



Special Commissioner of Investigation
for the New York City School District

ANASTASIA COLEMAN
COMMISSIONER

**Annual Report for Calendar Year 2020 of the Special Commissioner of Investigation for
the New York City School District**

2020 marked the thirtieth anniversary of the founding of the office of the Special Commissioner of Investigation for the New York City School District (“SCI”). The office was established pursuant to Mayoral Executive Order 11 (“EO11”) of 1990 and a corresponding Board of Education (“BOE”) – now referred to as the Department of Education (“DOE”) – resolution. SCI is entrusted with autonomy in investigations concerning the largest school district in the nation, and has broad authority and discretion to conduct investigations to root out corruption, prevent waste and fraud, ensure safety, and eliminate the misuse of taxpayer resources. Although SCI was established as separate from the BOE / DOE and the New York City Department of Investigation (“DOI”), the office is empowered with authority similar to that of DOI, such as the ability to obtain testimony and records by subpoena. The SCI commissioner also serves as the inspector general for the New York City Teachers’ Retirement System (“TRS”) and the Board of Education Retirement System (“BERS”), evaluates and investigates all whistleblower claims involving DOE employees and vendors under the City Administrative Code, and serves as the investigative arm of the New York City Conflicts of Interest Board (“COIB”) regarding violations of Chapter 68 of the City Charter by DOE employees and others.

The COVID-19 pandemic has presented great challenges to New York City: its citizens, its businesses, and its institutions. SCI was no stranger to these challenges. The unprecedented circumstances have changed SCI’s processes and altered certain areas of focus. SCI’s 2020 case load involved many pandemic-related issues, and remote teaching and learning required investigative adaptation. SCI, as the watchdog for DOE schools, has adjusted – as have teachers, students, and administrators – to multiple months of remote learning. While SCI has continued to receive the same types of complaints as it did pre-pandemic, its work – including interviews, document collection, records review, etc. – has been completed largely by employees working remotely. SCI attorneys and investigators have conducted sworn interviews over online platforms; have coordinated virtually with local, state, and federal prosecutors, as well as other law enforcement agencies, about ongoing cases; and scrutinized material regarding relevant pedagogues, administrators, and vendors. The pandemic has forced SCI to alter the manner in

which it does business, but SCI's business has continued notwithstanding the obstacles presented by COVID-19.

Budget and Structure:

The New York City Office of Management and Budget ("OMB") Fiscal Year 2020 funding for SCI operations provided \$6.1 million, with an additional \$335,131 for operational expenses – a total of approximately \$6.4 million. This annual sum is identical to the 2019 appropriation after (small) annual increases in the prior three years, from \$5.5 million (2016) to \$5.9 million (2018). SCI's budget is a line-item of the DOE's overall annual budget, and comprises approximately .01871 percent of the \$34.2 billion allocated to the DOE.¹ SCI is mandated to investigate misconduct and fraud concerning the entire public school system that serves approximately 1.1 million students, employs approximately 130,000, and maintains approximately 1,800 schools and other facilities.² The DOE also contracts with myriad vendors for numerous goods and services.

SCI is currently authorized for 69 employees including investigators, attorneys, and administrative and support staff positions. Within the past two years, the office added 14 hires in various capacities. Currently, SCI has 60 positions filled. Under normal conditions, we would anticipate reaching our 69-employee cap within the current year. Given the pandemic-related financial uncertainties in New York, it is difficult to know when we would be able to fill our much-needed vacancies. Under ideal circumstances, even a full complement of 69 employees would scantily be enough to perform truly comprehensive oversight of such a massive entity as the DOE.³ To fully realize the mission of this office, our workforce must ultimately expand beyond the current quota of 69 employees.

Calendar Year 2020 Statistics:

In Calendar Year ("CY") 2020, SCI continued its commitment to oversee the DOE through investigations, administrative and disciplinary recommendations, criminal prosecution referrals, and policy and procedure recommendations. SCI received 4,674 complaints in 2020 - which alleged misconduct, waste, fraud, financial mismanagement, and criminal activity within the DOE, TRS, and BERS, by employees, vendors, contracted workers or volunteers. The complaints alleged violations of administrative and criminal codes, Chapter 68 of the City Charter, and the DOE Chancellor's Regulations.

