to which the three children pointed and said they saw no one in trouble. According to Angela, after repeated pleas by the children, another lifeguard said, "They got him out already. They took him to the bathroom." In fact, one of Daniel's classmates had been rescued by lifeguards only moments before Daniel disappeared under the water. Some lifeguards may have been confused by the rescue of the other child, thinking that it was Daniel who was saved.

Three lifeguards, Aliina Helen Ronsberg, Becky Bodnar, and Paul Schemm, recall being beckoned by several children who said, "Someone went under over there." The lifeguards looked in the direction to which the children pointed, but saw nothing unusual. They insisted that there were not many people in the deepest section and one said, "You could see basically everywhere." In sharp contrast to the description given by the children, all of the lifeguards said that the children appeared "calm" as they sought help. Other than looking from the side of the pool through the pulsating waves, the lifeguards did nothing.

Even the Lehigh County Coroner, Wayne Snyder, said in a press conference that a person standing alongside the wave pool would have difficulty seeing under the water. The coroner explained that the number and activity of the swimmers, combined with the rough water created by the wave machine, would make it difficult for people by the side of the pool to see under the water, except for the area immediately before them. He added that dirt and suntan oil accumulate in the pool as the day

wears on, making vision into the water even more obstructed.

Unable to convince the lifeguards to search for Daniel, Felix looked for a teacher. He found no one. Most of the teachers were on rides themselves, one sat alone in a picnic area, and Ms. Naylor walked throughout the entire park and spent some of her day in the wave pool area. With no teacher to be found and no help from lifeguards, Engelbert, Angela and others waited near the same bathroom that a lifeguard had earlier referred to as the place where a "saved" child had been taken. They waited for Daniel. After a time, the children left, hoping that Daniel was safe and playing with other students in the park.

DANIEL IS DISCOVERED MISSING

Although several of the children on the trip knew as early as 3:30 that Daniel had experienced a serious problem, teachers and the assistant principal remained ignorant of it until 5:00--the time for the return home. Relying on some lifeguards who assured them that they saw no one in trouble and other lifeguards who claimed that their friend had been safely removed from the pool, the children eventually stopped searching for Daniel or the teachers--hoping and believing that Daniel had joined other classmates. It was not until the teachers assigned to each of the three buses counted the returning students that they realized a child was missing--Ms. Naylor discovered that Daniel was missing from her bus. Ms. Naylor informed the other teachers, and several "head counts" were taken on each bus. At the same time, Mr. Ragins searched the boys locker room and, to a limited extent, the park. Daniel was not found.

At the same time, Felix, with Engelbert at his side, told Mr. Jackson about Daniel's trouble in the wave pool. Mr. Jackson tried to calm Felix, who had become very upset, and told him not to mention the matter to other students, who might also get upset. Mr. Jackson did not tell Ms. Naylor what he had just learned, wrongly believing that she already knew. Engelbert then returned to his bus, the one supervised by Ms. Naylor and Ms. Gordon. He told Ms. Gordon what happened in the wave pool and, together, they told Ms. Naylor. Ms. Gordon described the scene near the bus:

...one of my kids came up to me and said, "Ms. Gordon, you know, the last time we saw Danny was at the wave pool, when he went under," and...I'm like...I'm in shock or whatever...And I go, "OK, just hold on, come with me." Then we run down to Ms. Naylor cause she was at the end of that bus lot. And we went to the security guard, and I tell Ms. Naylor what happened and she said..."this is unbelievable"... And, we were like, "when did this happen?" He goes, like, "about three something or whatever." And we told the security guard "you go and check the life...could you have them go and check the wave pool again cause he was last seen in the wave pool..."

As a security guard drove Ms. Naylor around the park, another guard looked in the area of the wave pool, merely looking at the surface of the water for a child still playing--he did not look into the water.

