

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

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

2020 marks 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. It 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 City Department of Investigation (“DOI”), the office is empowered with authority similar to that of DOI, such as obtaining testimony and records by subpoena. The SCI commissioner also serves as the inspector general for the New York City Teacher’s Retirement System and the Board of Education Retirement System (“BERS”), and her office evaluates and investigates all whistleblower claims involving DOE employees under the City Administrative Code Section § 12-113, 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.

Budget and Structure:

The City Office of Management and Budget (“OMB”) Fiscal Year 2019 funding for SCI operations provided \$6.1 million, of which only \$335,131 was for operational expenses. This annual sum is in line with the budgeting for SCI in prior years, when OMB provided \$5.9 million (2018), \$5.8 million (2017), and \$5.5 million (2016). SCI’s budget is a line-item of the DOE’s overall annual budget, and comprises less than 0.023 percent of the approximately \$27 billion allocated to the DOE. SCI is mandated to investigate misconduct and fraud concerning the entire public school system that serves approximately 1.1 million students, employs approximately 133,000, and maintains approximately 1,800 schools and other facilities.¹

SCI is currently authorized for 69 employees including investigators, attorneys, and administrative and support staff positions.

¹ 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.

Calendar Year 2019 Statistics:

In CY 2019, SCI continued its commitment to oversee the DOE through investigations, administrative and disciplinary recommendations, criminal prosecution referrals, and policy and procedure recommendations (“PPRs”). SCI received 9,638 complaints in 2019 - the most in its 30-year history – which alleged misconduct, waste, fraud, financial mismanagement, and criminal activity within the DOE 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.

Specifically in CY 2019, SCI:

- Investigated 695 open cases, as compared to 515 in CY 2018.
- Completed 534 investigations, as compared to 419 in CY 2018.
- Substantiated that 246 individuals or entities violated criminal statutes, the Chancellor’s Regulation’s, or other administrative regulations.
- Made 328 personnel-related recommendations based on these substantiated findings.² The subjects investigated included teachers, administrators, paraprofessionals, and other volunteers or service providers.
 - Of the 328 personnel-related recommendations, 139 resulted in disciplinary actions by the DOE.³
 - 183 of SCI’s recommendations were pending within DOE’s administrative processes as of the date of this report.
- Investigated 210 cases that involved inappropriate or sexual misconduct by DOE employees or vendors. SCI substantiated allegations against individuals in 61 such cases.
- In 2019, the DOE took disciplinary action based on SCI’s investigations, resulting in:
 - 29 terminated employees;
 - 17 employees received written admonishments recorded in their personnel files;
 - 47 administrative problem codes were issued as a bar to future employment;
 - one employee was suspended without pay;
 - seven employees were fined.

² SCI may make multiple personnel recommendations regarding any individual subject.

³ Disciplinary actions taken by the DOE in response to SCI’s recommendations may include dismissal from employment, consideration taken against future employment by the DOE and its affiliates, fines, suspensions, loss of time, or written admonishments copied to the subject’s personnel file.

- SCI concluded 28 investigations involving a conflict of interest that were referred to the COIB.
- SCI received five whistleblower applications and substantiated one whistleblower complaint.
- SCI substantiated 63 cases that identified loss, theft, or mismanagement of funds totaling more than \$10 million. SCI collected or was responsible for more than \$60,000 in restitution or fines.⁴
- SCI investigators made three arrests in 2019: A BERS employee who stole and negotiated BERS members' loan reimbursement checks and money orders totaling more than \$17,000; a former group mentor employed by a community based organization and assigned to a DOE school was arrested on charges stemming from her inappropriate sexual conduct with a then 13-year-old female student; and a DOE community assistant was arrested on charges stemming from his inappropriate sexual conduct with a 17-year-old female student.⁵
- 24 DOE employees who were subjects of SCI investigations resigned or retired during the course of the investigation.

