

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

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November 20, 2019

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

**Re: A Review of the DOE's Processes for Training
Student-to-Student Sexual Harassment Liaisons**
SCI Case #: 2019-8488

Dear Chancellor Carranza,

In February, the Special Commissioner of Investigation for the New York City School District ("SCI") began a self-initiated review that has subsequently revealed several issues of concern regarding the New York City Department of Education ("DOE") student-to-student sexual harassment liaison designation and training program during the 2018-2019 academic year and the start of the 2019-2020 academic year. Pursuant to Chancellor's Regulation A-831, a "Sexual Harassment Prevention" liaison or "SHP" liaison, is a staff member designated by each principal "to whom reports of student-to-student sexual harassment can be made and who serves as a resource for students and staff. The SHP liaison must be a licensed administrator, supervisor, teacher, guidance counselor, school psychologist, or social worker who works at the school full-time." See Chancellor's Regulation A-831(II)(B).¹

Although during the 2018-2019 school year, SCI opened 50 investigations that involved complaints of inappropriate touching of students by DOE employees, vendors, and other non-student actors, SCI has not traditionally investigated allegations of student-on-student misconduct. SCI initiated this review to better understand the processes regarding training of student-to-student harassment liaisons. This included meeting with the sole person tasked with training the liaisons, and an initial survey.² SCI discovered systemic problems regarding the training process.

¹ Pursuant to A-831, as amended on October 23, 2019, the SHP must attend trainings. Prior to the October 23 amendment, and during the 2018-2019 academic year, individuals (who were not yet titled as "SHPs") attended trainings. SCI's review mostly occurred prior to this change; therefore, for the purposes of this report the liaisons who received training regarding student-to-student sexual harassment shall remain referred to simply as "liaison."

² Per the DOE, additional trainers have since been hired, as set forth more fully below.

Concurrent with the review, and pursuant to its investigatory mandate, SCI reviewed several related cases that revealed broad, universal concerns with the liaison training program.³

I. A Review of the Designation and Training of Liaisons:

A. Chancellor's Regulations and Response at the School Level

The statutory guidelines regarding responses to student-to-student harassment incidents lie within Chancellor's Regulations A-831 and A-832. A-831 concerns student-to-student *sexual* harassment, and that is the focus of the instant report.⁴ As outlined in the Chancellor's Regulations, the Consolidated School and Youth Development Plan ("CSYDP") – a plan that included the names of liaisons who are assigned to receive and review allegations of student-to-student sexual harassment, among other issues – is due for renewal every year by the end of October. A-831, Section VI requires that the CSYDP certifies the date by which a school's principal, liaison, and an individual who will conduct investigations have received training, and that the liaison be named by October 31st of the school year. Further, Section V(D) requires each principal to ensure that students and staff have been provided with information and training on policy, also by October 31. Notably, this appears to present some confusion, as it was unclear if a principal had fulfilled her mandate by nominating a liaison by October 31 but had not yet ensured that the liaison received training.⁵ The incidents as investigated by liaisons can range from statements about a student's body to physical assault. Upon notification that an allegation involved criminality, the liaison must also contact the New York City Police Department ("NYPD").

SCI chose to examine the designation and training processes of the liaisons. SCI recognizes the importance of the school-level response to students when reporting any form of sexual harassment, and how adults' responses affect a student's openness to report and resiliency in recovery. This report does not scrutinize or evaluate the DOE material disseminated to liaisons, but rather the process by which liaisons are designated and trained.

The DOE is required to adhere to the provisions of Title IX of the Education Amendments Act of 1972 ("Title IX"). However, the instant analysis is not an SCI recommendation regarding how DOE should comply with Title IX; rather, it is intended to promote better training procedures across the district writ large for those who receive complaints of student-to-student sexual harassment at the school level. The DOE recently acknowledged the importance of compliance with Title IX in cases of sexual misconduct with a public statement: "Our schools must be safe and inclusive environments, and there is absolutely zero tolerance for any sexual misconduct. Any allegation must be reported, investigated and addressed, and this work is a shared responsibility of

³ See *i.e.* SCI Case #2017-7346 and SCI-2019-0572, both of which concerned school administrators failing to properly and timely report student-to-student sexual assaults, and one of which also revealed that a school's liaison had not even been made aware she was assigned to that role.