By 5:45, after several head counts were conducted on each bus, all but Ms. Naylor's bus returned home. Ms. Naylor did not tell any of the returning teachers to notify the principal that Daniel was missing, nor did she call the principal or any school official from the park. The first two buses returned home, late, and were greeted by waiting parents and others. No explanation was provided regarding the last bus. The parents waited.¹³

THE SEARCH FOR DANIEL

With Daniel missing, Ms. Naylor and Ms. Gordon remained at the park with the last bus. Ms. Naylor, along with park security, searched for Daniel while Gordon stayed on the bus with the remaining students. Ms. Naylor, for her part, did not ask to view the pool herself, despite what Engelbert had told her about Daniel's trouble in the pool. At no time were the police called. Rather, Ms. Naylor chose to believe either that Daniel would be found later by park security or that Daniel had returned on an earlier bus--despite the search by Mr. Ragins, the several head counts, including those conducted by Ms. Naylor herself, and the story told by Engelbert and Felix. Park security chose to believe that the teachers had miscounted and that Daniel had returned on another bus, claiming that this was Ms. Naylor's conclusion as well. She denies this. In any event, the search for Daniel was halted.

¹³Joseph Ragins stated that he left the school parking lot as soon as his bus returned because he wanted to get home before game three of the basketball championship between the New York Knicks and the Houston Rockets. He did not wait at the school until his students were met by parents. Rather, since he lives near the school, he periodically looked from his home window for students who might be milling around the school. James Jackson similarly left the school parking lot without making sure that the special education students in his care were met by parents. He, too, watched the basketball game that night and, according to fellow teacher Erica Myers, only agreed to attend the trip with the assurance that he would get home before the game started.

WINSOME NAYLOR'S DECISION TO RETURN HOME WITHOUT DANIEL

With Daniel still missing, Winsome Naylor chose to leave Pennsylvania with the last bus and return to the Bronx. No one remained behind in the event Daniel was found. Ms. Naylor did not ask for the telephone numbers of park security or the local police, who later cooperated in the search, nor did she provide them with her telephone number.¹⁴ Instead, Ms. Naylor and Ms. Gordon returned home after searching for less than ninety minutes for the missing child. They did not stop to call the park or the police to learn if Daniel had been found during the nearly two-and-one-half-hour trip home.

In testimony before this office, Ms. Naylor clarified her decision to return home without Daniel. She described a chaotic setting as her bus remained forty-five minutes longer than the two that had already left for home: the students on the remaining bus were hungry, angry, thirsty, hot and not feeling well; many needed to use the bathroom; some were worried about their families waiting at school for their return; the bus driver repeatedly complained that he needed to return to New York; and several students feared that Daniel had drowned or been kidnapped. Ms. Naylor added:

...I just felt that the child [Daniel] was just in the park and they were gonna find him, it was just a matter of time and they'd have to do like a foot search, 'cause a van search is wonderful but you don't see everything, you know, from the van. And they had plenty of people there, they had plenty of security there..., he [Sergeant Umberger of the Dorney Park security] said, "well, I will continue the search." And I said, "...the minute I get back to school, I'm gonna call you because you can't call me, there's no phones there available"...

Lastly, Ms. Naylor testified that both she and Ms. Gordon had to return together because the busload of students was too much for one teacher to handle. Not one of the six adult supervisors

¹⁴ Sergeant Umberger of the park's security staff described Ms. Naylor as nervous and upset, especially after being told that Daniel was last observed in the wave pool. Sergeant Umberger did not provide Ms. Naylor with his name or a telephone number. He said, "...I figured, if she wanted to call Dorney Park, she could get the number for Dorney Park."

remained in Pennsylvania, where Ms. Naylor believed Daniel to be.

Ms. Naylor's bus arrived in the Bronx shortly before 9:00 that night. Daniel Maracallo's grandmother and younger brother were waiting. Upon learning that her grandchild was missing, Daniel's grandmother became distraught. She walked onto the bus, now empty, and called out her grandchild's name. Ms. Gordon then discovered Daniel's book bag on the bus. Daniel's younger brother asked her, "You have Danny's book bag, where's Danny?" Ms. Gordon, of course, did not know where Daniel was.