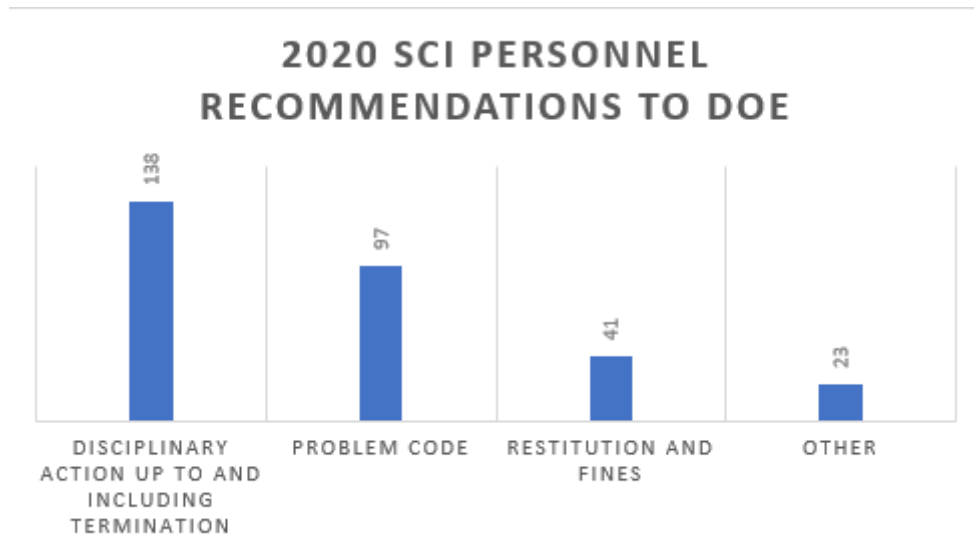
¹ See <https://www.schools.nyc.gov/about-us/funding/funding-our-schools> (For the 2020-2021 school year, our total budget is \$34 billion). See also <https://www.amny.com/new-york/carranza-warns-of-massive-nyc-public-school-cuts-in-face-of-horrific-budget/> ("The DOE's fiscal 2020-21 budget of \$34.2 billion includes \$27.5 billion in operating funds and another \$6.7 billion in education related pensions and debt service funds.").

² The Council of the City of New York, *Report of the Finance Division on the Fiscal 2019 Preliminary Budget and the Fiscal 2018 Preliminary Mayor's Management Report for the Department of Education*, March 23, 2018.

³ Starting with the 2021-2022 school year, the approximately 5,000 former New York City Police Department School Safety Agents will be shifted to the DOE, adding an additional area of oversight for which SCI will be responsible. See *Memorandum of Understanding Among Department of Education of the City of New York, New York Police Department of the City of New York, and the City of New York on the Performance of School Security Functions by the New York City Police Department for the Benefit of the City School District of the City of New York and its Students and Staff*, available at <https://drive.google.com/file/d/1cWroXdguo4u00gCTkOFOi8sFkLyPEyNu/view>.

Specifically, in CY 2020, SCI:

