

CITY OF NEW YORK
**THE SPECIAL COMMISSIONER OF INVESTIGATION
FOR THE NEW YORK CITY SCHOOL DISTRICT**
80 MAIDEN LANE, 20TH FLOOR
NEW YORK, NEW YORK 10038

ANASTASIA COLEMAN
SPECIAL COMMISSIONER

TELEPHONE: (212) 510-1400
FAX: (212) 510-1550
WWW.NYCSCI.ORG

September 12, 2019

Hon. Richard A. Carranza
Chancellor
New York City Public Schools
Department of Education
52 Chambers Street, Room 314
New York, NY 10007

Re: Caridad Caro
SCI Case #2017-6220

Dear Chancellor Carranza:

An investigation conducted by this office has substantiated that former New York City Department of Education (“DOE”) Assistant Principal (“AP”) Caridad Caro, while assigned to the Urban Assembly School for Wildlife Conservation (“Wildlife”) in the Bronx, failed to properly act on a report by the mother of a then 14-year-old male student (“Student A”).¹ The mother (“Mother A”) left a voicemail message for a Wildlife teacher, Justin Keating, stating that Student A had threatened family members with a knife, and had brought the knife to school in his backpack. Keating informed Caro, the AP for discipline, about the message. Caro did not relay this information to the principal – or to anyone else. Nor did she log the incident into DOE’s online reporting system, as required. Caro claimed to investigators that she instead personally searched Student A’s backpack and did not discover a knife. The AP explained that because she did not find a weapon, she thought that it was unnecessary to report Mother A’s message that her son had threatened family members with a knife he had brought to school. Caro’s purported search of Student A’s backpack was also improper. Weapons searches of students are not to be conducted by DOE staffers, but by New York City Police Department (“NYPD”) School Safety Agents (“SSAs”).

I. Investigation and Findings

In September 2017, the DOE’s Division of Operations chief of staff, Aloysee Jarmoszuk, telephoned the Special Commissioner of Investigation for the New York City School District (“SCI”). The previous day, as widely reported in the news media, Student A, age 18, allegedly stabbed two male Wildlife students at the school, resulting in the death of a 15-year-old (“Student C”) and serious injury to a 16-year-old (“Student B”). Student A was arrested and subsequently indicted for homicide and assault,

¹ Caro has been reassigned to a DOE central office. The DOE closed Wildlife at the end of the 2017-2018 school year.

respectively.² According to Jarmoszuk, after this incident, DOE Operations staff members reviewed school records concerning Student A and the victims, and discovered that Wildlife utilized a software program known by the trade name “Skedula,” to share information concerning students, including incidents of misconduct. Skedula, as used at Wildlife, was a stand-alone program, accessible to school staffers and administrators, but not to DOE officials at the Superintendent’s Office or the central DOE office. Nor was the Wildlife Skedula program linked to the DOE Online Occurrence Reporting System (“OORS”).

According to Jarmoszuk, the Skedula program showed that on May 28, 2014, Wildlife Teacher Justin Keating posted an entry regarding a voicemail he received from Mother A, who stated that Student A had been bringing a knife to school. Mother A further reported in her message that Student A threatened family members by displaying the knife. Jarmoszuk said that this information was never entered into OORS.

SCI investigators interviewed DOE Deputy CEO for Safety and Security Mark Rampersant at Wildlife who said that on September 28, 2017 (the day following the stabbings), Affinity Field Support Center guidance counselors went to Wildlife. Rampersant received a call from Affinity Executive Director Alexandria Anormailiza, who told him that Guidance Counselor Lachelle Gaillard informed her that the school used Skedula to record information about students. Anormailiza told Rampersant that he should determine whether there were Skedula entries concerning Student A. Rampersant then met with Gaillard at the guidance counselors’ office at Wildlife. She informed him that AP Narine Bharat, who had been directed to gather information from Wildlife records concerning Student A, printed an entry from Skedula by Keating titled “Dean’s Referral,” dated May 28, 2014 at 10:49 a.m. The entry, which SCI obtained pursuant to a subpoena, stated:

This morning I received a voicemail message from [Student A’s] mother informing me that she discovered a knife in [Student A’s] backpack. She informed me that he has been bringing the knife to school. The voicemail was out of concern for our students and staff safety because he has a history of pulling knives on his family. This is an issue that needs to be addressed immediately.³

The Skedula entry indicated that Keating selected the option that the entry be shared with all staff at Wildlife. Rampersant described a second Skedula message dated November 21, 2016, from Teacher Daniel Velazquez, regarding Student A and another male student. It stated that both students were disruptive in physics class, and were “bullying, name-calling, throwing things, and menacing each other.”⁴

² Student A was tried in Supreme Court, Bronx County, and was convicted of Manslaughter in the first degree and Assault in the first degree, Class B felonies, as well as Criminal possession of a weapon in the fourth degree, a misdemeanor, on July 15, 2019. He was sentenced to 14 years in state prison on September 10, 2019. Certain testimony from the trial is described herein.

³ SCI provided the Skedula entries it obtained concerning Student A, Student B, and Student C to the Bronx District Attorney’s Office.

