

May 2, 2000

Hon. Harold O. Levy
Chancellor
New York City Public Schools
110 Livingston Street; Room 1010
Brooklyn, NY 11201

Re: EDUCATOR CHEATING

Dear Chancellor Levy:

On December 7, 1999, this office released a report, *Cheating The Children: Educator Misconduct On Standardized Tests* (“*Cheating The Children*”), which detailed the findings of our long-term investigation into cheating by proctors during the administration of Citywide and State examinations. Almost immediately, our intake unit was busy with new complaints of wrongdoing committed by Board of Education employees during the testing process. Then, in February 2000, while we were conducting investigations into those allegations, students took the State English Language Assessment (“ELA”) examination and reports of suspicious behavior and writing in test booklets again poured into our office. As we began to look at those cases, in March 2000, the Citywide Performance Assessment Mathematics (“PAM”) and Performance Assessment Language (“PAL”) tests were administered. Once more, allegations of cheating surfaced.

Evidence gathered during our renewed inquiry again has substantiated cheating by nine educators at eight schools.¹ Once again we found proctors who gave answers to

¹ One of these schools fell victim to two separate proctors who cheated in two different exams. In addition, one of the new matters is related to another which was included in our report, *Cheating The Children*, and we re-visit our prior case here.

students, alerted them to wrong responses, and changed student choices after the exam was turned in. Moreover, this investigation uncovered new methods of misconduct, including prepping children for the third day of the ELA exam by using the actual test material. Finally, our investigations continued to be impeded by delays in the reporting of testing allegations to this office. Aside from the matters reported on here, we continue to pursue certain allegations and have referred others to Chancellor's Counsel Chad Vignola.

AFTER THE REPORT: MORE ALLEGATIONS

Immediately after *Cheating The Children* publicly exposed the problem, we received additional allegations from a variety of sources. Those described in this section came from parents, one of the teachers named in our first report, and an anonymous "concerned employee."

IS 113/District 11/The Bronx

In the days after the release of *Cheating The Children*, a mother contacted this office to complain that her daughter's class was given the answers to the first eleven questions on the 7th grade Citywide math test in the spring of 1999. Moreover, when her daughter encountered problems with 8th grade mathematics, she was denied extra help based on her earlier test score.

We confirmed that mathematics Teacher **Paul Egan** used several different methods to cheat. First, he purposely displayed the answers to the first eleven questions by leaving them unguarded on his desk for the students to find. Then, Egan canvassed the room and where he saw an incorrect response, told the student to check it, meaning that the original selection was a wrong choice. Finally, according to one girl, the teacher gave "hints." For example, if the response required the multiplication of 4×3 and the student was baffled, Egan would suggest adding 4 plus 4 plus 4 to arrive at the answer.

The complainant's daughter described Egan's conduct. After the test began, she saw the teacher speak with one of her male classmates who, in turn, then spoke to other students, including her. The boy told her: "Mr. Egan gave me the answers to some of the questions," and asked if she wanted them. Thereafter, he wrote a series of letter responses on the girl's scrap paper. According to her, later in the exam, although she did not ask for help, Egan twice told her to re-do an answer he said was wrong. On the first occasion, she declined to do so, believing she had chosen correctly. After a second urging, however, the girl realized that Egan was right and she changed her answer.

Seeking an explanation for his conduct, her mother confronted Egan. He initially denied giving the students answers, but ultimately admitted doing so when the parent asserted that her daughter would not lie. Egan claimed that he was “only helping the kids,” and approached only those students who raised their hands.

Through interviews with other children in the class, we learned that Egan’s cheating scheme was far more calculated than the girl and her mother realized. In addition to prompting students to change responses and giving “hints” on how to determine the correct one, the teacher concocted a plan to provide specific answers. According to students, before the exam began, Egan “strongly suggested” that the class sharpen their pencils and then he exited the room. As they complied, the students realized that the teacher had left the answers to the first eleven test questions on the desk by the sharpener.

A review of the answer grids for the students whom Egan proctored corroborates the information provided by the children. Of the thirty-two who took the exam proctored by Egan, nineteen answered all of the first eleven questions correctly. Of these nineteen, only one student erased any of the first eleven responses and, on the one occasion that she did, her answer changed from wrong to right. One boy, who clearly had problems with the test, apparently had no trouble with the first eleven questions. He answered these correctly without erasures, however, for the remaining thirty-nine questions, this student erased nineteen times – almost every other question.

The homeroom teacher assigned to this class, Marisol Santiago, also provided relevant information. Although normally she would have been the proctor, a few days before this exam, Egan suggested that he take over, in case any questions arose during its administration.² Because this seemed logical, the homeroom teacher acquiesced. After the test, she heard rumors that Egan had given students answers, but she dismissed them. Santiago became suspicious, however, after the results were revealed and some of her students who were not high achievers in math scored abnormally well. Not surprisingly, five of the six students whose scores she questioned were among the nineteen who had the first eleven questions right. Moreover, according to the homeroom teacher, some of her students who had expected better scores, informed her that Egan had prompted the class to change incorrect choices and provided answers. Santiago believed them, telling us that her students “don’t lie.”