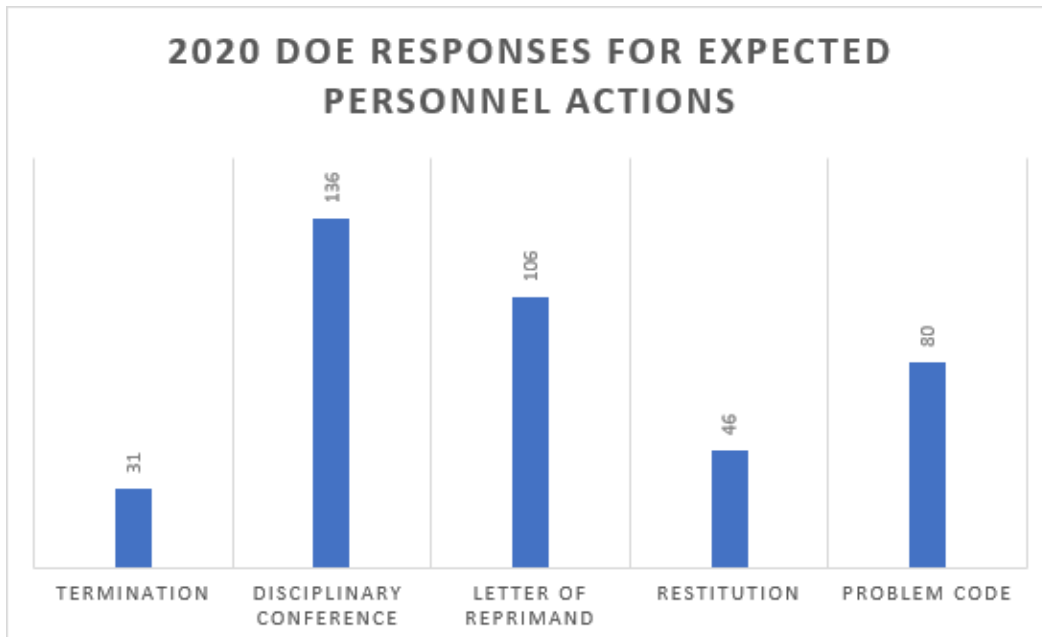
- Investigated 365 cases that were opened in 2020, and 992 overall.
- Completed 433 investigations.
- Made 56 Policy and Procedure Recommendations in 26 cases.
- Substantiated that 206 individuals or entities violated criminal statutes, the DOE Chancellor’s Regulations, or other administrative regulations.
- Referred 30 substantiated cases to District Attorneys’ offices, 39 to the New York State Education Department, and 15 to the COIB.
- Investigated 392 total allegations involving inappropriate or sexual misconduct by DOE employees or vendors, 133 of which were opened in 2020. SCI substantiated allegations against individuals in 61 such cases.
- Made 299 personnel-related recommendations based on SCI’s substantiated findings.⁴ The subjects investigated included teachers, administrators, paraprofessionals and other DOE personnel, volunteers, and contracted service providers. SCI recommended disciplinary action in 138 instances, 69 of which included recommendations up to and including termination. SCI also made recommendations of 97 problem codes (as possible bars to future employment or contracts; these are often recommended when the subject has resigned or been dismissed before SCI has concluded its investigation), 40 financial recovery actions, one fine, 19 appropriate actions by DOE administrators, and 23 other actions (e.g., retraining in lieu of disciplinary action, review of policy, review of vendor contracts).



- In 2020, the DOE reported to SCI that they had or would take the following disciplinary actions based on SCI’s 2020 recommendations:
 - 31 employment terminations;
 - 136 disciplinary conferences;

⁴ SCI may make multiple personnel recommendations regarding any individual subject. These may include problem codes, restitution payments, disciplinary action, or other recommendations.

- 106 official admonishment letters to employees' personnel files;
- 46 orders of financial restitution; and
- 80 problem codes.
- In addition, as a result of SCI's investigations, two employees resigned from their positions.
- As a result of SCI's investigations, many employees underwent special training (or retraining) related to their misconduct.



- SCI completed 15 cases referred by the COIB or based on other complaints involving a conflict of interest.
- SCI completed reviews of five whistleblower claims, none of which were substantiated.
- SCI substantiated 46 cases that identified to the DOE loss, theft, or mismanagement of funds totaling approximately \$1.5 million. SCI was responsible for the continued collection and monitoring of restitution or fines.⁵
- SCI investigations led to several arrests, including one executed by SCI investigators on March 5, 2020 after a teacher defrauded the DOE by illegally obtaining more than \$29,000 in salary while on medical leave but employed elsewhere.⁶

In its discretion, SCI refers information to other City agencies for review and appropriate action, including internal DOE units, or may monitor another agency's actions, such as the New York City Police Department and the Administration for Children Services, before deciding to commence an SCI investigation or review. In CY 2020, SCI referred 3,008 complaints to other

⁵ Restitution noted here consists of court ordered repayment of monies over a period related to past SCI cases; for CY 2020, this amount was approximately \$26,000. Fines during this period were issued by either the DOE or COIB.