⁴ As detailed herein, SCI investigators interviewed Velazquez and other Wildlife staffers concerning allegations about bullying involving Student A, Student B, and Student C, some of which were referenced in the news media. See B. Muller and A. Baker, *Student Charged in Bronx School Stabbing Felt Bullied, Police Say*, N. Y. Times, Sept. 29, 2017 at A1. Available at: <https://www.nytimes.com/2017/09/28/nyregion/bronx-school-stabbing-abel-cedeno-bullying.html>. The witnesses denied any knowledge that Student A was bullied, or that there were complaints that he had been bullied. Nor did

SCI investigators interviewed former Wildlife Guidance Counselor Jemny Santana who stated that during the 2016-2017 school year she met with Student A four to five times to discuss academic and attendance issues.⁵ Santana said that she met with Student A in September 2017, to welcome him back to school and to make a plan for the courses he needed to complete in order to graduate in June 2018. Santana reported that she asked Student A if he needed anything, and he replied “no.” Santana stated that she memorialized her meetings with Student A with entries in the “ILOG” system contained within the DOE online ATS database.⁶ Santana stated that she preferred using ATS rather than Skedula.

SCI investigators interviewed Justin Keating while the teacher attended a DOE professional development conference in Manhattan. Keating reported that he was assigned to Wildlife from September 2013 until June 2017.⁷ He said that he initially reported to Wildlife Principal Mark Ossenheimer and AP Latir Primus. Primus was appointed principal after Ossenheimer was promoted to deputy superintendent in October 2014, and Astrid Jacobo succeeded Primus as principal in December 2015. According to Keating, during the 2013-2014 school year, Student A was assigned to his English Language Arts class, and that he met with the student “40 to 50 times,” occasionally with Mother A present. Keating added that they discussed Student A’s absenteeism, behavioral issues, and poor academic performance. The student never said that he was bullied at Wildlife, or that he had problems at home. Keating made some entries concerning these matters in the Skedula program. He explained that anecdotal log entries in Skedula note the date, time, writer, type of referral, and a description of the incident. The writer selects who is to be notified about the incident. Keating added that entries can be shared with school staff, a parent, or the student – individually or in combination. The selected recipients are notified about the entry with an auto-generated email.

Keating confirmed that on May 28, 2014, he received a voicemail message on his mobile phone from Mother A that she discovered a knife in Student A’s backpack, and that the student had been bringing the knife to school. Mother A’s message indicated that she was concerned for the safety of students and the school staff because Student A had a history of pulling knives on his family. Keating also confirmed that the same morning he received the voicemail, he made a Skedula entry describing Mother A’s message. He explained that he categorized the report as a “Dean’s referral” due to the nature of the incident and the possibility that students could be endangered. Keating said that he selected the option to share the Skedula entry with all staff. Keating claimed that he did not recall whether he discussed the incident with Wildlife administrators, including Dean Hector Diaz, who was responsible for filing incidents into the DOE OORS database.⁸

the OORS reports and Skedula entries obtained by SCI concerning the three students indicate that Student A had been bullied.

⁵ Santana is currently assigned as a guidance counselor at Bronx River High School.

⁶ SCI investigators reviewed the entries concerning Student A; they were not remarkable.

⁷ Keating is currently assigned to the High School for Environmental Studies in Manhattan. As noted below, an attorney for Keating who cited his status as a tenured pedagogue, declined SCI’s request for a second interview.

⁸ As detailed herein, Dean Hector Diaz, the apparent intended recipient of the “Dean’s referral,” did not recall receiving Keating’s message or otherwise learning of Mother A’s report.

SCI investigators interviewed former Wildlife Guidance Counselor Philip Cohen, who was assigned to the school from September 2012 through June 2016.⁹ Cohen said that he met Student A in his junior year in September 2014. Cohen said that Student A was frequently absent or late, but the guidance counselor did not recall any trouble from the student for behavioral reasons. According to Cohen, Student A never spoke of having been bullied. Cohen said that he never met with Mother A, Student B or Student C. Investigators showed Cohen Keating's May 2014 Skedula entry concerning Student A and the knife. Cohen claimed that he had not seen the entry at Wildlife, nor did he discuss or hear about the described incident.

SCI Investigators interviewed former Wildlife Social Worker Raymond Godwin who serviced students with mandated Individualized Education Program ("IEP") services at Wildlife.¹⁰ Godwin reported to Principal Ossenheimer until September 2013, and thereafter to AP Caro. After Caro left the school, Godwin was supervised by Latir Primus and then Asdrid Jacobo. Godwin said that he had interactions with Student A, who had difficulty connecting with students in the school and in identifying his sexuality. The social worker reported that he had an open door policy and that Student A visited him occasionally, but did not "really share a lot and never talked about being bullied by anyone." Godwin claimed that he never witnessed nor heard anyone say that Student A was bullied. Godwin added that Student A was never violent nor a disciplinary problem.

Shown a printout of Keating's May 2014 Skedula entry, Godwin told the investigators that he had not previously seen the entry nor heard about Student A and the knife report. Godwin explained that when a Skedula entry was designated "share with all staff," it did not appear automatically when a staffer logged on to the Skedula program. According to Godwin, in order for a staffer to view the contents of such a message, the user must have searched the Skedula program using Student A's name.

Godwin generally described an advisory group at Wildlife consisting of approximately 16 teachers supervised by the principal or an AP. Godwin explained that each teacher had two or three assigned students and the advisory group met – weekly during some school years – and discussed their assigned students.

SCI investigators interviewed former Wildlife Principal Mark Ossenheimer under oath.¹¹ He testified that except for part of 2006, he had been employed by the DOE since 1995, first as a substitute and then as a full-time teacher. Ossenheimer worked on the DOE's plan to establish Wildlife, and he was assigned as the school's first principal when it opened in July 2007. He explained that the school opened with a sixth grade class that year, and expanded by one grade each succeeding year, through the twelfth grade. Ossenheimer stated that he hired Caro as an AP of special education in 2008. In 2009, he added AP Primus to the staff. Ossenheimer said that in 2014 – his final year at Wildlife – he added Dean Hector Diaz as an interim acting AP for safety and discipline. After Ossenheimer left Wildlife, Cynthia

⁹ Cohen is no longer employed by the DOE. He was interviewed at his most recent DOE assignment, Health, Education and Research Occupations High School in the Bronx, where he was a guidance counselor.