⁴ A-832 also provides for the nomination and training of Respect for All or "RFA" liaisons; it is likely, particularly during the 2018-2019 period addressed herein, that an RFA liaison and an SHP liaison could be the same person for a school.

⁵ A principal could also theoretically nominate someone prior to the submission of the CSYDP, but must still ensure that the liaison receives proper training.

all DOE staff including the Sexual Harassment Liaisons in every school and a Title IX coordinator who oversees DOE compliance.”⁶

B. Training Procedures

SCI investigators conducted a survey of the training and certification of liaisons during the 2018-2019 academic year. At SCI’s request, Mark Rampersant, then deputy CEO for the DOE Office of Safety and Youth Development (“OSYD”), sent an email to SCI that listed all 1,582 citywide liaisons and their titles.⁷ SCI conducted a survey of three schools in each borough – 15 total – for evaluation. Schools that identified its liaison as a principal, assistant principal, school psychologist, social worker, substance abuse and prevention intervention specialist, or guidance counselor were not chosen for the survey, as those titles – while not wholly indicative of being educated, trained, or otherwise qualified regarding student sexual harassment – suggest at least a modicum of prior counseling experience. Having removed from the survey those titled individuals, SCI’s list was winnowed to 127 teachers, 12 community associates, six deans, three annual education paraprofessionals, two community coordinators, one business manager, one school aide, and one school climate coordinator.⁸ Five SCI investigators were each assigned to a borough, and instructed to choose three schools at random in which the liaison was from this group. Out of the 15 schools surveyed, 14 were in compliance with the requirements regarding proper training of liaisons, a success rate of 93.3%. The lone school not to be in compliance had nominated a teacher as its liaison who was scheduled for – but had not yet received – the required training as of February 2019. While an extrapolated 93.3% compliance rate is admirable, this number was calculated as of February 2019, four months *after* the October 31, 2018 deadline to nominate a liaison.

SCI investigators met on June 3, 2019 with Kimberly Shannon (“Shannon”), the Gender Equity Coordinator at OSYD, who was responsible for training the liaisons as to DOE’s expectations for liaisons’ responses. As the sole training coordinator, she ran approximately 40 training sessions per year.⁹ The trainings – each lasting approximately six hours, and conducted in person – were completed during the school year, some as late as two-thirds into the academic calendar. Section IV of the CSYDP requires all DOE schools to nominate a student-to-student sexual harassment liaison no later than October 31 each school year. This creates a natural gap between the beginning of the school year and when a liaison may be both nominated and properly trained. Per the newly-amended A-831(VI), “Each principal must submit the following information in its annual Consolidated School and Youth Development Plan by October 31 of each

⁶ See “DOE Failed to Protect Students from Sexual Assaults, Lawsuit Alleges,” available: https://gothamist.com/2019/04/30/doe_student_sex_assault.php.

⁷ Rampersant is now the DOE’s Security Director.

⁸ Pursuant to A-831’s prior version, effective October 12, 2011, an individual’s title had no bearing on whether she could be the designated staff member assigned to receive student-to-student sexual harassment incidents: “It is the responsibility of each principal to designate *a staff member* to whom reports of student-to-student sexual harassment can be made” (emphasis added). See Section II(A), available: <https://www.uft.org/files/attachments/chancellors-reg-a-831-sexual-harassment.pdf>.