² According to Principal Carol Reid, a homeroom teacher generally proctors her own class. Moreover, once the schedule is made, it is rarely changed. In the event a substitution does occur, however, it must be done with the approval of the school administration and the schedule is updated to reflect the change. A review of the PS 113 proctor schedule for the 1999 Citywide math test shows that Santiago was assigned to proctor her class. Egan is not listed.

According to one student, after the exam, as he left, Egan told the class: "Don't tell anyone that I helped you or you'll be the ones that will get into trouble."

Through his attorney, Paul Egan declined to be interviewed by this office.

PS 163/District 3/Manhattan

Still another mother who had heard about our findings described in *Cheating The Children* contacted us after its release. She alleged proctor misconduct during the administration of her son's 4th grade Citywide mathematics exam in April 1999. Although she learned about the wrongdoing shortly after it occurred, this parent was reluctant to get the teacher in trouble. However, upon the release of our report, the mother realized that the problem was not limited to her son's classroom.

According to her son, before the test even started, his teacher and proctor **Paul Zomchek** told the class that he would be coming around to point out incorrect answers. In fact, he did just that: while he did not provide the correct answers, he pointed to those that needed to be changed. According to this student, Zomchek helped everyone in the class. Five additional students confirmed the account provided by the complainant's son. Moreover, six children described similar conduct by Zomchek during the State ELA exam in January 1999. According to these students, the teacher pointed to incorrect answers or suggested "you should check this over."

Moreover, we learned that a second individual who assisted Zomchek, "Miss Lucy," also provided help to the students. We identified this co-proctor as **Luz Rodriguez** and spoke with her. Although Rodriguez, a paraprofessional, denied pointing to wrong answers, she admitted that she and Zomchek looked over the students' exams. According to the paraprofessional, when she noticed that students were choosing incorrect responses, she informed Zomchek which children "were not doing well." She claimed that, in turn, the teacher told those students, "we taught you better than this," and had them check over the test.

Through his attorney, Paul Zomchek declined to be interviewed by this office.

PS 40/District 2/Manhattan

While parents were the source of the two prior allegations, we learned of other problems when individual districts began coping with the fallout from our report. In District 2, new facts came to light as officials sought to resolve the status of Teacher **Robert Smith**. In our report on cheating, we described how Smith used Terra Nova material to prepare his fifth grade class for the 1999 Citywide math test.³ Terra Nova questions are repeated from test to test and, in fact, Smith even told his class that some of the practice problems could appear on the actual exam. McGraw-Hill, which produces Terra Nova, placed an embargo on the purchase of this material within the five boroughs and it should not have been used as a practice tool. Smith declined to speak with our investigators and, therefore, he did not provide us with an explanation for his conduct. However, in a meeting with District 2 Deputy Superintendent Andrew Lachman, Smith claimed he obtained the material from **Alice McNally**, a PS 40 parent who teaches at PS 20 in District 1.⁴

We have substantiated that McNally, who is not a 5th grade teacher, obtained the practice material and provided it to Smith, her daughter's 5th grade teacher.

According to Lachman, Smith asserted that McNally received the practice material, later provided to him, from Margaret DeLuca, a District 1 consultant. Thus, we interviewed DeLuca who described herself as a "staff developer" who "teaches teachers." According to DeLuca, her work takes her all over the country and she has accumulated testing material issued by numerous publishers, from "just about everywhere." She specifically remembered meeting a New York City teacher named "McNally" who was particularly interested in some 5th grade testing material which she copied. DeLuca was aware that McNally did not teach 5th grade.

Curious about McNally's interest in 5th grade practice tools, given the fact that she teaches 3rd grade, we searched for an explanation. We found one upon learning that in the spring of 1999, her daughter was a 5th grade student at PS 40 assigned to Robert Smith's class.

Through her attorney, McNally declined to be interviewed by this office. Smith, who is on a sabbatical, also turned down the opportunity to speak with investigators.

³ McGraw-Hill, which produces Terra Nova, coined that name for the types of questions on the Citywide reading and mathematics tests. We found that the children were practicing with actual questions that would later appear on the test.

⁴ Smith is on a sabbatical and McNally continues to teach at PS 20.

In addition to shifting the blame onto McNally, during his meeting with Lachman, Smith also misstated the facts surrounding the case against him. According to Lachman, the teacher claimed that, having noticed the overlap of questions between those on the actual exam and practice material his class used, he immediately reported to PS 40 Administrative Assistant Janet Rashes, “we’ve got a problem.”