¹⁰ Godwin is currently assigned to Health, Education and Research Occupations High School in the Bronx.

¹¹ Ossenheimer has been reassigned to a DOE central office.

Turnquest-Jones succeeded Diaz. Ossenheimer testified that all administrative staff were responsible for discipline and safety; teachers handled low-level infractions, and notified Diaz of more serious matters.

Ossenheimer stated that the school previously documented disciplinary infractions on paper, but in his last two years at Wildlife, they implemented Skedula. Ossenheimer described Skedula as “an online grade book” with a feature that allowed teachers and staff to enter anecdotes from a drop-down menu and send a direct email to the administrative staff.

Ossenheimer testified that he and his staff met weekly to follow up on the teachers’ Skedula anecdotes and, for a serious infraction, addressed the incident within 24 hours. He reported that all of the administrative staff were authorized to make OORS entries as needed, and that, as principal, he was responsible for monitoring OORS reports on a daily basis.

SCI investigators then showed Ossenheimer Keating’s May 2014 Skedula entry concerning Mother A’s report of Student A and a knife in his backpack. Ossenheimer appeared to be surprised by the message. He acknowledged that although Keating’s entry indicated that it was to be shared with all staff, he had no memory of the message, the described incident, or any discussion of it with his administrative staff at their weekly meetings (or any other time). Ossenheimer said that Keating should have discussed Mother A’s report with AP Caro, his direct supervisor. Ossenheimer added that he and the rest of the administrative staff should have then been notified of the matter so that they could notify NYPD SSAs, file an OORS report, and arrange for social workers to implement a guidance intervention for Student A. Finally, Ossenheimer testified that he had “no explanation” as to why he was not notified of the incident.

SCI investigators interviewed former Wildlife AP Caridad Caro under oath and accompanied by an attorney. Caro testified that she had been employed by the DOE for 23 years and was an AP at Wildlife from 2008 through August 2015. Caro reported that her duties included making entries into OORS. She explained that initially she divided her time between the Wildlife middle school and the high school, and shared responsibilities with AP Latir Primus. According to Caro, beginning in September 2011, she was assigned solely to the high school, where she was responsible for lunch duty, yard duty, discipline, class observations, and OORS reports. Caro said that Dean Hector Diaz shared discipline matters with her, and that when Diaz, a military reservist, was deployed for a year, AP Cynthia Turnquest-Jones assisted her with discipline. Caro explained that when Diaz returned from his deployment, four administrators shared discipline responsibilities at the high school: Caro, Ossenheimer, Diaz, and Turnquest-Jones.

Caro testified that she was acquainted with Student A and Student B. She said that she met with Student B regarding disciplinary issues such as conflicts and inappropriate language. Caro reported that Student B never complained that he was bullied, and she did not recall him getting into fights. Caro added that Student B met with Primus and Turnquest-Jones more frequently than he did with her. According to Caro, she met with Student A several times throughout the school year about such disciplinary issues as leaving class and verbal disputes with other students. Caro claimed that Student A never mentioned that he was bullied. She added that the student “had problems at home” with his mother, who was frequently away in Puerto Rico.

Asked about the report of a knife in Student A's backpack, Caro testified that on May 28, 2014, Keating met with her and played a voicemail message on his mobile phone in which Mother A said that she discovered a knife in Student A's backpack, and that he had brought the knife to school. Mother A's message expressed concern for student and staff safety because Student A had a history of pulling knives on his family. Caro said that she directed Keating to note Mother A's report in Skedula, and to contact the mother, with whom he had a good relationship. Keating made the Skedula entry as directed, and selected that it be shared with all staff.

Caro reported that she personally spoke with Mother A, who said that she did not want Student A to know that she informed Keating about the knife in his backpack. Caro testified that she was trained in OORS reporting, but said that she did not believe that Mother A's report warranted an OORS report because the mother's discovery of a knife in Student A's backpack did not occur at school. In addition, as described below, Caro said that she personally searched the student's backpack, but did not find a knife.

Caro testified that around the time of the knife report, she met with Student A several times in her office before morning classes. According to Caro, on the first day Student A appeared at school after his mother's voice mail message to Keating, Caro had the student report to her office. Without mentioning what she had learned from Mother A and Keating, Caro used a pretext and told Student A that she was conducting a "backpack re-organization" to check that his school papers and assignments were in order. Caro claimed that she arranged in advance for an NYPD SSA to be present as Caro searched the student's backpack, but she did not recall the identity of the agent, or whether anyone documented the search. Caro then personally searched Student A's backpack, and did not find a weapon. The AP testified that she did not recall whether she notified Ossenheimer or any other Wildlife administrator concerning the matter.

SCI investigators interviewed former Wildlife AP Latir Primus under oath and accompanied by an attorney.¹² Primus testified that he had been employed by the DOE for 12 years, and was an AP at Wildlife from September 2011 to August 2014. He reported to Principal Mark Ossenheimer. Primus said that he supervised all middle school grades, was in charge of middle school programing, hiring teachers, and assisting the deans and guidance counselors. Primus explained that in his final two years at Wildlife, the other APs were Caro and Diaz. Diaz, appointed in May 2014, was responsible for disciplinary matters, lunchroom duties and monitoring the hallways, and Skedula entries. Primus said that prior to Diaz's promotion to AP, he was the dean of the high school division of Wildlife, and Cynthia Turnquest-Jones was the dean of the middle school. According to Primus, Caro was responsible for high school programing, supervising high school teachers, and special education compliance.