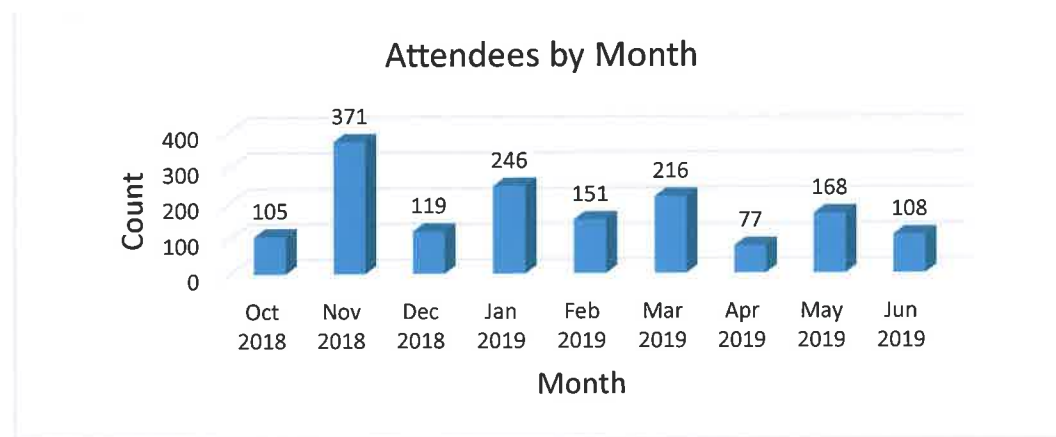
⁹ Shannon, as Gender Equity Coordinator, appeared to have responsibilities beyond preparing and conducting the liaison trainings. Per her own *LinkedIn* profile page, she has a background in policy and obtained Title IX certifications from the Association of Title IX Administrations (“ATIXA”) in October 2018 and June 2019.

school year: A. The name(s) of the SHP liaison(s). This information must be updated as appropriate. B. Certification that the policies and procedures set forth in this regulation have been discussed with students and staff (including non-instructional staff); and C. Certification and date that the principal, the SHP liaison, and the individual designated to conduct investigations as set forth in Section III have received the training required by this regulation.” Therefore, the CYS PD, as defined by Chancellor’s Regulation A-831, is a means to ensure that each school properly designates the name(s) of staff member(s) who receive reports of peer sexual harassment, and that each school properly certifies that policies and procedures enumerated in A-831 have been discussed and disseminated to students and staff.

C. Review of Training Data

SCI received data concerning dates of conducted trainings for all 1,561 individuals trained by Shannon during the 2018-2019 school year. The Gender Equity Coordinator conducted trainings as late as April (77 attendees), May (168 attendees), and June (108 attendees). Although most liaisons work with children as teachers, community associates, etc., they had not received specific training as to how the DOE would like them to be responsive, supportive, and, where founded, hold students accountable. Incidents reviewed in this report include only misconduct of a sexual nature; not included are items such as bullying, as the focus of this report is solely on student-to-student sexual harassment.¹⁰

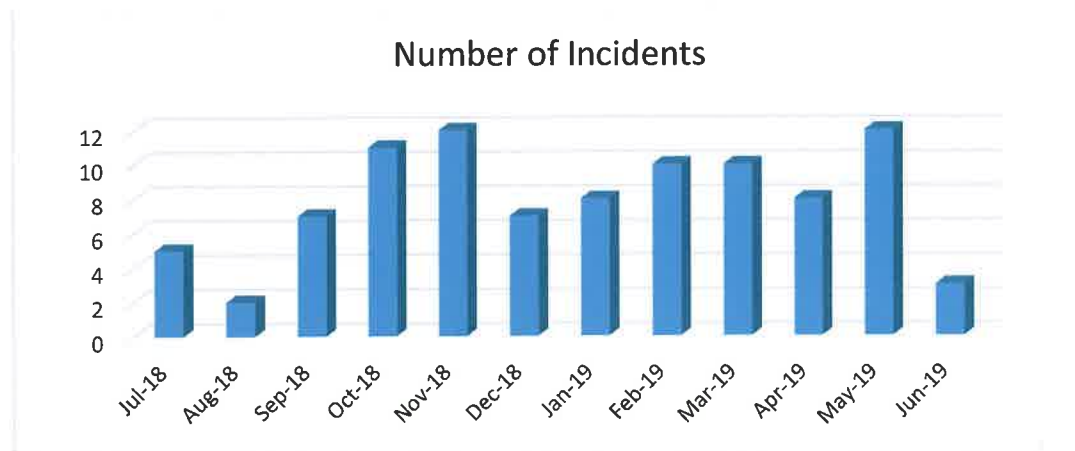
More than half of the liaisons – approximately sixty-one percent –trained by Shannon did not attend a training until January 2019 at the earliest, meaning half of the school year had already elapsed, and over 2,000 incidents had been reported.