Rashes, however, disputes Smith’s version of the facts. According to her, Smith did not alert her to “the problem” and, in fact, had left for the day when the information surfaced.⁵ Instead, she learned about it from another teacher who heard from students in an after-school program that the exam was “easy” because the questions were “just like” the practice test his class had taken.⁶ Moreover, the after-school teacher obtained the student’s copy of the practice test which she provided to the administrative assistant. Rashes compared it to the actual test and found many of the questions to be “identical.” Finally, when she sought Smith’s explanation the next day, rather than pointing the finger at McNally, he claimed to have found the materials in his mailbox.⁷

PS 191/District 17/Brooklyn

At still another school in another district, an anonymous “concerned employee” alleged that an administrator forced staff members to change students’ answers on the 1999 Citywide reading test in order to help the school get removed from the SURR list.⁸ Unfortunately, because these employees remained unidentified, we had no specific individuals to investigate. Nevertheless, interviews with students confirmed that someone cheated on their behalf by erasing and changing answers after the exams had been turned in. Without the cooperation of those involved, however, we could not link the wrongdoing to the administration.

⁵ She gave consistent accounts to both our investigators and Lachman.

⁶ Sharon Finder, whom we also name in *Cheating The Children*, was this student’s teacher. The after-school teacher learned that Smith also had used the same material as Finder.

⁷ This was the same explanation that Finder gave Rashes.

⁸ PS 191 has been on the SURR list since 1995. SURR stands for Schools Under Registration Review, meaning that the school operates so poorly that the State has taken over responsibility for it. To get off the SURR list, the school must meet State goals on the State reading and math tests. Failure to improve can result in closure of the school.

Investigators interviewed students in various grade levels, assigned to different classes with different teachers. Upon reviewing their exam grid sheets, seven students – 3rd graders, 5th graders, and 6th graders – reported that they had not made all the erasures found on their answer documents. Their reactions varied from outrage – “No way” and “Absolutely not” – to confusion. Indeed, one girl struggled to reconcile her memory of the test with the document in front of her: had someone else changed her answers?

The experience of one 6th grade boy conclusively shows that his answers were changed sometime after he handed in his test. According to him, time ran out before he could complete all 50 questions. The student estimated reaching number 35; after that, he merely selected any answer without reading the questions. The boy was certain that he had not erased any of these choices because he neither had the time to do so nor the ability to evaluate the correct response since he did not even know the substance of the question. Nevertheless, a review of his answer sheet reveals ten erasures between question numbers 33 and 48, with seven of these changed from wrong to right. Moreover, the erasures in which the question was ultimately answered correctly occur in a cluster from number 38 through 47 – questions the student guessed at without changing.⁹ Finally, a year-to-year comparison of this boy’s scores shows a marked increase in his 6th grade achievement:

1996 – 5%

1997 – 9%

1998 – 11%

1999 – 30%

Unfortunately, without the cooperation of the staff member who reported this allegation to us, it was impossible to determine when and by whom this cheating scheme was carried out.

TESTING AFTER THE REPORT: THE ELA EXAM

In *Cheating The Children*, we found a test booklet that contained two handwritings, one clearly belonging to an adult. One particular line: “The hunter realized the rat was smart[,]” was not only written by a different hand, it was also out of character with the rest of the essay written by a student on the 1999 State English Language Assessment or ELA examination.¹⁰ Considering the public exposure given our

⁹ Question number 48 contained an erasure, but was ultimately answered incorrectly.

¹⁰ The insert is found between pages 18 and 19.

cheating findings, generally, and this example, specifically, we were dismayed by the number of new allegations reported following the 2000 ELA exam administered between February 1 through 3, 2000. Indeed, it was impossible to interview every student whose booklet contained a suspicious mark or erasure and we chose a random sampling. While we did not find educators who went so far as to write a complete sentence in a child's answer booklet, we found cheating nonetheless.

PS 7/District 24/Queens

Following the completion of day two of the ELA exam, a paraprofessional in one class reported being present while a teacher prepared a group of 4th graders for the third session, to be given the following day, by using the actual subject matter contained in that part of the test.

The ELA exam is a three-day test designed to assess various skills. The first day is multiple choice. Day two requires children to listen to a story, answer questions based on memory and note taking, and then devise a story on their own, on a given topic. Day three tests reading comprehension.

At PS 7, one teacher took advantage of the fact that the day three test material is contained within the same booklet used on day two. Although at the end of day two in the booklet the children are specifically advised: "Do NOT turn this page until you are told to do so[.]" Teacher **Jane Nevis** apparently considered herself exempt from that command.¹¹

Paraprofessional Kristen Murphy described her observations on February 2, 2000, following the completion of day two of the ELA exam. According to her, reading Teacher Jane Nevis asked Murphy to assist her in preparing a group of children, who participate in the Read 24 program, for the third day of the test.¹² During the lesson, Nevis explained "cubism," "artist motivation," "artist inspiration," and various art mediums. The teacher led a discussion about abstract art and the children compared different paintings. Nevis repeatedly stressed that the students "had to remember the words motivation and inspiration – and if by chance they see a #1 next to a word on the test, like motivation, they should look to the bottom of the page for the definition."

¹¹ However, every page contains a warning from McGraw-Hill: "Do not reproduce or discuss contents until end of designated makeup schedule."

¹² According to Murphy, the students participating in this program are in the bottom 10% performance level in reading.