Primus said that he was appointed as interim acting principal of Wildlife in August 2014, replacing Ossenheimer. Primus said that Caro and Turnquest-Jones reported directly to him until December 2016, when he was removed from his interim acting assignment by Superintendent Rafaela Espinal-Pacheco.

¹² Primus has been reassigned to a DOE central office.

Primus testified that he first learned of the knife and backpack report concerning Student A through “hearsay,” but he could not recall from whom. According to Primus, in May 2014, Caro was in their shared office when she told him that Mother A left a voicemail for Keating stating that Student A was bringing a knife to school and Mother A was concerned for the safety of staff and students. Primus said that Caro told him that Mother A did not want Student A to know that she reported the matter. Primus testified that Caro later informed him that she had searched Student A’s backpack in the presence of NYPD SSAs, but did not find a knife. Primus added that Caro mentioned that she “must report” Mother A’s account that her son had brought a knife to school and that the mother was concerned for the safety of staff and students. Primus reported that no one else was present during these conversations with Caro, and that he later looked up Keating’s May 2014 Skedula entry about Mother A’s report. Primus did not recall whether he received an email alert about the Skedula entry.

Primus recalled that Student A and his mother’s report of the knife was discussed at a cabinet meeting attended by the Wildlife administrative staff, including Ossenheimer. Primus reported that at the meeting, Ossenheimer instructed the staff that when there was a serious incident, they must “make a face-to-face notification” to an administrator. Primus testified that Student A’s academic performance was discussed at the meeting, but there was no mention of an OORS report documenting his mother’s call concerning the knife.

SCI investigators interviewed former Wildlife AP Hector Diaz under oath; he was accompanied by an attorney. Diaz testified that he had been employed by the DOE for 19 years and, when interviewed, was assigned as an AP at Public School 111 in the Bronx.¹³ Diaz stated that during the 2009 school year he was assigned to Wildlife as a dean and reported to Ossenheimer who, during the 2014-2015 school year, appointed him as Interim Acting AP. Diaz said that as an AP he was responsible for disciplinary matters, lunchroom duties, monitoring the hallways, Skedula entries and OORS reports.

Diaz said that he was familiar with Student A and Student B and that each had disciplinary issues (such as cutting and disrupting class, and wandering the halls), but none concerned bullying. According to Diaz, Student A was counseled by AP Caro and Social Worker Godwin. Investigators described Mother A’s report to Keating concerning Student A and a knife. Diaz testified that he did not remember an email, Skedula entry, or otherwise being informed of such an incident. He added that if Keating selected that a Skedula entry be distributed to all staff, it does not necessarily mean that he (Diaz) received it. Finally, Diaz opined that because the knife incident – as reported by Mother A – did not occur at school, it was not necessary to enter an OORS report.

SCI investigators again interviewed Mark Rampersant, Deputy CEO for Safety & Security, Office of Safety and Youth Development. Rampersant was specifically asked whether Mother A’s May 2014 voicemail message to Keating required an OORS report. He replied affirmatively, and explained that while Mother A reported what she observed at her home, she understood that

¹³ Diaz is currently an AP assigned to the Absent Teacher Reserve.

Student A was bringing the knife to school and was concerned for the safety of the students and staff. Investigators described Caro's pretextual "inventory search" of Student A's backpack to determine whether it contained a knife. Rampersant responded that weapons searches must be conducted by NYPD SSAs – and not by DOE staffers – in a private room with a Level III SSA and a DOE administrator in attendance.

SCI investigators examined Student A's attendance records and NYPD SSA work schedules for the dates Student A was at school in an effort to corroborate Caro's claim that an NYPD SSA was present in May 2014 when she searched Student A's backpack. Five SSAs were identified as possibly having been assigned to Wildlife in the days following Mother A's report: Former SSA Adam Anderson, Level III SSA Jacqueline Flores, Level III SSA Nicole Stamps, SSA Rosina Crawford, and SSA Sharon Folks. SCI investigators separately interviewed each of the five SSAs under oath. Each SSA testified that he or she did not observe Caro search Student A's backpack, or had any knowledge that Caro had done so. Consistent with Rampersant's account, each SSA said that weapons searches of students must be conducted by NYPD SSAs, and not by DOE school staffers. SSA Anderson added that had he received such a request from a school staffer, he would have notified Level III SSA Flores. Separately, SSA Flores testified that in the normal course of business, had she learned that school administrators requested a search of student, she would have responded to the school and discussed the matter with the principal.

SCI investigators interviewed Teacher Daniel Velazquez under oath; he was accompanied by an attorney.¹⁴ In 2016, Velazquez recorded two Skedula anecdotes concerning Student A. He testified that he had been a DOE teacher since 2012, and that during the 2016-2017 school year he was assigned to Wildlife where he taught chemistry and physics for grades 10 through 12. He reported directly to Principal Jacobo. Velazquez said that he was familiar with Student A and Student B, but not with Student C. He explained that Student A was in his 12th grade physics class and was a decent student, but had academic and attendance issues. SCI produced the two Skedula entries by Velazquez referencing Student A. In a November 21, 2016 entry, Velazquez noted that Student A and another male ("Student D") were "extremely disruptive in physics class today." Velazquez's note added that Student A and Student D were "bullying, name-calling, throwing things, and menacing each other." (Emphasis added). Velazquez wrote that he asked them several times to stop, but both students appeared to treat the matter "as a joke." In the note, Velazquez stated that he spoke to Student A and Student D outside the classroom and told them that if their misconduct continued, he would take them to the dean. The students returned to the class "and were fine afterwards." Velazquez confirmed that he wrote the Skedula entry, and he explained to the investigators that there were no other students involved in the disruptive behavior or bullied by Student A and Student D.

