

December 15, 2004

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

Re: Fernando Lescaille
Orlando Ramos
SCI Case #2004-2190

Dear Chancellor Klein:

An investigation conducted by this office has substantiated that Fernando Lescaille, a teacher at PS 101 in Manhattan, and Orlando Ramos, an Assistant Principal and the Director of the “ACES” program located at the school, committed perjury during a suspension hearing involving a 13-year-old 8th grade male student (“Student A”).¹ Specifically, they testified that Student A had slapped Lescaille on March 5, 2004, but the incident actually had occurred on January 29, 2004. We found that they lied about the date in order to suspend Student A because the period to do so had expired by the time Lescaille notified Ramos about the slap. Moreover, Ramos generated incident reports which falsely reported that the conduct occurred in March.²

¹ JHS 99 and the ACES program are located within the building which houses PS 101. Neither Lescaille nor Ramos was reassigned during this investigation. Student A has turned 14-years-old.

² Both reports were created on March 8, 2004, within the span of an hour. However, one has the incident occurring on March 4th while the other indicates it happened on March 5th. An attendance record submitted at the hearing by his representative shows Student A as absent on March 4th. In addition, Lescaille wrote a statement about Student A’s conduct and that document is dated March 4, 2004.

This investigation began in September 2004 when a guidance counselor from the Alternative Suspension School contacted this office and reported a complaint lodged by Student A's foster parent. The parent alleged that, on several occasions, Lescaille had asked Student A to "touch [his thing] or to "suck [his] dick." She added that Student A had attempted to report the misconduct during his suspension hearing, but the hearing officer ignored the complaint. The guidance counselor explained that Student A was serving a one-year suspension after being found guilty of slapping Lescaille.

In an interview with Student A, investigators deemed Student A's account of Lescaille's alleged comments to be incredible. However, in the course of their conversation with the boy, investigators learned that Lescaille had complained to Assistant Principal Ramos that Student A had thrown a snowball at him and the teacher wanted Student A to be suspended.

When investigators spoke with Orlando Ramos in order to confirm the snowball allegation, they also learned about the slapping incident and the falsified date which led to Student A's suspension. According to Ramos, Lescaille asserted that Student A hit him with a snowball, but the boy denied it and there were no witnesses to the purported event. As a result, no action was taken against Student A. Ramos added that, thereafter, Lescaille reported that Student A had slapped him on a date in the past. According to the assistant principal, he became angry with the teacher because the incident must be reported within 5 days of occurrence in order to obtain a Superintendent's suspension. Ramos acknowledged that the incident occurred weeks before the reported date of March 5, 2004. Asked to explain how the boy was suspended for one year when the time had run, Ramos responded that he "was able to get it done." At the request of our investigators, the assistant principal produced a copy of the hearing officer's decision to suspend Student A and, upon reviewing it, they discovered that three witnesses, Lescaille, Ramos, and a student ("Student B") called during the school's case, testified as if the slap had occurred on March 5, 2004.

The occurrence reports prepared by Ramos also contain false information. The first report, prepared on March 8, 2004, at 2:14 p.m., lists the date and time of occurrence as March 4, 2004, at 10:00 a.m.³ The second document, created on March 8, 2004, at 3:04 p.m., indicates that the incident happened on March 5, 2004, at 11:30 a.m.

³ An attendance record submitted at the hearing by his representative shows Student A as absent on March 4, 2004.

Twelve-year-old male Student B described his involvement. Student B explained that, on the day he injured his right index finger, he was headed to the Nurse's office when he passed by a classroom and Student A called out, "wait, I'm coming with you." As they were going downstairs, Student A again told Student B to "wait" because he wanted to visit his former Science teacher, meaning Lescaille. According to Student B, Student A knocked on the door and, when the teacher answered, the boy said "what's up my nigger," gave him "five" with one hand, and lightly smacked Lescaille's cheek with his other hand. Student B added that, about one month later, Ramos and Lescaille said that he would have to go to a hearing and tell how Student A slapped the teacher's face. Student B informed our investigators that he told Ramos he did not know the date of the incident.

Investigators obtained records kept on file at the Nurse's office. A review of the documents revealed that Student B was treated for an injury to his right hand on January 29, 2004.

We also obtained the records from Student A's suspension hearing. A review of the transcript showed that, on May 4, 2004, Lescaille and Ramos testified under oath that March 5, 2004 was the date on which Student A slapped the teacher.

Through his attorney, Fernando Lescaille denied the opportunity to speak with investigators from this office.

Although the school is located in Manhattan, the hearing at which Lescaille and Ramos gave false testimony took place in Brooklyn. Therefore, we are forwarding our findings to Kings County District Attorney Charles J. Hynes for whatever action he deems appropriate.