Murphy did not realize the significance of her observations until later. Not having seen the test, the paraprofessional was unaware of its content. However, after the reading class, Murphy overheard 4th grade teachers discussing the material upcoming on the third day of the exam, and discovered that it corresponded to the lesson just given by Nevis.¹³

A review of the ELA booklet confirms that Nevis must have been aware of the content of day three and used that knowledge to prepare the children. In part one of the test on the third day, students read “The Languages of Art” and answered specific questions. Then, they were required to read a second passage, “A Peace of Art,” involving an interview with a ten-year-old whose artistic style was “cubism.” The interviewer asked: “Did anyone inspire you to become an artist?” In response, the artist described her “motivation.” In fact, that word is accompanied by a footnote which, at the bottom of the page, defines it as “reason for doing something.” One of the questions that followed required the students to write an answer discussing why the girl became an artist.

Interviews with students corroborated Murphy’s account. One boy said: “I don’t know how she knew motivation was on the test, but it was.” According to him, Nevis taught them that the words “motivation” and “inspiration” were important and that the class needed to remember them. A female student also recalled preparing for the final part of the ELA with the reading teacher and the paraprofessional. According to her, Nevis displayed artwork and discussed two artists. What the girl remembered most clearly, however, was being taught about “motivation and inspired.” According to a second boy, Nevis spoke about the type of art that uses shapes and displayed two pieces of artwork, while explaining the differences between the two pictures. Moreover, the teacher stressed certain words related to art, which the students should remember. According to a fourth student in the class with Nevis and Murphy, which followed part two of the ELA, they worked with a book of drawings and also practiced making pictures from shapes.

Through her attorney, Nevis declined to be interviewed by this office.

¹³ Nevis continues to teach at the school. Apparently, Nevis was not alone in reading ahead in the test booklet. However, we found no evidence that these other teachers helped their students.

PS 92/The Chancellor's District/Brooklyn

On February 1, 2000, the first day of the ELA exam, during the multiple-choice portion, Teacher Megan Armour observed a co-proctor pointing to answers on students' tests.¹⁴

Armour described her observations. According to her, while the test was in progress, co-proctor Teacher **Fritz Alexandre** was reading the ELA "manual" and circling something in it. He then walked up and down the first row of the class and, using his pen or pencil, pointed to the correct answer for a specific question. According to Armour, Alexandre targeted three particular students who, in her opinion, were the only children with a chance of passing the exam. She also caught Alexandre pointing and shaking his head to indicate "yes" or "no."

School administrators conducted an investigation at the behest of the Chancellor's District.¹⁵ As part of the inquiry, Alexandre gave a signed statement in which he claimed his conduct consisted only of stressing the need to double-check answers before shading in choices. He wrote:

While

overseeing the exam, I had noticed some careless mistakes made by some bright kids. I told these kids in particular what I had already told the whole class: "Check your answer again."

I believed

I could attract their attention on some mistakes without violating or trespassing the principles governing the climate of the class exam.

Sorry for having done that.

In a post script, Alexandre asserted that the third proctor in the room, Paraprofessional Ty Hall, introduced the idea of helping the children to double-check answers "in the eventuality of mistakes." Moreover, as he was about to comply by providing Hall with correct responses, Alexandre claimed that Assistant Principal Annie Porter "came up and told me that it was not a good thing to do. I immediately complied to Ms. Porter's intervention."

¹⁴ This was a class of special education students.

¹⁵ According to Deputy Superintendent Jerry Cioffi, at his direction, that same day, Alexandre was reassigned to the office of the superintendent for the Chancellor's District.

However, the other staff members dispute Alexandre's claims. According to Porter, she neither entered the room during the exam nor spoke with Alexandre. Armour confirmed her account. Hall, for his part, was completely unaware of Alexandre's conduct.

PS 150/District 30/Queens

During day two of the ELA exam, during the listening session, the students in **Joohi Chun's** 4th grade class gained an advantage when the teacher, who was proctoring the test, emphasized important words and phrases by changing the volume of her voice as she read the story. Although Chun had not specifically advised the children that her intonations would signal a significant point, these students quickly figured that out for themselves.

During the weeks prior to the administration of the exam, Chun worked intensely with the class on note taking. Because the test would require the children to listen to a story and write down the key points in order to answer questions, she taught them to use "bullets," described by one girl as "short phrases or even a single word that would help us know important parts." In fact, it was the extensive note taking by way of bullets that drew the suspicion of the scorers who referred the matter to us.

A review of the answer booklets for this class confirms that the children used Chun's method to take notes. In fact, using bullets, many the students copied down the entire text of the story.

While the students we spoke with praised the bullet method, during these interviews we also learned about Chun's use of voice inflection as she read the ELA listening passage. Whether or not the teacher deliberately changed her tone and volume to help them, the children described knowing what to write down as a result. According to the students, the teacher never instructed them that her reading method would emphasize or stress points in the story, but each child came to that conclusion independently and took advantage of it. According to one boy, whose reasoning was echoed by others: "I thought that Miss Chun was showing us important things in the story by raising her voice with a sentence or a word and would write it down in my notes."

Chun told investigators that she reads with "expression to highlight certain words or phrases to keep it interesting." Chun added that she does not teach her students to use her "expressions" to pick out key words or phrases.