⁶ See <https://nycsci.org/wp-content/uploads/2018/Public/3-20-Gooding-Press-Release.pdf>

agencies. In addition, during or after its own investigations, SCI may also refer criminal findings to an appropriate prosecutor's office. In CY 2020, SCI referred 30 cases to prosecutor's offices.⁷

EO11 provides that the SCI commissioner "shall recommend such remedial action as he or she deems necessary, and monitor the implementation by the City School District of recommendations made by him or her." SCI made numerous Policy and Procedure Recommendations ("PPRs") to the DOE in 2020 related to corruption hazards, mismanagement, and other ongoing or systemic deficiencies. In 26 referrals to the DOE, SCI made 56 individual PPRs. To date, the DOE has accepted 43 of the PPRs, declined 12, and has taken one under advisement; five remain pending.⁸ All SCI PPRs are available on SCI's website, including the date issued, the exact recommendation, the acceptance status, the implementation status, the implementation date, and the DOE response.⁹

CY 2020 Highlights:

As stated, COVID-19 presented innumerable challenges for the DOE and SCI in 2020. As a regulatory agency charged with overseeing schools that faced enormous difficulties – including but not limited to remote learning and repeated closures – naturally, SCI's profile of investigations changed. For obvious reasons, SCI received far fewer complaints than in years past regarding physical contact between teachers and students; drugs, weapons, and other contraband located or seized within schools; and other complaints whose genesis would occur during traditional, in-person education. In their stead, SCI increasingly investigated cases regarding online media and remote learning; theft of COVID-19 Personal Protective Equipment (PPE); and "double dipping" (in which a DOE employee worked at a second job while ostensibly also working remotely for the DOE).

- **Case No. 2019-6480:** SCI substantiated that a principal and director of operations entered into a contract with movie studio 20th Century Fox to use space in Public School 185 in Manhattan in violation of Chancellor's Regulations. SCI issued a public report on August 28, 2020. See https://nycsci.org/wp-content/uploads/2018/Reports/9-20-Harlem_Link-Charter.pdf
- **Case No. 2020-3777:** SCI substantiated that a teacher engaged in an inappropriate sexual act during a Zoom remote learning session while in front of students.
- **Case No. 2020-2557:** SCI substantiated that an Office of School Support Services cleaner assigned to Public School 140 in Manhattan, stole several boxes of Personal Protective Equipment – including N95 masks and gloves – from a locked office of the School Safety Commanding Officer without authority or permission.
- **Case No. 2020-1867:** SCI substantiated that a DOE paraprofessional assigned to Public School 225 in Brooklyn, grabbed, pushed, spit on, and threatened a 13-year-old male student during an after-school confrontation in front of the student's home.

⁷ Specifically, two cases to the New York State Attorney General's Office; nine to the New York County District Attorney ("DA")'s office; nine to the Kings County DA's office, five to the Bronx County DA's office; three to the Queens County DA's office; and one to New Jersey prosecutors.

⁸ Notably, of the 43 accepted PPRs, 21 were accepted and self-described by DOE as "current practice" or aligning with such.

⁹ For a complete list of all CY 2020 PPRs made to the DOE, please visit the SCI website: www.nycsci.org.

- **Case No. 2020-2174:** SCI substantiated that a 51-year-old male teacher assigned to Baccalaureate School for Global Education in Queens, made inappropriate comments to several female students, including over social media.
- **Case No. 2020-1871:** SCI substantiated that a teacher assigned to Public School 723 in the Bronx, assaulted an 11-year-old male student.
- **Case No. 2019-7257:** SCI substantiated that a paraprofessional squeezed the hand and neck of a nine-year-old student. SCI arrested the paraprofessional.¹⁰
- **Case No. 2019-4097:** SCI substantiated that a 37-year-old Science teacher assigned to the Hillside Arts & Letters Academy in Queens, inappropriately touched a 17-year-old female student several times. The New York City Police Department agreed with SCI's findings, and the teacher was arrested.

DOE Anti-Corruption Report:

In October 2020, Commissioner Coleman made SCI's annual request that Chancellor Carranza specify the DOE's most significant areas of corruption identified or addressed during the previous 12 months. In addition, as the City was seven months into the COVID-19 pandemic, SCI specifically requested the DOE to consider and address difficulties the department experienced or identified regarding the following:

1. The procurement and delivery of Personal Protective Equipment ("PPE");
2. The procurement and adoption of necessary new technology;
3. Challenges faced in transitioning the DOE workforce, in whole or in part, to remote work access, and steps the department has taken to protect against workplace fraud;
4. Vendor-related challenges due to the pandemic, which may include fraudulent billing, elevated pricing, or diminished PPE quality, to name just a few; and
5. Safeguarding PPE or other pandemic-related supplies at DOE facilities.