SCI, in its discretion, 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. At the conclusion of investigations, SCI also refers criminal findings to the appropriate prosecutor's office. In CY 2019, SCI referred 6,598 complaints to other agencies. In addition, SCI investigated and referred 24 substantiated findings to prosecutors.

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 PPRs to the DOE in 2019 related to corruption, mismanagement, and other ongoing or systemic deficiencies. In 26 referrals to the DOE, SCI made 42 individual PPRs.⁶ To date, the DOE has accepted 22 of the PPRs, declined four, and has taken 16 under advisement.⁷

⁴ Restitution noted here consists of court ordered repayment of monies over a period of time related to past SCI cases. Fines during this period were issued by either the DOE or COIB.

⁵ See <https://nycsci.org/wp-content/uploads/2018/Public/Lombardo-Press-4-19-Rel.pdf>, <https://nycsci.org/wp-content/uploads/2018/Public/1-24-19-Hackle-Press-Release.pdf>.

⁶ In February 2020, the New York City Council passed a bill requiring SCI and DOI to develop and maintain web applications to track and display PPRs and agency responses. The applications are to be publicly available on the SCI and DOI websites by July 1, 2020.

⁷ For a complete list of all CY 2019 PPRs made to the DOE, please visit the SCI website: www.nycsci.org.

Some highlights of SCI cases and reports from CY 2019 include:

- **Case No. 2019-5863:** SCI conducted a self-initiated investigation into DOE school buses designated for pre-kindergarten and special needs students. A complaint received on July 22, 2019 – a day in which air temperature reached 90 degrees – concerned a special needs student who was transported on a perilously warm bus. The complaint alleged that some buses, which operated through the summer, had dangerously overheated passenger compartments. As a result, SCI conducted a review of the processes employed by the DOE to respond to reports of high temperatures on buses designated for Pre-K and special needs students. SCI issued a public report of its findings and recommendations on December 4, 2019.⁸
- **Case No. 2018-4437:** 29-year-old former group mentor Aylin Canon, employed by the community based organization Education Alliance and assigned to an after-school program at Public School 188 in Manhattan, was arrested on charges stemming from her inappropriate sexual conduct with a then 13-year-old female student. Canon engaged in sexual conduct with the student over several months at multiple locations, including Canon’s Manhattan apartment. As a result of SCI’s report, Canon pleaded guilty to three counts of Criminal Sexual Act in the Second Degree, a class D felony, and is scheduled for sentencing on April 7, 2020. Canon’s employment was terminated, and her DOE file was coded as a bar to future employment.⁹
- **Case No. 2019-8488:** SCI initiated a review of DOE’s student-to-student sexual harassment prevention liaison (“SHP”) program, implemented in part so that the DOE can adhere to its Title IX requirements. SCI recommended seven PPRs to the DOE, including recommendations regarding notification and training processes for the SHPs, the material with which they are trained, and the hiring of additional trainers.
- **Case No. 2018-8827:** 53-year-old Teacher Peter Muhlbach, formerly assigned to Long Island City High School in Queens, engaged in inappropriate behavior with several female students, including a sexual relationship with one student. Muhlbach referred to one student as “his wife” and supplied her with drugs and alcohol. In addition, the teacher altered the grades of students with whom he had inappropriate relationships. Muhlbach retired from the DOE during the course of this investigation and subsequently moved to Florida, where he found employment as a public school teacher. Authorities in the Florida school district were informed of SCI’s findings and are conducting their own investigation of Muhlbach.
- **Case No. 2018-8370:** 55-year-old substitute teacher Edward Gunning, assigned to the High School for Health Careers and Sciences in Manhattan, engaged in a sexual relationship with a 17-year-old female student while she was enrolled at another DOE high school sharing the same Manhattan campus. Gunning video-recorded the student at his apartment

⁸ Available at <https://nycsci.org/wp-content/uploads/2018/Reports/12-19-Hot-School-Buses-Report.pdf>.