EDUCATORS CONTINUE TO INTERFERE: PAM AND PAL

On March 1, 2000, students faced the Citywide Performance Assessment Mathematics or PAM test and the following day completed the Citywide Performance Assessment Language test or PAL. Once again, complaints of educator misconduct surfaced. While we referred most of the math and all of the language test allegations to Chancellor's Counsel Chad Vignola, the following examples show that cheating continues to take place.

PS 161/The Chancellor's District/Manhattan

In the wake of our report, new allegations have come from parents, teachers, and even students. At PS 161 in the Chancellor's District, a 5th grader entered the principal's office and complained that Teacher **Virgilio Rivera** was giving students answers during the PAM test and, in fact, became angry when the children refused to accept his assistance. According to the two assistant principals who were present when the girl entered, the child was visibly upset and wanted to contact her mother. The principal was notified and, in an attempt "to determine exactly what had transpired in the classroom," directed that everyone involved, including the students, give statements. Thereafter, she reported the results to officials at the Chancellor's District and this office was contacted.¹⁶

A review of the documents produced during the school's inquiry provides a consistent account of Rivera's misconduct. Rivera co-proctored the test with substitute teacher Elienne Joly who was assigned to the class.¹⁷ During the exam, after Joly caught Rivera speaking with students and chastised him for doing so, he ordered the substitute to the door to be a lookout. Confused by his demand, she did not comply. The co-proctor then yelled at her, frightening at least one boy. Next, Rivera went to the board and wrote out the answer to question number one. Thereafter, he tried to "force" the students to accept his response. In fact, he took the test booklet from one boy who would not comply, causing this child to burst into tears.

¹⁶ Rivera is still assigned to the school.

¹⁷ Joly was assigned to the class in a substitute capacity while the regular teacher is on maternity leave.

In a statement lacking in both expression and proper grammar, Rivera denied committing the conduct and blamed the children for the trouble in the classroom. He wrote:

I was in room 245 helping Ms. Jolly [*sic*] supervised [*sic*] the PAM test. Some students were talking and disturbing others during the test. I advised them about the rules when students are taking a test. I took the examen [*sic*] to [*sic*] two or three students because they were talking without control. I was surprised when I went to Ms. Griffin's office and she told me that one student went to her office saying that I said her [*sic*] the answers of the test. When I knew the name of the student I discovered that she was one of the student [*sic*] that I took the test [*sic*] because she was talking and disturbing during the test.

According to Joly, she observed Rivera speaking with a student and warned him to stop. As he continued to converse with the children, Rivera "said something to [Joly] which [she] did not understand and [she] kept walking." According to the children, the teacher was directing the substitute to the door to act as a lookout. Joly also confirmed that one boy began crying when Rivera confiscated his exam. According to the substitute, the teacher "obviously interfered" with the students during the test and "created a problem."

As it turns out, the principal gave Rivera proctor duty because she cannot give him a classroom position. Acting Principal Barbara Brown explained that she was assigned to the school after it was placed in the Chancellor's District in July 1999. At the same time, she was instructed to remove Rivera from regular teaching assignments pending his transfer from PS 161. However, he has yet to be moved elsewhere. With little else for him to do, Brown thought it would be safe to make him a co-proctor. Unfortunately, even Rivera's limited assignment on test day proved problematic for the school.

PS 92/The Chancellor's District/Brooklyn

On March 1st we learned that, once again, a proctor at PS 92 had given a student the answer to a question, this time on the PAM test which was administered that day.¹⁸ However, by the time our office was notified, the school administration had already conducted its own investigation. A review of the school's paperwork convinced us that cheating had occurred and we then verified the information gathered by the school.

Fifth grade teacher Frederika Swinger uncovered the misconduct during the exam and learned the full extent of it shortly after the booklets were passed in. According to her, just before the midway point, she observed her co-proctor, Librarian **John Paizis**, conversing with a male student ("Student A"). Upon advising Paizis to let the boy do his work, he replied that "[Student A] is having trouble with the Pr word," referring to probability. Swinger responded: "Well that's too bad!" and Paizis moved on. Then at the midway point, as the students continued to work, Swinger observed the librarian conversing with a second child ("Student B"). Before she could comment, he moved on. When the test was finished, Paizis left the classroom with the completed booklets. Student A, who had been denied assistance by the co-proctor as a result of Swinger's intervention, then complained, "it isn't fair that Mr. Paizis helped [Student B]." Swinger then learned from Student B that, for question number 3, Paizis told her to "divide by this and multiply by that."¹⁹

This was not the first time that Paizis interfered during a test. Approximately one month before the PAM, during a practice test, Swinger caught Paizis pointing to a student's test booklet and talking to the child. On that occasion, the teacher had Assistant Principal Hendrick Colbert intervene and she sought his assistance again after the PAM incident. According to Swinger, Colbert's initial reaction was: "Oh no, not again!"

Principal Diana Rahmaan sought guidance from officials at the Chancellor's District. At the direction of Robert Tobias, executive director of the Division of Assessment and Accountability, District Assessment Liaison Lucille Vecchiarelli instructed Rahmaan to take statements from everyone involved.