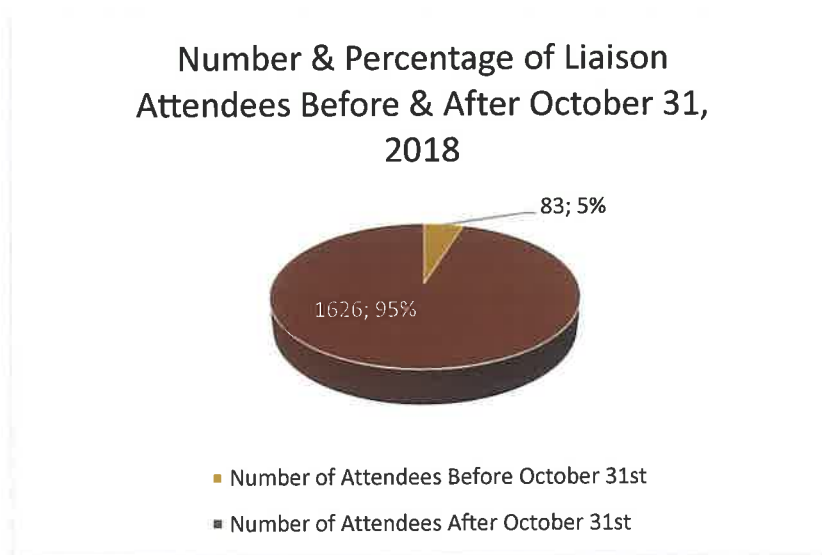
¹⁰ SCI determined types of incident by their labeled problem code. SCI reviewed incidents that contained the following DOE-labeled problem codes: Engaging physical sexual aggressive behavior; inappropriate or unwanted physical contact; sexually suggestive (verbal/physical). SCI did not review the following categories: Intimidating and bullying behavior; intimidating and bullying behavior (bias); posting/distributing literature or material containing threats; posting/distributing unauthorized libelous material; using slurs (bias); using weapon; vandalism/graffiti.

Elementary, middle school, and high school liaisons are trained together during training sessions. Pursuant to her attendance records, Shannon trained 640 elementary school liaisons, 385 high school liaisons, and 254 junior or middle school liaisons.

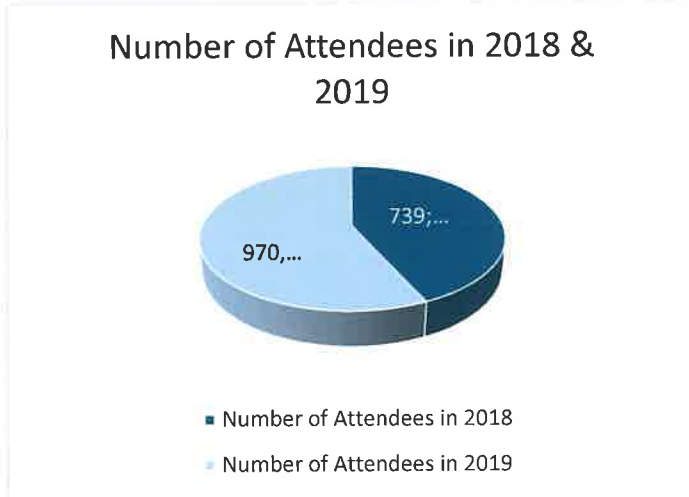
SCI obtained reported incident data from the DOE of student-to-student sexual harassment for the 2018-2019 academic year. The highest month of incidents for the 2018-2019 school year was November 2018.