Velazquez identified another Skedula entry concerning Student B from September 2016. Velazquez told investigators that Student B was in his 10th grade chemistry class and was a below average student with behavioral issues who used vulgar language. Velazquez's entry stated that Student B was disruptive, told the teacher to "suck my dick," and then left the classroom.

¹⁴ Velazquez is currently assigned to the Academy for New Americans in Queens.

However, Student B did not bully or act aggressively toward other students. Velazquez was no longer at Wildlife at the time of the stabbing incident in September 2017.

SCI investigators interviewed former Wildlife AP Daniel Pichardo; he was accompanied by an attorney.¹⁵ Pichardo, employed by the DOE for ten years, was promoted to AP for Math at Wildlife in the fall of 2015.¹⁶ Pichardo was acquainted with Student A, Student B and Student C. He said that he was unaware of any bullying of Student A by Student B and Student C or other conflict among the three students. Pichardo reported that after the stabbing incident, a female student remarked that Student A had previously shared with her that he had been bullied, “outside the school and when he was younger.” The female student said that her comments were picked up by news reports and social media, and were misconstrued to falsely implicate Student B and Student C as Student A’s tormentors. In a mediation session at Wildlife, the female student told Pichardo that Student A never identified Student B and Student C, or any other student, as having bullied him.

Former Wildlife AP Cynthia Turnquest-Jones, through her attorney, declined the opportunity to be interviewed concerning this matter based on her tenured status. Former Wildlife Teacher Christopher Vazquez, who is no longer employed by the DOE, did not respond to SCI’s request for an interview. Former Wildlife Dean Matthew Lawlor was on medical leave from the DOE immediately after September 27, 2017. Through his attorney, Lawlor, a tenured pedagogue, declined to be interviewed by SCI concerning this matter.¹⁷ As described below, Lawlor testified for the prosecution at Student A’s criminal trial.

II. Allegations of Bullying in Civil Complaint, DOE Suspension Hearing and Bronx Criminal Trial

On March 14, 2019, a suit was filed on behalf of Student A against the DOE in the United States District Court for the Southern District of New York.¹⁸ The complaint was withdrawn approximately two months after it was filed. A second suit by Student A was filed in that court on June 20, 2019 and remains pending.¹⁹ The factual allegations in the June complaint were essentially the same as in the March complaint, and it also contained a sworn verification signed by Student A.²⁰ The June complaint (“the Southern District complaint”) broadly alleged that Student A was bullied in various DOE schools since sixth grade, including Wildlife, and that these incidents were brought to the attention of DOE employees, who failed to act on them.

¹⁵ Pichardo is currently assigned to the High School of Applied Communication in Queens.

¹⁶ Pichardo was initially promoted to AP on an interim-acting basis; this was made permanent in the fall of 2016.

¹⁷ On September 27, 2017, Lawlor responded to the classroom where the stabbing occurred at Wildlife and encountered Student A, Student B, and Student C. Lawlor is currently assigned to John Bowne High School in Queens.

¹⁸ *[Student A] v. Dep’t of Educ., et ano.*, Case No. 19-CV-2300 (KMK), S.D.N.Y. After counsel for the DOE wrote a pre-motion letter to the Court which outlined a motion to dismiss the complaint, counsel for Student A withdrew the summons and complaint on May 19, 2019 without prejudice to refile.

¹⁹ *[Student A] v. Dep’t of Educ., et al.*, Case No. 19-CV-05776 (LGS), S.D.N.Y.

²⁰ Student A acknowledged in testimony at his criminal trial in July 2019 that he signed the verification in the Southern District complaint.

On December 7, 2017, after Student A was released on bail pending his criminal trial in the Bronx, he was the subject of a DOE Superintendent's suspension hearing ("the suspension hearing") at which testimony and documentary evidence was presented. At the conclusion of the hearing, Student A was suspended from school for one year. Student A was represented at the suspension hearing by the attorney who also represented him in the subsequent Bronx felony trial. At the hearing, the attorney questioned two DOE employees about alleged bullying of Student A. The student also testified at the hearing, including about bullying claims.

Finally, Student A was tried in Supreme Court, Bronx County ("the criminal trial"). On July 15, 2019, he was convicted of Manslaughter in the first degree and Assault in the first degree, Class B felonies, as well as Criminal possession of a weapon in the fourth degree, a misdemeanor. Student A and certain DOE employees were questioned about bullying claims at the criminal trial. The testimony from the criminal trial, the suspension hearing, and the allegations from the Southern District complaint are discussed below.

Most of the allegations in the Southern District complaint were vaguely described, generally undated, and referenced DOE employees by incomplete names or not at all. According to the complaint, while in eighth grade at Intermediate School 227, Student A reported that he was bullied to "Ms. Bernard, his dance teacher," who allowed him to remain in her classroom and comforted him.²¹ In addition, notwithstanding that Student A denied bullying to his family, his mother met with an unnamed "Vice Principal" on "numerous occasions" and reported concerns that her son was bullied. The complaint alleged that Student A's stepfather met with Ms. Langston, dean and history teacher, but does not indicate whether they discussed bullying.²²

According to the Southern District complaint, during Student A's ninth and tenth grades at Wildlife, he reported bullying to "Mr. Ray," identified in the complaint as a "guidance counselor." This is an apparent reference to Raymond Godwin, who was actually a DOE social worker at the school.²³ The complaint alleged that Godwin ignored complaints by Student A and his mother, telling them: "ignore it;" "that's how boys are;" and "be smarter than them." Godwin was interviewed by SCI investigators prior to the Southern District complaint and, as set forth above; he denied any knowledge of Student A having been bullied. Investigators returned to Godwin after the complaint was filed. He told them that he met with Mother A twice when her son was in ninth grade concerning his poor attendance and academics, and that there was no discussion of bullying. Godwin reiterated his earlier testimony that Student A never spoke to him about being bullied and said that he would never have advised Student A to "ignore" the matter as alleged in the complaint.