In John Paizis's signed statement, he denied giving a student an answer during the 5th grade PAM exam.

¹⁸ Earlier in this letter we describe cheating by Fritz Alexandre as he proctored the 2000 ELA exam on February 1, 2000. The PAM is not a multiple-choice test. Children write directly in the answer booklet and scorers want to see how they arrived at the answers. The resulting information is used for instructional planning.

¹⁹ Paizis continues to teach at the school.

PROBLEMS WITH REPORTING COMPLAINTS

For a variety of reasons, in a number of the cases, there was a delay in the allegation reaching us.

Despite the fact that we made clear to all those involved in the testing process that allegations of misconduct relating to the administration of standardized tests must be reported to this office without delay, in some instances, school-based investigations were conducted before we were notified. For example, at **PS 92**, on February 2nd, Megan Armour immediately reported her observations of co-proctor Fritz Alexandre's cheating to the principal who, in turn, notified officials in **the Chancellor's District**. In response, Principal Diana Rahmaan was instructed to "pull" Alexandre and take statements from those involved.²⁰ District Assessment Liaison Lucille Vecchiarelli notified Robert Tobias, executive director of the Division of Assessment and Accountability, who instructed her to "write it up." Whether or not he meant for a school-based investigation to take place, one did. In fact, that same morning Tobias received his requested write-up which provided the results of Rahmaan's inquiry. Nevertheless, it was not until February 7, 2000, that the allegation was finally forwarded to us. According to Tobias, while he knew that this incident should have been reported to this office, "at the time [they] were trying to figure out a procedure and to coordinate so that the case wouldn't get lost in the cracks." Obviously the best and easiest way to accomplish that would have been to immediately report the complaint to this office.

After the first case involving PS 92 was mishandled and we raised concerns with the Board's legal office, we were informed that Tobias and members of his division had been given specific directions to report cases directly to us. Nevertheless, three weeks later, Tobias again provided erroneous advice concerning a cheating allegation. Once more at **PS 92**, this time during the PAM test, a teacher made an allegation of cheating

²⁰ According to Rahmaan, Area Superintendent Irwin Kurz gave her this assignment. Beyond that, because accounts vary, it is unclear who ultimately made that decision. However, several individuals in the Chancellor's District, including Kurz, Supervising Superintendent Arnold Santandrea, and District Assessment Liaison Lucille Vecchiarelli were involved. Robert Tobias, executive director of the Division of Assessment and Accountability, was also contacted. Rahmaan had also twice been misinformed that the matter was already forwarded to this office. According to the principal, she was first given this erroneous information by Kurz and it was later repeated during a conference call with Santandrea and Deputy Superintendent Jerry Cioffi.

against a co-proctor, John Paizis. Although this time we received the complaint the day the cheating occurred, the school administration was instructed by officials at **the Chancellor's District** to conduct a preliminary investigation and to obtain handwritten statements.²¹ District Assessment Liaison Lucille Vecchiarelli was asked to explain why the principal was advised to take those actions. According to her, she sought guidance from Robert Tobias who instructed Vecchiarelli that this was the "proper procedure" to follow. Her handwritten notes indicate: "Write up alleg. send to Tobias – asap w statements & he'll follow up."

At **PS 161**, also in **the Chancellor's District**, the complaint again was delayed in reaching our office, but for a different reason. This time, because the information initially came from a visibly upset child, the principal, in her first year at the school, interviewed witnesses and took statements in an attempt "to determine exactly what had transpired in the classroom." Immediately thereafter, she notified Vecchiarelli who, in turn, contacted us. Although the school's investigation was performed with good intentions, the end result could have been very different.

The delay in receiving the complaint against Jane Nevis at **PS 7 in District 24** occurred because information regarding the misconduct was routed through the District Assessment Liaison to the Test Administration and Scanning Center ("SCAN") which created a log and notified Tobias, but did nothing else. Thus, although the Liaison learned about the allegation on February 2, 2000, the day it occurred, and SCAN was informed the next day, we were kept in the dark until February 9th. Even then, we only discovered it by accident when one of our investigators, at SCAN on an unrelated matter, received a copy of the log. Thereafter, we reviewed the PS 7 matter and other listed allegations, initiated some investigations, and referred the remainder to Chancellor's Counsel Chad Vignola. Since that time, SCAN has cooperated with us and now instructs principals and District Assessment Liaisons to report directly to this office.

At **PS 202 in District 19** in Brooklyn, the school administration completed its own investigation into suspicions raised by a scorer of the ELA exams before this office ever learned that a potential problem existed. The inquiry included engaging the students in the class in question "in an informal discussion to elicit test-taking strategies that they

²¹ District Assessment Liaison Lucille Vecchiarelli reported the information to us on March 1, 2000.

used and would recommend to others.”²² Thereafter, the children wrote out their recommendations. As a result, according to Acting Deputy Superintendent Josephine Urso, the school and district determined that “nothing was done inappropriately.”