Unknown to all, Daniel's body remained at the bottom of the wave pool where it had been since 3:30 that afternoon. As the last school bus returned home, 98 lifeguards were training in and around the wave pool while Daniel's body lay at the bottom. Not one of the nearly one hundred lifeguards noticed Daniel's body as they swam overhead.¹⁵

Hours later, in her school office, Ms. Naylor made several attempts to reach Dorney Park security. Because she failed to get a telephone number for park security before leaving, Ms. Naylor had to make several calls until finally being directed to the South Whitehall Township Police Department. The police contacted Dorney Park security and instructed them to conduct another search, telling them that Daniel was still unaccounted for. This search, as well as one joined by the police at about midnight, failed to locate Daniel.

¹⁵The lifeguard training held in the wave pool that evening consisted of relay races at the pool's surface in which teams of lifeguards swam across the deep end of the pool. The pool had been cleared of visitors by 5:30, and the lifeguards trained from 6:00 to 7:30. During the training, the wave machinery was off. No exercises were conducted which required either diving or swimming below the surface of the water. The lifeguards swam the relays using rescue tubes to keep buoyant. Again, according to South Whitehall Township police reports, some lifeguards said that either before or after the training they swam in the wave pool looking for money that is sometimes lost by swimmers. None of the lifeguards saw Daniel's body at the bottom of the wave pool. Because Dorney Park refused to cooperate in this investigation, this office had no opportunity to explore the accuracy and truthfulness of the lifeguards' statements. The fact remains, according to the Lehigh County Coroner, that Daniel died from drowning in the wave pool at about 3:30 that day.

THE DISCOVERY OF DANIEL MARACALLO'S BODY IN THE WAVE POOL

Daniel Maracallo's body was inadvertently discovered in the deepest end of the wave pool at approximately 1:12 a.m. on June 16, 1994. A welder working near the wave pool saw something lying on the bottom of the pool. He looked closer and recognized a body.

The police returned to the park, having learned that a body had been discovered. Daniel Maracallo's body was found lying face down at the bottom of the pool in the deepest section, near the metal grate covering the wave-making machinery. The body was in a curled position and no movement or air bubbles were visible.

Security guards entered the pool and made several unsuccessful attempts using poles to retrieve the body. Emergency divers were requested from Allentown but were not available. The Allentown Fire Department and the Northampton County Rescue Squad were also unavailable. Finally, after a number of minutes had passed, Dorney Park employees dove into the water and pulled Daniel's body from the bottom of the pool.¹⁶ Daniel was described in police reports as a "medium to dark-skinned male." His body was described as stiff and rigid. His lips were blue, and small amounts of blood emanated from his ears and nose. Daniel was wearing only his bathing suit.

The Lehigh County Coroner determined that the cause of death was fresh water drowning, occurring at about 3:30 p.m. on June 15, 1994. Both the coroner and the Lehigh County District Attorney said that Daniel's body was in the wave pool from the time he drowned until the time he was discovered, nearly ten hours later. They concurred that both visitors to the wave pool and Dorney Park lifeguards swam over Daniel's body as it lay at the bottom, as discussed previously. The coroner explained that Daniel's body was easily overlooked: "If you have no purpose to look for anybody or anything on the bottom, you're not looking, you're not paying attention to that." Additionally, that Daniel

¹⁶ Daniel's body was retrieved from the pool before forensic examinations of the scene and the body were conducted.

Maracallo's body was located near the dark metal grate recessed into the wall of the deepest end of the pool, may have contributed to his body having gone unnoticed.