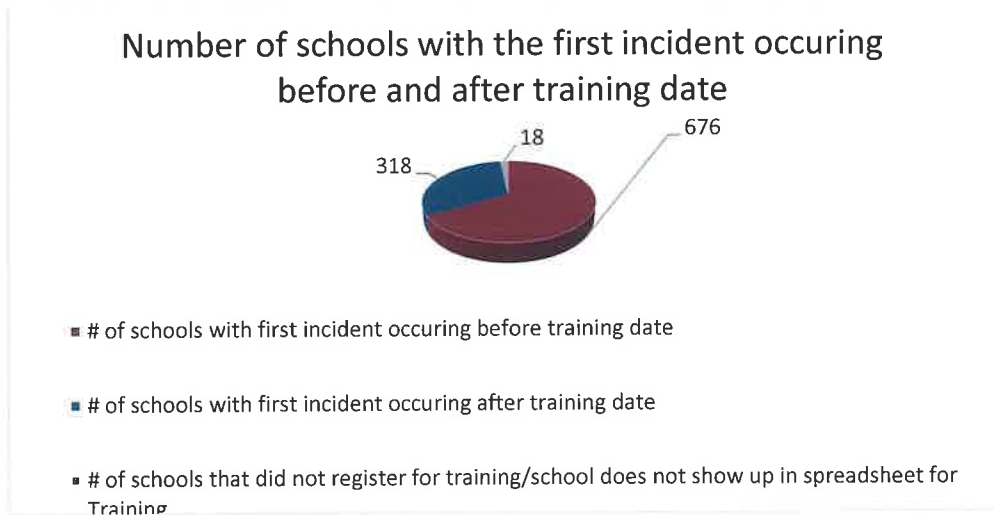
In fact, 20% of all reported incidents took place prior to October 31, 2018: 777 occurred prior to that date, and 3,061 after. One in five incidents – for the entire school year – were reported before a liaison was even required to be designated. Despite this, 95% of all trainings – a significant majority – were held after October 31, 2018:



Additionally, more than half of the trainings provided by the Gender Equity Coordinator did not occur until after January 1, 2019.¹¹



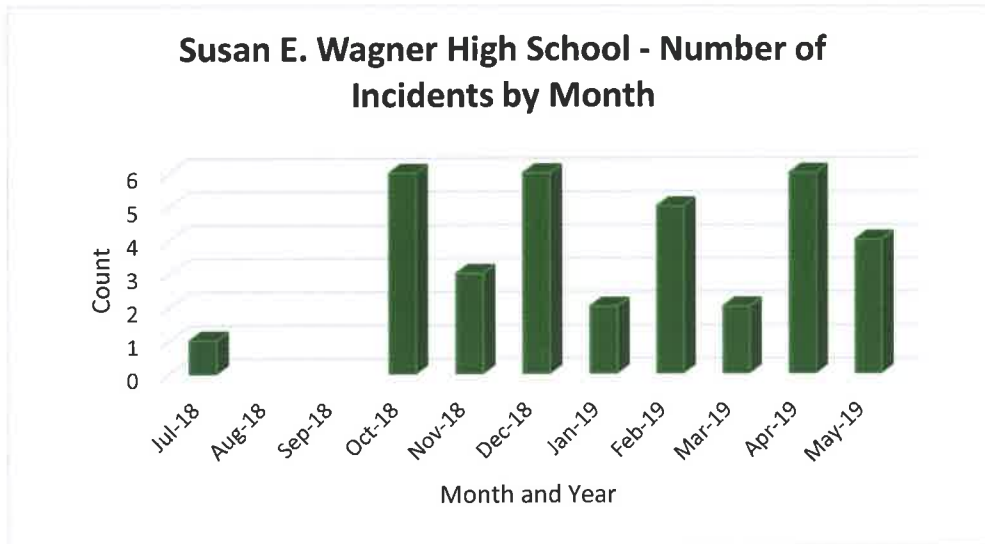
SCI reviewed the number of reported incidents that occurred prior to the assigned liaison having received training. The most striking figure was that 67% of schools – two out of three – had at least one reported incident prior to sending a liaison for training.