²¹ Lyndel Bernard, a teacher assigned to Intermediate School 227 at the time of Student A's enrollment, was represented by an attorney. She was not responsive to several attempts by SCI to schedule an interview. In September 2019, the assigned investigator was informed that Bernard is currently on medical leave.

²² Stephanie Langston Branch – apparently Ms. Langston – told the SCI investigator seeking to interview her that she planned to obtain counsel. The investigator made subsequent inquiries, but no attorney has responded.

²³ Another former Wildlife DOE staff member known as "Mr. Ray" – Paraprofessional Raymond Agosto – was interviewed by SCI investigators after the civil complaint was filed. Agosto said that he had no interactions with Student A.

The Southern District complaint alleged that while Student A was in the ninth grade at Wildlife, his mother and stepfather met with Keating “at least once every two months in person.” The complaint does not specify whether the parents reported bullying to Keating at these meetings, but claims that Student A’s mother telephoned Keating “at least once or twice a week for most of the school year to discuss the bullying.” There is no description of any response by Keating to Mother A in these phone calls. Rather, the next sentence of the complaint quotes Godwin (“Mr. Ray”) – and not Keating – as telling Student A and his mother to “ignore it,” as described above. As described earlier in this report, Keating told SCI investigators that in the 2013-2014 school year, Student A was in his English Language Arts class, and that they met “40 to 50 times” – occasionally with Mother A present – and discussed absenteeism, behavioral issues, and poor academic performance. According to Keating, the student never said that he was bullied at Wildlife, or that he had any problems at home.²⁴

The Southern District complaint alleged that while in grade 11, Student A visited Guidance Counselor “Ms. Evelyn” – Shavon Evelyn – and told her that students threw pens, pencils and other items at him in class, and that she failed to act on his complaint. It further alleged that while in twelfth grade, Student A made nonspecific bullying complaints to Evelyn, and she again failed to report them.²⁵

SCI investigators interviewed Evelyn concerning the references to her in the Southern District complaint.²⁶ She said that she was familiar with Student A, who visited her office (less than weekly), although she was not his assigned guidance counselor. Evelyn recalled assisting Student A with transferring academic credits, and said that he sometimes helped her with small projects. She reported that Student A never complained about bullying, or how he had been treated in class. Evelyn recalled a single instance in which Student A visited her and appeared annoyed by a remark made in class. She said that she did not know what was said, or whether it had been directed to Student A.

Evelyn also testified under oath for the DOE at Student A’s suspension hearing, and was cross-examined by the student’s attorney. Most of her testimony focused on the day of the stabbings at Wildlife. She said that she knew Student A “casually” from his visits to the counseling office. After Student B and Student C were stabbed, Evelyn encountered Student A, who had a folded knife in his hand. She asked why he had a knife and directed him to give it to her. Student A complied and responded, “I guess I thought I was a badass.” Evelyn later gave the knife to a police officer. Evelyn said that Student A admitted having stabbed someone who “threw paper at me,” and expressed concern that he would have to go to jail. Questioned on cross-examination, Evelyn testified that she never learned of complaints that students targeted Student A, pulled his hair, or called him “faggot.”

²⁴ After Keating’s SCI interview (prior to the Southern District complaint), he retained an attorney through whom he declined to appear for an additional interview, citing his status as a tenured pedagogue.

²⁵ Student A repeated the twelfth grade. The Southern District complaint describes his report to Evelyn as having occurred in the first of the two school years.

²⁶ Evelyn is currently assigned as a guidance counselor at Bronx River High School.

Evelyn was called as a witness by the People at the criminal trial. Her testimony was generally consistent with her suspension hearing testimony and SCI interview. On cross-examination by Student A's attorney, Evelyn denied that the purpose of Student A's visits to her office were frequently due to students having been mean to him. On re-direct examination, Evelyn said that students were "generally friendly with each other regardless of sexual orientation."

AP Pichardo, who was not referenced in the Southern District complaint by name, also testified under oath at the suspension hearing about events on the day of the stabbings. On cross-examination by Student A's attorney, he said that he was aware that Student A was gay, and added that he was himself gay. Consistent with his account to SCI investigators described earlier in this report, Pichardo said that he "never heard" that various Wildlife students had pulled Student A's hair, harassed him, or subjected him to name-calling. The AP testified that the school had protections for any students who were harassed. He said that he had not heard that Student A complained to Wildlife administrators about bullying. Asked whether he would be "shocked" or "surprised" to learn that Student A made "several" such complaints, Pichardo responded that he would be:

... [B]ecause ... I was the assistant principal who primarily dealt with most of the incidents on the high school level. We are a very, very small school, so - - and students tend to be very open to tell me things. Also, [Student A] had an issue with a female student and his friends the previous year, and they came to me, to tell me what was going on. So I would im- imagine - - I would imagine he felt comfortable enough at the time to, to r- report that to me, so why wouldn't - - I would image he would feel comfortable to report other things to me as well.