Finally, SCI requested that the DOE review the department's responses from the previous year's report, and reflect on the hazards identified and the progress or challenges faced in addressing those hazards.

The DOE responded to SCI's requests in December 2020, and described its practices and protocols concerning SCI's five items as outlined above. With respect to item 2, the DOE reported that DOE staff and teachers had used the free version of Zoom before the pandemic, and increased their usage significantly when the pandemic started, which did not include the correct security controls and settings to protect from unauthorized access to meetings and did not enable centralized monitoring for security events. In response, the DOE negotiated a heavily discounted K-12 subscription and implemented security best practices, which were subsequently verified by NYC DoITT and Citywide Cyber. As to item 3, the DOE reported the CyberShift timekeeping application was updated so that all employees could accurately and securely track their time while working remotely.

¹⁰ See <https://nycsci.org/wp-content/uploads/2018/Public/2-21-McCray-Press-Rel.pdf>.

No remarkable challenges were specified in response to the remaining three numbered inquiries.

The DOE's response also identified two new areas of note:

1. NYCSBUS

In September 2020, the City established New York City School Bus Umbrella Services, Inc. ("NYCSBUS"), a private not-for-profit corporation to oversee school bus inventory and employees. DOE claimed that NYCSBUS (1) mitigates risks previously associated with bus transportation giving the DOE greater control over operations, thus increasing service reliability; (2) will allow DOE an unprecedented level of insight into the budgets, labor, and capacity of the industry; and that (3) DOE will be able to better manage current student transportation services, and more flexibly adapt to changes in transportation needs as they arise.

2. Transition of EarlyLearn NYC programs from Administration for Children's Services ("ACS") to DOE

In July 2019, administration and management of EarlyLearn NYC programs shifted from ACS to DOE. EarlyLearn are City-contracted programs which serve children eligible for Child Care subsidy through the Child Care Development Block Grant ("CCDBG"). DOE reported that it put in place a structure of financial controls to support payment to vendors and to provide financial oversight of those vendors. According to the DOE, the key elements of that structure are segregation of payment duties, direct support to programs, and cost allocation plans. DOE budget analysts support each vendor, review their invoices and cost allocation plans, and initiate payments. All payments are then reviewed by the payments team, which is separate from the program team. Vendors are required to undergo an independent audit annually, and to submit those audits to DOE, which in turn, reviews them and follows up on any issues. Vendors are also required to submit audited financial statements.

Concerning the areas identified in its 2019 response to SCI's inquiries, the DOE provided updates in its 2020 letter to SCI. In summary, the DOE reported:

3. Theft of Time

The pedagogical staff who transitioned onto CyberShift on July 1, 2019, had a full review of their accrual balances by the pedagogical payroll unit, which was completed in the summer of 2020. CyberShift now calculates the accruals balances as well as the staff's attendance daily. To date, there had been no major issues with staff recording their time, and any needed payroll adjustments were being completed in a timely fashion.

4. Subcontracting Terms

The DOE maintained that it continues to work closely with the Mayor's Office of Contract Services to integrate with the City's PASSPort system. However, due to resource constraints and competing procurement priorities stemming from the COVID-19 pandemic, DOE has not yet been able to develop an infrastructure to track

subcontractors. The DOE stated that this remains a priority for its procurement team in future years.

Conclusion:

We are pleased to have provided this brief overview of the actions and initiatives taken by SCI to protect New York City students, educators, employees, and City taxpayers in 2020. These highlights are a fraction of the work SCI employees conduct daily, as they hold accountable those who abuse the public trust. We are fortunate at SCI to have compassionate and talented individuals committed to serving the public. In the coming year – with the hope of rapid citywide vaccination and an abatement of the COVID-19 pandemic, so that the City and its residents can reemerge from the difficulties of the past year – SCI will continue to develop its team of dedicated analysts and audit professionals to conduct proactive audits, evaluations, and special reviews of DOE and DOE-vendor practices. These probes, along with SCI’s diligent investigation of received complaints, will help us continue to advance innovative ways to shield the DOE and public funds from misuse and corruption. We look forward to even more productive and rewarding years ahead.

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If you suspect corruption, crime, or fraud at your child’s school, please contact (212) 510-1500.