These statistics illuminate SCI’s concern regarding rolling training dates throughout the school year: namely, that the vast majority of incidents occurred prior to the school’s liaison having been trained to the specifications of the DOE.

¹¹ For the 2019-2020 school year, Shannon advised SCI investigators that she had conducted 14 trainings as of November 18, 2019, with 533 total attendees. While signifying that approximately one-third of all liaisons had received training - an increase from the 2018-2019 school year when only one-fifth had received training by the end of October - this still leaves two-thirds of the liaisons who have not received training for the current academic year.

By way of further example, Susan E. Wagner High School’s liaison reported for training on January 28, 2019. Yet the highest number of reported incidents at the school occurred between October and December 2018, months before the school’s designated liaison attended a training session.



Although schools employ seasoned personnel who may be knowledgeable in how to speak with and support both victims and those accused of harassment after an incident is reported, it is crucial that all respond in a manner consistent with, and adherent to, DOE standards. Therefore, as set forth more fully below, trainings should occur prior to the commencement of the school year, so that school administrations are prepared to address such situations at the start of the school year.

D. Dissemination of Material

In speaking with SCI investigators, Shannon stated that new posters and materials relative to student-on-student sexual harassment are sent to each school every school year. Further, Shannon told investigators that she regularly sends follow-up emails to the liaisons in an effort to provide “a toolbox of references and referrals.” Shannon also advised on November 18, 2019 that in a “recent email blast,” she referred liaisons to an October 29, 2019 principals’ newsletter that contained news of the October 23, 2019 amendment to the Chancellor’s Regulation.

E. 2019 Changes to Chancellor’s Regulations

The landscape of this area has significantly changed since SCI’s review began, as the DOE has recently taken measures to improve the training process. By DOE accounts, the purpose of the newly-revised policy is to better serve the safety and well-being of students upon the reporting of alleged incidents. As previously stated, an amendment to A-831 was reviewed by the PEP on October 22, 2019, and took effect on October 23, 2019.¹² Among other additions, the new regulation:

¹² See <https://www.schools.nyc.gov/docs/default-source/default-document-library/a-831-english>.

- Adds that the SHP must receive training.¹³ (Section II.B.1)
- Requires a principal to ensure that an SHP liaison has been appointed and received such training within 30 days in the event the current SHP vacates their appointment, and requires the principal to immediately designate an interim SHP liaison. (Section II.B.1)
- Requires that in the event a Sexual Harassment Prevention liaison is temporarily unable to perform their duties in the school for an extended period of time, the principal must designate another person to serve on an interim basis until the SHP liaison returns. (Section II.B.2)
- Adds that any staff member who witnesses student-to-student sexual harassment or who has knowledge or information or receives notice that a student may have been the victim of sexual harassment by another student is required to promptly verbally report the alleged act within one (1) school day and submit the written Complaint/Reporting form describing the incident no later than two (2) school days after making the verbal report. (Section II.C)

Additionally, the new policy provides that principals must receive training on identifying and preventing sexual harassment (including sexual violence), anti-discrimination policies and laws, grievance procedures, and resources available to students. (Section V.E). The DOE also advised SCI that it had recently hired seven new Title IX coordinators who will assist with trainings, a vast improvement over one lone coordinator.

II. Recommendations:

Designation and Timing of Trainings and Nominations: SCI is aware of several instances in which liaisons were not properly notified in writing, or where a principal had designated an employee but never informed the employee of the designation.

- 1) All liaisons should be notified *in writing* not only of their designation, but also of the incumbent requirement to be trained as soon as practicable.
 - a. If a liaison were to remain in place from the previous school year, that liaison should receive the same written notification, including the necessity of the training, for every year she serves in that role.
- 2) The nomination and training process for liaisons should begin earlier than October 31st. Student-to-student incidents may occur at any time, and certainly prior to October 31st.
 - a. Nominations for an upcoming school year should happen prior to the commencement of the school year.
 - i. Liaisons should be trained by the time the new school year commences to ensure that incidents that occur early in the school year are met with liaisons properly equipped to respond.