Student A's attorney did not quantify or specify any complaints in his questioning of Pichardo, nor did he present any supporting evidence.

Former Wildlife Dean Matthew Lawlor was called as a witness by the People at the criminal trial.²⁷ His direct testimony focused on his observations of Student A, Student B and Student C immediately after the stabbings and his efforts to assist. On cross-examination, Lawlor was asked if he remembered a purported instance in which disruptive students in a ninth grade class called Student A a "faggot." He replied in the negative, and added that at no time during his tenure at Wildlife did he witness students use that slur against Student A anywhere in the school.

According to the Southern District complaint, after Student A completed ninth grade at Wildlife, he relocated and lived with a sibling in Tennessee, where he enrolled in a public high school at the start of the next school year. However, Student A returned to New York early in the first term, before the end of October 2014. Student A alleged that he told his mother that he did not want to return to Wildlife to complete the tenth grade, and Mother A, accompanied by her husband visited the DOE District Office on Fordham Road and requested that Student A be

²⁷ As noted above, Lawlor, a tenured pedagogue, declined through an attorney to be interviewed by SCI investigators concerning this matter.

transferred to a new school. The complaint broadly alleges that “After meeting with the family and with full awareness of the years of bullying that [Student A] had endured, the DOE District Representative denied the request.” Student A was assigned to return to Wildlife.

SCI obtained Student A’s DOE Student Registration Form, dated October 27, 2014. It identifies the school in Tennessee where he began ninth grade. The form contains no indication of a request to be assigned to a school other than Wildlife, or that Student A had endured bullying at the school. The section of the form reserved for the DOE enrollment staff contained check boxes under the title “Transfer Request,” including “Safety;” these were left blank. Mother A’s apparent signature appears on the form under the declaration: “I have met with a counselor and understand my options and the process for school placement. I understand the information presented and have received the information necessary to proceed.”

SCI investigators interviewed the DOE counselor identified on Student A’s registration form, Community Coordinator Harris Igbiginun, who was assigned to the Family Welcome Center located at Fordham Plaza from 2004 through 2016.²⁸ Igbiginun reviewed Student A’s registration documents and confirmed that he had registered him when he returned to the DOE after having been away. Igbiginun stated that Student A had not been away long, and that consistent with the Chancellor’s Regulations, a student who was gone for less than a full school year was to be re-admitted to his last DOE school – in this instance, Wildlife.²⁹

Igbiginun told investigators that Student A’s parents never complained to him about the student having been bullied at Wildlife, or otherwise requested that he not be reassigned to his former school. Igbiginun said that had they made such a complaint and request, he would have noted it in the DOE ATS database, and that the DOE Office of School Safety would have handled the matter. Igbiginun checked the database in the presence of the investigators, and confirmed that there was no reference to a request for Student A to be assigned to a different school.

Student A testified at the suspension hearing. Questioned by his attorney, Student A denied making the “badass” remark to Evelyn. He claimed that at some unspecified date, he left his math class and visited Evelyn at her office and told her that he felt “very anxious because the room is very loud and things are being thrown.” Student A added that he had been afraid that a fight would break out in the class. By his own testimony, and consistent with Evelyn’s account, the student did not state that he was struck by or was the target of the thrown objects, or that anyone threatened to fight him.

Student A also testified at the criminal trial. He claimed that from fifth grade through his time at Wildlife, he avoided attending school due to bullying. He said that from seventh through

²⁸ Igbiginun currently works in the same capacity at the DOE Family Welcome Center on Zerega Avenue in the Bronx.

²⁹ The Chancellor’s Regulations then provided: “In general, students have the right to return to their prior school following discharge from the NYC public schools within one calendar year of discharge” Chancellor’s Reg. A-101 III (A) (Oct. 31, 2013).

ninth grades, teachers – whom he did not identify – witnessed students pull his hair, shove, and verbally harass him, and that the teachers took no corrective action.

Concerning his return to the DOE after briefly attending school in Tennessee, Student A testified that he accompanied his mother and stepfather to the Family Welcome Center. He said that he asked to enroll in a school other than Wildlife, and that this request was declined. Notably, Student A testified that he did not tell his mother and stepfather why he wanted to transfer, that he had been bullied, or that he was gay. He explained that this “was something to be ashamed of in our community.”³⁰

In his testimony, Student A generally contradicted Lawlor’s and Godwin’s denials that they observed him subjected to bullying or heard him complain of such treatment. However, the student offered no specifics or identified witnesses that might corroborate his claims.

Reports prepared on behalf of Student A or received in evidence in the Bronx criminal trial indicate that he described bullying to a social worker consultant and a psychiatrist. In interviews after his arrest, Student A told the clinicians of instances of bullying at Wildlife and previous schools. These anecdotes, as reported, appear to be redundant of some of those described above, but contained fewer specifics. Student A acknowledged to the social worker, however: “I didn’t tell my family about the bullying. Maybe a different outcome would’ve happened if I had.”³¹ The report later added that Student A “did not tell family members about his [sexual] orientation until his arrest.”³²

A psychiatric report submitted at the criminal trial was based, in part, on the reporter’s interview of Student A on April 27, 2018. Student A told the psychiatrist that in middle school and high school:

He had made multiple reports about being bullied. He states that however, there were times when he did not report it, because it was witnessed by teachers in the classroom so “I didn’t think I had to report that.” He states that there were never any interventions made by the teachers or the school.³³

The report did not specify these incidents nor identify the teachers or students involved. The psychiatrist’s handwritten interview notes, examined at trial, contain the entry:

End of school year May / June 2017, stopped going to therapy. [I] was doing better in school[; there] wasn’t [a] lot of bullying that year in school[.]