In fact, the investigation was performed at the behest of Urso who explained that it “crossed her mind” to call this office about the matter, but she “wanted to check it out first.” Although she initially asserted that the Superintendent was aware of the inquiry, including the debriefing of students, Urso later admitted, “well, I never actually told [Superintendent] Mahon that.”²³

CONCLUSION

The conduct committed by the individual educators highlighted in this report is cheating. The duties of a test proctor are not complicated, yet we continue to find teachers and paraprofessionals who have overstepped their roles. Educator cheating does not help schoolchildren, in fact, it hurts them. It must not be tolerated.

RECOMMENDATIONS

■ We make the following recommendations concerning the individuals named in this report:

Paul Egan induced his students to join in his wrongdoing when he provided answers to the first eleven questions on the 1999 Citywide mathematics exam and tempted them to cheat by using his choices. Egan’s misconduct must result in the termination of his employment and this matter must be considered should he ever apply for reemployment with the Board.

Strong disciplinary action, which may appropriately include termination of employment, must be taken against **Paul Zomchek** and **Alice McNally** whose misconduct occurred prior to the release of our December 1999 report. We reiterate that same recommendation, first made in *Cheating The Children*, regarding **Robert Smith**. In so doing, the Board’s legal office and Smith’s supervisors should consider not only the

²² Memorandum from Interim Acting Director of Assessment and Data Deborah Montagna to Acting Deputy Superintendent Josephine Urso, dated February 18, 2000.

²³ According to District Assessment Liaison Carmel Lamourt, she advised the acting deputy superintendent to contact this office, however, Urso first wanted to notify the superintendent.

conduct described in our report, but his disingenuous remarks to the Deputy Superintendent of District 2 after its release.²⁴ Moreover, paraprofessional **Luz Rodriguez** also interfered with the testing process under Zomchek's supervision. She must be advised that such conduct is unacceptable and future infractions will result in disciplinary action which could include loss of her employment.

Jane Nevis first cheated by looking ahead in the booklet to preview the testing material on the 2000 ELA exam. She compounded that infraction by using the information to prepare her students for day three of the test. Her employment must be terminated and this matter must be considered should Nevis ever apply for reemployment with the Board.

Virgilio Rivera created utter chaos during his stint as proctor for the 2000 PAM test. He interfered during its administration: writing an answer on the board and trying to force children to accept it, yelling at his co-proctor, taking students' booklets, and causing a boy to burst into tears. Moreover, his illiterate attempt to explain his version of the events in a written statement calls into question his fitness as an educator. His employment must be terminated and this matter must be considered should Rivera ever apply for reemployment with the Board.

Strong disciplinary action, which may appropriately include termination of employment, must be taken against **Fritz Alexandre** and **John Paizis**. In deciding what measures to take, it would be prudent to consider that their cheating occurred even after the widely-disseminated findings of our report.

Although the children in **Joohi Chun's** fourth grade class benefited from her voice inflections during the reading of the story in the listening session of the ELA exam, we could not establish that this conduct was a deliberate attempt to give the children an unfair advantage. Therefore, we do not recommend discipline. However, Chun should be advised that her actions were inappropriate and future indiscretions will result in disciplinary action which could include the loss of her employment. Moreover, below, we make a specific recommendation to avoid this problem Statewide.

²⁴ See page 5 of this letter.

■ Based on the problems we uncovered concerning the ELA exams, we make the following recommendations:

Day two and day three of the test should be published in separate booklets distributed on the day of those sessions. Thus, proctors will first learn the material to be tested at the same time the children do.

Steps must be taken to ensure a uniform presentation of the material in order to avoid the possibility of an unfair advantage or disadvantage caused by the proctor's personal method, whether going too slow or too fast, or highlighting details by voice change.

- School administrators and educators should not conduct investigations of misconduct, including complaints of cheating. Steps must be taken to ensure that these allegations are reported directly and without delay to investigators who are equipped to evaluate the information and take appropriate action.
- Information obtained during our investigation suggests that there is an unofficial market for obtaining Terra Nova material, whether by the method described here or directly from McGraw-Hill through orders placed from suburban homes. We recommend that the use of practice materials be reviewed and that reasonable precautions be taken to eliminate the opportunity to gain an unfair advantage.
- As part of our recommendations in *Cheating The Children* we noted that, in our view, the most obvious solution is also the simplest:

The Chancellor must unequivocally state that misconduct performed during the administration of a standardized test – whether it is called cheating, interference, tampering, or any other name – is wrong and will not be tolerated. In fact, those who are caught cheating must face serious disciplinary action, including loss of employment.

Consistent with our view, you took a strong stand on the cheating issue. Prior to the Citywide reading exam on April 12, 2000, we notified you that the problem of educator cheating still exists. Your response was swift and to the point. The communication to all principals was clear: "Please let's focus on real achievement and send the message that cheating will not be tolerated." We suggest that this message be reinforced before the administration of future tests.

We are forwarding a copy of this letter to the Office of Legal Services. We are also providing a copy to the State Education Department for whatever action they deem appropriate. Should you have any inquiries regarding the above, please contact Deputy Commissioner Regina Loughran, the attorney assigned to the case. She can be reached at (212) 510-1426. Please notify Deputy Commissioner Loughran within thirty days of receipt of this letter of what, if any, action has been taken, or is contemplated regarding the recommendations made here. Thank you for your attention to this matter.