At approximately 4:00 a.m. on June 16, 1994, Winsome Naylor and Nelson Abreu, the principal, were notified of the discovery of Daniel's body. Daniel Maracallo's family drove to Allentown, Pennsylvania and identified his body. Neither Ms. Naylor, Mr. Abreu, nor anyone else from the school or the district, returned to Pennsylvania to speak with witnesses, examine the scene, or learn details of how Daniel's body was discovered.

CONCLUSION

Our primary purpose in undertaking this investigation was to discover the full truth concerning the drowning of Daniel Maracallo on June 15, 1994. By discovering and revealing what happened that day in Dorney Park, we also seek to prevent a similar tragedy from happening in the future.

The starting place for this examination must be the local district's rules governing such trips, which required the submission of a detailed proposal for each school trip. Nelson Abreu, principal of I.S. 166, and Winsome Naylor, assistant principal, failed to submit a plan for the Dorney Park trip in accord with district regulations. This was no mere bureaucratic oversight, because a properly submitted plan might have saved Daniel's life. At least four of the district's trip requirements, had they been heeded, could have stopped the trip entirely, or at least forced more meaningful safety precautions: a statement of the trip's education value (there was none); safety procedures to be followed on the trip; a student to adult ratio of no higher than 10 to 1; and a sample letter to parents explaining the trip (which could have exposed the failure to determine swimming proficiency). Mr. Abreu's and Ms. Naylor's failure to submit a plan was therefore a critical error contributing to Daniel's death, and Mr. Abreu's claim that he was unaware of the regulation is inconsistent with the evidence.

Even without a formal plan, the application of simple common sense could have saved Daniel. No rules should have been necessary to demonstrate that the trip lacked educational value, or that a student to adult ratio of 23 to 1 was ludicrous for an eighth grade class visiting an 187-acre amusement park featuring such water rides as *Wildwater River*, *Riptide Run* and *Torpedo Tubes*. Common sense should have dictated keeping weak swimmers from dangerous water rides, and stationing adults near these rides. It should also have dictated that particular care needed to be taken with special education students, one of whom was with Daniel, unsupervised, at the critical last moments of Daniel's life. Mr. Abreu and Ms. Naylor failed to exercise common sense, however, with the result that no meaningful safety precautions were planned.

If the pre-trip planning was poor, the actual supervision on June 15 was worse. One might have

thought that when confronted directly with the park's size and innumerable safety hazards, Ms. Naylor and the other adults would have tried to fashion some coherent plan to control and protect the children. Instead, the children were left to make their way through the park and its rides without supervision, while adults wandered according to their inclination. One teacher, in theory responsible for the special education students, never left the picnic area near the park's boundary; another toured the park with his own daughter, *not a student at the school*, and various students; three wandered the park taking rides with and without students; while Ms. Naylor strolled the grounds.

Nothing more starkly illustrates the failure of, or need for, supervision by school staff than the adults' total unawareness that nine students from the school were saved in rescues by Dorney Park lifeguards. These rescues, documented by the park, were unmistakable warnings of danger. The warnings went unheeded because supervision was so poor that no adult from the school was even aware the rescues had occurred.

The slightest organization could have saved Daniel's life. One adult stationed at the deep end of the wave pool, known to the lifeguards as "the danger zone" and clearly one of the most dangerous locations in the park, could have made the difference. Even if the adult did not notice Daniel's poor swimming ability, or see him go under, he or she could have responded to his friends when they frantically sought for someone to dive under to save Daniel. While the lifeguards' failure to heed Daniel's friends cannot be excused, an adult would have been in a much better position to insist the lifeguards turn off the wave machinery and search for the boy.

In hindsight, of course, it is always possible to point to something that could have been done to prevent a tragedy. If the staff had taken reasonable precautions, but had overlooked one measure that could have saved Daniel, it would be wrong to criticize them harshly. Ms. Naylor and the school staff took no meaningful precautions, however, and the failure to place a teacher at the wave pool was only one of many glaring failures demonstrating a complete lack of concern for student safety.