In providing perjurious evidence in order to suspend Student A, Fernando Lescaille and Orlando Ramos have demonstrated that they have no place in the New York City school system. It is therefore the recommendation of this office that their employment be terminated and that this matter be considered should either Lescaille or Ramos apply for any type of position with the Department of Education in the future. Moreover, the decision to suspend Student A for one year should be reviewed in light of the fact that it was based upon false testimony.

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

Sincerely,

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

By:

Regina A. Loughran
First Deputy Commissioner

RJC:RAL:gm

c: Michael Best, Esq.
Theresa Europe, Esq.
Rick Stewart, Auditor General

December 15, 2004

Hon. Charles J. Hynes
District Attorney
Office of the Kings County District Attorney
350 Jay Street, 19th Floor
Brooklyn, NY 11201

Re: Fernando Lescaille
Orlando Ramos
SCI Case #2004-2190

Dear District Attorney Hynes:

By the enclosed letter we are referring this matter to you for review and for whatever action you deem appropriate. Please contact me if you need any information or assistance at (212) 510-1426. Thank you.

Sincerely,

REGINA A. LOUGHRAN
First Deputy Commissioner

RAL:gm

c: Dino Amoroso, Assistant District Attorney
Jeff Ferguson, Assistant District Attorney

December 15, 2004

Hon. Rose Gill Hearn
Commissioner
New York City Department of Investigation
80 Maiden Lane, 18th Floor
New York, NY 10038

Re: Fernando Lescaille
Orlando Ramos
SCI Case #2004-2190

Dear Commissioner Gill Hearn:

An investigation conducted by this office has substantiated that Fernando Lescaille, a teacher at PS 101 in Manhattan, and Orlando Ramos, an Assistant Principal and the Director of the “ACES” program located at the school, committed perjury during a suspension hearing involving a 13-year-old 8th grade male student (“Student A”).¹ Specifically, they testified that Student A had slapped Lescaille on March 5, 2004, but the incident actually had occurred on January 29, 2004. We found that they lied about the date in order to suspend Student A because the period to do so had expired by the time Lescaille notified Ramos about the slap. Moreover, Ramos generated incident reports which falsely reported that the conduct occurred in March.²

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In an interview with Student A, investigators deemed Student A's account of Lescaille's alleged comments to be incredible. However, in the course of their conversation with the boy, investigators learned that Lescaille had complained to Assistant Principal Ramos that Student A had thrown a snowball at him and the teacher wanted Student A to be suspended.

When investigators spoke with Orlando Ramos in order to confirm the snowball allegation, they also learned about the slapping incident and the falsified date which led to Student A's suspension. According to Ramos, Lescaille asserted that Student A hit him with a snowball, but the boy denied it and there were no witnesses to the purported event. As a result, no action was taken against Student A. Ramos added that, thereafter, Lescaille reported that Student A had slapped him on a date in the past. According to the assistant principal, he became angry with the teacher because the incident must be reported within 5 days of occurrence in order to obtain a Superintendent's suspension. Ramos acknowledged that the incident occurred weeks before the reported date of March 5, 2004. Asked to explain how the boy was suspended for one year when the time had run, Ramos responded that he "was able to get it done." At the request of our investigators, the assistant principal produced a copy of the hearing officer's decision to suspend Student A and, upon reviewing it, they discovered that three witnesses, Lescaille, Ramos, and a student ("Student B") called during the school's case, testified as if the slap had occurred on March 5, 2004.

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In providing perjurious evidence in order to suspend Student A, Fernando Lescaille and Orlando Ramos have demonstrated that they have no place in the New York City school system. Therefore, we have recommended to the Chancellor that their employment be terminated and that this matter be considered should either Lescaille or Ramos apply for any type of position with the Department of Education in the future. Moreover, the decision to suspend Student A for one year should be reviewed in light of the fact that it was based upon false testimony.

Should you have any inquiries regarding the above, please contact me or First Deputy Commissioner Regina Loughran. She can be reached at (212) 510-1426.

Sincerely,

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

By: _____
Regina A. Loughran
First Deputy Commissioner

RJC:RAL:gm

December 15, 2004

Hon. Richard P. Mills
Commissioner
New York State Department of Education
Washington Avenue
Albany, NY 12234

Re: Fernando Lescaille
Orlando Ramos
SCI Case #2004-2190

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We are forwarding our findings and recommendations for whatever action you deem appropriate. Should you have any inquiries regarding the above, please contact me or First Deputy Commissioner Regina Loughran. She can be reached at (212) 510-1426.

Sincerely,

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

By: _____

Regina A. Loughran
First Deputy Commissioner

RJC:RAL:gm
c: Deborah A. Marriott, Esq.