³⁰ Student A told detectives after his arrest that he was bisexual. He testified at the criminal trial that this was untrue but that he was embarrassed to tell the detectives that he was gay.

³¹ Eugene K. Wells, L.C.S.W., Psychosocial Report in Aid of Bail Application, submitted Nov. 21, 2017, *People v. [Student A]*, Sup. Ct. Bronx Co., Ind. No. 2420-2017, at 5.

³² *Id.* at 8.

³³ Eric Goldsmith, M.D., Psychiatric Report, April 27, 2018, *People v. [Student A]*, Sup. Ct. Bronx Co., Ind. No. 2420-2017, at 2.

III. Eastern District Litigation against the DOE

In 2016, 23 DOE students (through their parents or guardians) sued the DOE in U. S. District Court in the Eastern District of New York alleging that they had been subjected to harassment, bullying, and / or assault by other students, and that the DOE failed to properly investigate these alleged incidents and take appropriate action.³⁴ Wildlife was not among the schools where the plaintiffs were enrolled, according to the complaint.

In May 2018 the DOE and plaintiffs entered into a stipulation and settlement of the Eastern District litigation in which the DOE agreed to a number of policies and enhancements which are required to be implemented during the 2018-2019 and 2019-2020 school years. According to the DOE, these improvements have been or are on schedule to be implemented. They include:

- An electronic reporting system (“ERS”) for bullying complaints. The ERS, accessible from the DOE website, will enable participating parents (those who register and submit an email address) to complete and submit an electronic complaint form to the DOE concerning their child. Participating parents are to receive an emailed confirmation of receipt of the complaint, a tracking number, and scheduled updates regarding the investigation and determination of the bullying allegation.³⁵
- Bullying complaints, investigative steps, and the findings or determinations are to be entered into OORS. After a school enters the determination of the complaint into OORS, an email to the participating parent with a notice of determination is generated by the ERS.
- If a notice of determination is not entered into OORS within 10 days after receipt of a bullying complaint, the ERS generates an email advising the parent that the notice of determination has not yet issued, and that s/he may contact a designated DOE Escalation Staff.
- OORS will also send, within five days of the entry of a bullying complaint, daily email reminders to the appropriate DOE principal. Daily emails will also be sent to DOE Field Support Staff members responsible for monitoring compliance.
- The DOE is to propose revisions to Chancellor’s Regulation A-832 to the Panel for Educational Policy to require certain of the ERS procedures described above.³⁶
- Beginning March 31, 2020, the DOE is to post on its website semi-annual monitoring reports including the number of bullying complaints, data regarding the timely notification of parents, and data on the timeliness of bullying determinations.

³⁴ *John DOE # 1, et al. v. New York City Dept. of Education*, 16-CV-1684 (NGG) (RLM), E.D.N.Y.

³⁵ According to the DOE, the ERS enhancements were implemented in the 2018-2019 school year.

³⁶ According to the DOE, it has proposed these revisions to the Chancellor’s Regulation, and the matter is scheduled to be voted upon by the Panel for Educational Policy at its October 2019 meeting.

IV. Conclusion and Recommendations

AP Caridad Caro failed to notify Wildlife Principal Ossenheim or NYPD SSAs and failed to record in OORS the serious matter reported to her by Keating: That Student A's mother stated that the student had threatened family members with a knife, that he had carried the knife to school, and for this reason Mother A was concerned for the safety of Wildlife students and staffers. Caro's position that an OORS report was not necessary because Mother A's observations did not occur at the school is contrary to logic and DOE policy. The DOE was deprived of critical information necessary to address and monitor Student A's conduct and assure the safety of DOE students and staffers. Caro's uncorroborated account that she personally searched Student A's backpack, if true, is an additional violation of DOE policy. Weapons searches concerning students are to be referred to the NYPD SSA Division, which has the exclusive responsibility to conduct such searches. Aside from violating DOE policy, Caro's purported search of Student A's backpack – a single instance – had little practical value. Mother's A's report implied that her son repeatedly carried the knife to school. Thus, repeated monitoring of the student would be required to ensure safety. We recommend that Caro be dismissed from employment, and that this matter be taken into account should she seek employment with the DOE or its affiliates in the future.

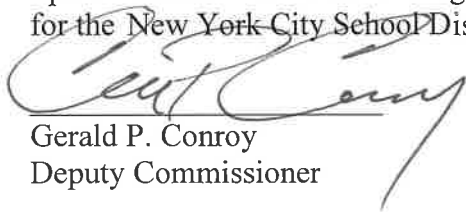
Since the Wildlife stabbings, the DOE has made efforts in professional development and other training for DOE staff to review protocols on reporting requirements. We further recommend that the DOE continue to advise all principals and APs that Skedula and similar programs are not to be used in lieu of prompt, direct communications regarding serious incidents to DOE administrators and NYPD SSAs, as appropriate, and that such matters must be recorded in OORS.

We are sending a copy of this letter to the Office of Legal Services. We are also sending our findings to the New York State Education Department for whatever action it deems appropriate. Should you have any inquiries concerning this matter, please contact Deputy Commissioner Gerald P. Conroy, the attorney assigned to this case. He may be reached at (212) 510-1486. Please notify Deputy Commissioner Conroy within 30 days of receipt of this letter of what, if any, action has been taken or is contemplated with respect to Caridad Caro. Thank you for your attention to this matter.

Sincerely,

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

By:


Gerald P. Conroy
Deputy Commissioner

AC:GPC:lr

c: Howard Friedman, Esq.
Karen Antoine, Esq.
Katherine Rodi, Esq.