Dorney Park lifeguards share responsibility for Daniel's death. Told that Daniel had

disappeared under the water, the lifeguards looked through the crowd of swimmers and the turbulence created by the waves, but did nothing more. They did not dive under the water. They did not turn off the wave machinery. They did not clear the pool of other swimmers. Any of these actions might have saved Daniel's life. They had the last clear chance to save Daniel, but never left the pool's deck.

Ms. Naylor finally discovered that Daniel was missing at around 5:00 p.m., some ninety minutes after he went under in the wave pool. After initial searches of the park were unfruitful, she made the decision to return to New York in the last bus without Daniel. She made this decision knowing that Daniel was missing in a park filled with water rides and that his friends said that he had disappeared in the deep end of one of those rides. Her explanation was: "I just felt that the child was just in the park and they were gonna find him. It was just a matter of time..." She also cited the unruliness of the children, and her fear that the only other adult remaining would have been insufficient to supervise the children on the last bus.

Ms. Naylor's decision to leave Dorney Park without Daniel is totally inexcusable. First, it is hard to credit her fear that one adult would be unable to control the children on a bus in light of her seeming confidence that six adults could control more than 130 children in a vast amusement park filled with dangerous water rides. If her concern for supervision had shown itself earlier, this investigation might not have been necessary. But more importantly, the alternative to staying in Dorney Park was leaving *without* Daniel. It should be obvious that if school personnel are going to take students on a school trip, they must return with *all* the students. While in this instance Daniel was already dead, in another case an adult from the school could save a life. An adult could press the urgency of the situation on those conducting the search, or give important identifying information as needs develop. At Dorney Park, for example, officials called off the search for Daniel *after* Ms. Naylor left. They reasoned that the child had left on one of the earlier buses, an error that would have been harder to make if Ms. Naylor was still there pressing the search. Where a missing child is found alive but injured, or even just frightened, a familiar adult from his school could comfort him far more than strangers.

But even where the worst turns out to be true, and a child has died, decency requires that the

adults responsible for him not abandon the search until he has been found. The sum of the indignities Daniel suffered on the day he drowned, even after his death, is chilling. He drowned in a pool within a few yards of several trained lifeguards, and yet none even got his swimwear wet in an effort to rescue him. His body remained at the bottom of the pool even as the park closed and lifeguards began swimming relay races over the deep end of the pool. His teachers and assistant principal went back to New York with his classmates and the search for him was called off. Daniel's body remained on the pool's bottom for hours. Finally, an observant park worker saw Daniel at about 1:00 a.m., nearly ten hours after he drowned. Even then, no school official saw fit to return to Pennsylvania.

While it was no longer possible to save Daniel's life by the time Ms. Naylor left with the last bus, it was possible to spare him at least some of these indignities. As it stands, these final failures reflect on her abysmal performance from the beginning. Similarly, children were left unattended in the school's parking lot that night when two teachers left so they would not miss any of the New York Knick's basketball game on television. This again demonstrates the misplaced priorities we saw throughout the events of June 15.

We find Ms. Naylor's overall indifference to our investigation to be very troubling. Ms. Naylor knew of our desire to interview her by July 9, yet she refused to make herself available for an interview until September 1. Her attorney stated that she would be out of town for several weeks during this period, and would not tell us where she would be. Apparently, the fact that one of her students drowned while under her care was insufficient to warrant interfering with her summer plans.

Dorney Park officials, for their part, refused to allow us to question park employees concerning the drowning. Fortunately, the cooperation of the South Whitehall Township Police in providing access to written statements by the lifeguards limited the impact of the park's obstructionism. Furthermore, even though the park did allow a supervised tour of the wave pool, during that visit, the waves were considerably weaker than when we returned for an unannounced and unsupervised visit during a typical day at the park weeks later. It was apparent that concerns over a lawsuit mattered more to the park than the needs of an official New York City investigation to determine how one of the city's

schoolchildren drowned in their pool.