¹³ It is unclear to SCI why Shannon would have trained approximately 1,500 individuals last year if this requirement were not already in place.

- ii. Trainings should be valid for a two-year period, allowing for a rolling-basis schedule.

Tailoring of Trainings: Trainings should be uniquely tailored based upon the liaison's function in the school district, or the education level of the school at which she works.

- 3) Trainings should be specialized to meet the respective needs of these liaisons, to accurately reflect their roles in the process, *i.e.* liaisons at the high school level should receive trainings that are differentiated from trainings given for middle school level liaisons or elementary school liaisons, to reflect the different ages and stages of emotional development of potential affected students.
- 4) In addition to the designated school-based liaisons, trainings should occur at the administrative or superintendent level and the district level.
 - b. If schools rely on persons who remain untrained well into the school year, or have designated a liaison who may be absent on a particular day, a district-level trained liaison should be available to substitute with no delay or harm to the student.
 - i. Regardless of whether a principal is a named liaison, all principals should review all training materials and reporting requirements.

Training Material: Training material should continue to be made available, both in paper and electronically, to all liaisons.

- 5) Where practicable, trainings should occur online or via broadcast, webcast, or livestream rather than take place solely in person.
 - a. This will also serve to alleviate the heavy burden of training so many people in such a short period of time.
- 6) Liaison trainers should also send periodic emails to prior attendees of trainings both to remind them of liaison responsibilities and to update, supplement, or augment the training where necessary.

Additional Trainers: Lastly, SCI recommends that trainers beyond Shannon be identified, prepared, and made available, so that thousands of liaisons need not coordinate with only one person.¹⁴ As stated, the DOE appears to have hired several new Title IX coordinators; however, there is no indication that they have yet to provide trainings.

- 7) Given the other recommendations listed above, and the influx of new trainings required, many more trainers should be made available.

¹⁴ The City Council recently approved \$857,000 of its 2020 budget for Title IX officers. See <https://www.cbsnews.com/news/title-ix-officers-coordinators-new-york-city-public-schools-budget-girls-for-gender-equity/>; see also Resolution 0797-2019, currently laid over by Committee, requiring no fewer than seven Title IX officers, available <https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3903496&GUID=B0B97C65-8DEC-47DD-9232-7C37A17E94D2&Options=&Search=>.

III. Conclusion:

Student safety is of paramount importance. It is crucial that all DOE personnel be trained to respond to harassment incidents in an appropriate and timely fashion. The training process for liaisons could be improved in myriad ways. SCI has identified several factors that previously impaired the timely training of liaisons under the current methods employed. As previously noted, recently-enacted policy appears to moot some of the issues of previous years.¹⁵ SCI's recommendations attempt to additionally improve the liaison system. These recommendations include but are not limited to ensuring that liaisons are properly notified; ensuring more trainers and trainings be made available; and the calibration and refinement of trainings pursuant to specific education level. Ultimately, SCI recommends that there be a "top-down" protocol to training: from the administrative and district-level trainings to ones for school-based liaisons, with each training unique to attendees based on their respective roles in the school system.

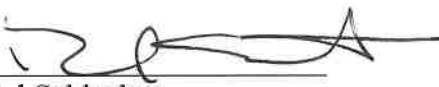
SCI's responsibilities traditionally incorporated review of mistreatment of students by adults. However, in light of how significant and impactful student-to-student incidents can be on a child's education, SCI will continue to scrutinize and review the processes in place and make appropriate recommendations in recognition of the importance of the health and wellness of students.

Please respond within 30 days of receipt of this letter as to any action taken or contemplated regarding this matter. Should you have any inquiries regarding the above, please contact Jonathan Jacobs, the assigned attorney for this matter, at (212) 510-1423.

Sincerely,

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

By:



Daniel Schlachet
First Deputy Commissioner

AC:DS:JJ:ss

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

¹⁵ Per OSYD's Jolan Nagi, "When [OSYD] receive[s] complaints...we reach out to the Borough/Citywide Offices to follow up with the parents and schools and to provide supports and interventions as needed."