⁹ See Supreme Court, New York Co. Criminal Term, Case No. SCI-02048-2019; <https://nycsci.org/wp-content/uploads/2018/Public/1-10-19-Canon-Press-Rel.pdf>.

complex, and in text messages to the student proclaimed his love for her and added an explicitly vulgar description of an earlier sexual encounter with her. Gunning's employment was terminated as a result of SCI's investigation.

- **Case No. 2017-7536:** DOE vendor Sussman Education Company, Inc., which held several contracts with the DOE, failed in its obligations to discount certain items and omit shipping charges as contractually required. In 2016 and 2017, it failed to discount ten percent of the costs of textbooks, library books and other items, leading to an over-charge of \$135,853.23. Sussman also failed to provide free shipping, as required, and improperly charged \$50,291.03. In total, SCI identified \$186,144.26 in over-charges by the company. Responding to SCI's findings, the DOE Office of Legal Services sent Sussman a demand letter for repayment; the company has agreed to remit the improper charges.
- **Case No. 2019-0431:** An investigation into the DOE's Office of Pupil Transportation ("OPT") Contract with a vendor, Navman, revealed gross mismanagement of an \$8.6 million contract. Navman's GPS devices, installed in school buses designated for special needs students, failed to function and track the bus locations or record the times and distances travelled. Navman was awarded this contract, in part, so that its GPS devices would provide this data for the DOE to calculate and apply to the State for reimbursement of transportation costs through the Medicaid program. As a result of this failure, the DOE was not able to obtain the reimbursements. Following SCI's findings and recommendations, the executive director of OPT who oversaw the contract, was terminated from employment by the DOE, and the project manager was reprimanded and fined \$2,500. The DOE has also terminated its contract with Navman and is seeking to recoup funds.
- **Case No. 2017-2940:** Hilary Schornstein, a contracted student services provider, defrauded the DOE of approximately \$80,000 during the 2016-2017 school year. The SCI investigation uncovered that Schornstein billed and was paid for over 1,900 hours (at \$41.98 per hour) for services to 14 students that she never provided. SCI's findings were referred to the New York County District Attorney's Office. The DOE attached a problem code to Schornstein's DOE file to bar future employment. The DOE is pursuing restitution.
- **Case No. 2017-6113:** Another contracted student service provider, Jaclyn Petrov, billed the DOE for counseling services ostensibly provided to an 11-year-old student. She received more than \$6,200 from the DOE for services she never rendered. SCI's findings were referred to the New York County District Attorney's Office. The DOE affixed a problem code to Petrov's DOE file and is pursuing restitution.
- **Case No. 2017-5814:** SCI, in partnership with DOI, completed an investigation into the process governing the DOE inquiry into whether the education provided at certain Hasidic Yeshivas is "substantially equivalent" to the education provided in City public schools. DOI and SCI concluded in a joint public statement that political horse-trading between the Mayor's and State legislators' representatives unquestionably occurred and representatives agreed to delay an interim report of the DOE's findings in an attempt to secure support for extending mayoral control of the City's schools. However, the DOI-SCI investigation also found that this agreement had no substantial effect on the inquiry's conclusion or the

progress of the inquiry, which was mired in delays for several years due to a variety of factors. The joint investigation did not identify any criminal conduct or other wrongdoing.¹⁰

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 2019. These highlights are a fraction of the work SCI employees do on a daily basis, as they hold accountable those who abuse the public trust. We are fortunate at SCI to have such compassionate and talented individuals committed to serving the public. In the coming year, SCI will continue its development of a team of dedicated analysts and audit professionals to conduct proactive audits, evaluations, and special reviews of DOE practices. These probes, along with SCI's diligent investigation of received complaints, will help us continue to find innovative ways to shield the DOE and public funds from misuse and corruption. We look forward to even more productive and rewarding years ahead.

March 5, 2020

Contact: PressOffice@nycsci.org

¹⁰ See <https://nycsci.org/wp-content/uploads/2018/Public/DOISCIJointStatementRelease12.18.19.pdf>.