Since Daniel Maracallo's death, Chancellor Cortines has instituted city-wide rules concerning school trips. We applaud this effort. Based on our investigation, including our discussions with other school districts both inside and outside New York State, we feel these new rules should be amended to require, among other things, a lower student to adult ratio and a stated educational purpose when the trip is during the school day.¹⁷ We recognize that CSD 9 had tough rules in place on June 15, 1994, however. These rules did not save Daniel's life *because they were not enforced*. Only when a clear message is sent through the vigorous enforcement of sound school trip rules can we feel confident that the system has done all it can to prevent another tragedy in the future.

RECOMMENDATIONS

THE EDUCATORS

Recommendations for the discipline of the educators involved here are difficult to reach. None of the teachers or administrators acted with malice. They all, however, acted with incompetence. Although the levels of incompetence vary, each educator associated with this trip must shoulder some responsibility for what happened to Daniel Maracallo. In reviewing the evidence, we place great emphasis on the totality of each educator's actions. The sum of the Chancellor's disciplinary actions in this case will contribute significantly to eliminating similar tragedies.

¹⁷We, of course, do not want to discourage educators from providing appropriate amusement-only opportunities for children, when they do not interfere with the school day. Therefore, the recommended educational value requirement applies only to trips occurring during school hours.

The Principal

Although the principal, Mr. Abreu, did not attend the trip, he is nevertheless responsible for much of what happened. His failure was in taking little or no part in the trip's planning. Rather, he delegated the responsibility to his assistant principal. He did so at his own risk and was responsible for the assistant principal's performance. Ultimately, he was accountable for making certain that the trip was sound in purpose and plan. In fact, he made certain of little. He admitted that he approved the trip knowing nothing about the park.

Even though it can be said that Mr. Abreu cooperated with our investigation, he did nothing more than that required of him. Troubling is Mr. Abreu's unconvincing denial that he did not know of his district's rules governing field trips. The evidence is against him. Further aggravating this is Mr. Abreu's failure to apply common sense to his decision-making. He did not need to know the rules to know that this trip was poorly planned, a contributing factor in Daniel's death. Mr. Abreu failed as a supervisor and should be strongly disciplined. This could appropriately include termination of his employment.

The Assistant Principal

The assistant principal, Ms. Naylor, failed to properly plan the trip, failed to adequately supervise it, and grossly mishandled Daniel's disappearance. Her level of incompetence was egregious and consistent throughout. It led directly to the death of Daniel and the subsequent indignities suffered by him and his family. Ms. Naylor's gross incompetence was compounded by her unwillingness to explain to this office for almost six weeks her role in the trip that resulted in the death of one of her students. The Chancellor, as a result of these events, denied for one year Ms. Naylor's tenure as an assistant principal. We recommend that the Chancellor now go further, and that Ms. Naylor's employment be terminated.

The Teachers

The five teachers who accompanied Ms. Naylor failed to competently supervise the children in their care. All had monitored class trips before and all are trained educators. They can not escape responsibility simply because they are subordinate to Ms. Naylor. They share the responsibility for the tragedy that occurred here. Likewise, they should all be disciplined for their part in Daniel's death.

In considering the appropriate discipline, we recommend that the Chancellor consider the following aggravating and mitigating factors. James Jackson, the special education teacher, not only failed to supervise the four special education children in his class, but he did not bother to learn even the identities of the other six special education children for whom he was also responsible. It was one of the special education students who was with Daniel at the time of his death. Mr. Jackson further ignored his responsibilities when his bus returned to the school parking lot--he left for home without seeing to it that the children were met by the appropriate adults. Joseph Ragins also left for home as soon as the bus returned, with little concern for the children--Mr. Ragins wanted to get home in time for the Knicks basketball game. Daniel DelValle brought his daughter, who was not an I.S. 166 student, on the trip even though approximately ten students had to be turned away for lack of space. Mr. DelValle did not tell us about this during his interview. It was not until we learned of his daughter's attendance through other sources that Mr. DelValle discussed it. When confronted by this omission, he responded that we did not specifically ask him about his daughter. This explanation is unconvincing considering that we discussed with Mr. DelValle the small number of students who attended the trip, including those students who were turned away, and discussed with him in detail his activities on the day of the trip. Finally, Natalie Gordon and Erica Myers, ages 23 and first-year teachers at the time of the trip, relied on the authority of their superiors--not an excuse for their failure to supervise the children in the park, but a mitigating factor nevertheless.

DORNEY PARK

We strongly recommend that the Chancellor prohibit any further school-sponsored trips to

Dorney Park and Wildwater Kingdom. Beside offering no educational value, Dorney Park's refusal to cooperate with our investigation is inexcusable and violates the spirit of Board of Education regulations. A BOE resolution dated June 27, 1990 states, in pertinent part, that all persons or entities dealing or contracting with the New York City School District, including the Board of Education, the Chancellor, community school boards and community superintendents are required to cooperate with and answer questions pursuant to any investigation conducted by our office, and that a failure to cooperate shall constitute cause for cancellation or termination of such contract. The resolution further states that such requirement of cooperation be stated in all contracts. Although Dorney Park may argue that their contract with I.S. 166 contained no such statement, their argument would miss the spirit and intention of the resolution which, in this case, was to discover the facts surrounding the drowning of a child in their pool. Dorney Park demonstrated a higher interest in insulating itself from a lawsuit than in assisting our investigation into Daniel's death. This callousness calls for the immediate cessation of business with Dorney Park.

CITY-WIDE RULES

Though we favor city-wide rules for school trips, the primary responsibility for monitoring those trips lies with the local school district. That responsibility must begin at the top. The superintendent can and must delegate many day-to-day duties to principals, of course, but by doing so can not avoid ultimate responsibility for their being carried out. Here, the superintendent did promulgate strong rules regarding school trips. This is certainly more than superintendents in many other districts did and more than was done at a central level before the Chancellor implemented rules this fall. Further, in this case, the superintendent reinforced those rules with a subsequent memorandum and a reissuing of the rules themselves.

For its part, the BOE has issued, since Daniel's drowning, city-wide rules governing field trips.¹⁸

¹⁸Although the Chancellor's Office gave us the opportunity to comment on the newly promulgated city-wide rules governing field trips, referred to as Special Circular Number 4, we declined to do so at the time

While this office applauds the BOE effort, we believe that additional rules are needed to ensure both the safety of our children and the achievement of an educational benefit. We therefore make the following recommendations: 1) that the Board require an educational purpose to all field trips occurring during any part of the school day, which would prohibit trips to most amusement parks; 2) that parent notifications specify the precise nature of *all* trips--not only overnight or extended trips as the new BOE rules now require--and parents be informed of trip destinations, student to adult ratios, and the special needs of children for particular destinations so they can make an informed decision whether to let their children attend; 3) a student to adult ratio of 10 to 1, where possible,¹⁹ which allows for effective supervision and is more consistent with other school districts both in and out of New York State, instead of the current ratio of 20 to 1; and, 4) the active encouragement of parents to attend field trips, thereby lowering the student to adult ratio and enabling parents to directly participate in their children's education.

Unless strictly enforced, the new rules will be of little value. Therefore, we further suggest that the rules governing field trips, with our recommended additions, be made a part of the Chancellor's regulations; and that superintendents, principals and other heads of offices be made to sign for receipt of the rules.

because of our ongoing investigation.

¹⁹We recognize that the student to adult ratio will depend on variables such as the age of the children, the destination and duration of the trip, the special needs of the children and other factors. However, based on our investigation and interviews of school districts in other cities, we believe the current ratio of 20 to 1 does not allow for effective supervision.