Sincerely,

EDWARD F. STANCIK
Special Commissioner
of Investigation for the
New York City School District

By:

Regina A. Loughran
Deputy Commissioner

EFS:RAL:ai

c: Chad Vignola, Esq.

May 2, 2000

Hon. William C. Thompson, Jr.
President
New York City Board of Education
110 Livingston Street; Room 1118
Brooklyn, NY 11201

Re: EDUCATOR CHEATING

Dear President Thompson:

On December 7, 1999, this office released a report, *Cheating The Children: Educator Misconduct On Standardized Tests* (“*Cheating The Children*”), which detailed the findings of our long-term investigation into cheating by proctors during the administration of Citywide and State examinations. Almost immediately, our intake unit was busy with new complaints of wrongdoing committed by Board of Education employees during the testing process. Then, in February 2000, while we were conducting investigations into those allegations, students took the State English Language Assessment (“ELA”) examination and reports of suspicious behavior and writing in test booklets again poured into our office. As we began to look at those cases, in March 2000, the Citywide Performance Assessment Mathematics (“PAM”) and Performance Assessment Language (“PAL”) tests were administered. Once more, allegations of cheating surfaced.

Evidence gathered during our renewed inquiry again has substantiated cheating by nine educators at eight schools.¹ Once again we found proctors who gave answers to

¹ One of these schools fell victim to two separate proctors who cheated in two different exams. In addition, one of the new matters is related to another which was included in our report, *Cheating The Children*, and we re-visit our prior case here.

students, alerted them to wrong responses, and changed student choices after the exam was turned in. Moreover, this investigation uncovered new methods of misconduct, including prepping children for the third day of the ELA exam by using the actual test material. Finally, our investigations continued to be impeded by delays in the reporting of testing allegations to this office. Aside from the matters reported on here, we continue to pursue certain allegations and have referred others to Chancellor's Counsel Chad Vignola.

AFTER THE REPORT: MORE ALLEGATIONS

Immediately after *Cheating The Children* publicly exposed the problem, we received additional allegations from a variety of sources. Those described in this section came from parents, one of the teachers named in our first report, and an anonymous "concerned employee."

IS 113/District 11/The Bronx

In the days after the release of *Cheating The Children*, a mother contacted this office to complain that her daughter's class was given the answers to the first eleven questions on the 7th grade Citywide math test in the spring of 1999. Moreover, when her daughter encountered problems with 8th grade mathematics, she was denied extra help based on her earlier test score.

We confirmed that mathematics Teacher **Paul Egan** used several different methods to cheat. First, he purposely displayed the answers to the first eleven questions by leaving them unguarded on his desk for the students to find. Then, Egan canvassed the room and where he saw an incorrect response, told the student to check it, meaning that the original selection was a wrong choice. Finally, according to one girl, the teacher gave "hints." For example, if the response required the multiplication of 4 x 3 and the student was baffled, Egan would suggest adding 4 plus 4 plus 4 to arrive at the answer.

The complainant's daughter described Egan's conduct. After the test began, she saw the teacher speak with one of her male classmates who, in turn, then spoke to other students, including her. The boy told her: "Mr. Egan gave me the answers to some of the questions," and asked if she wanted them. Thereafter, he wrote a series of letter responses on the girl's scrap paper. According to her, later in the exam, although she did not ask for help, Egan twice told her to re-do an answer he said was wrong. On the first occasion, she declined to do so, believing she had chosen correctly. After a second urging, however, the girl realized that Egan was right and she changed her answer.

Seeking an explanation for his conduct, her mother confronted Egan. He initially denied giving the students answers, but ultimately admitted doing so when the parent asserted that her daughter would not lie. Egan claimed that he was “only helping the kids,” and approached only those students who raised their hands.

Through interviews with other children in the class, we learned that Egan’s cheating scheme was far more calculated than the girl and her mother realized. In addition to prompting students to change responses and giving “hints” on how to determine the correct one, the teacher concocted a plan to provide specific answers. According to students, before the exam began, Egan “strongly suggested” that the class sharpen their pencils and then he exited the room. As they complied, the students realized that the teacher had left the answers to the first eleven test questions on the desk by the sharpener.

A review of the answer grids for the students whom Egan proctored corroborates the information provided by the children. Of the thirty-two who took the exam proctored by Egan, nineteen answered all of the first eleven questions correctly. Of these nineteen, only one student erased any of the first eleven responses and, on the one occasion that she did, her answer changed from wrong to right. One boy, who clearly had problems with the test, apparently had no trouble with the first eleven questions. He answered these correctly without erasures, however, for the remaining thirty-nine questions, this student erased nineteen times – almost every other question.

The homeroom teacher assigned to this class, Marisol Santiago, also provided relevant information. Although normally she would have been the proctor, a few days before this exam, Egan suggested that he take over, in case any questions arose during its administration.² Because this seemed logical, the homeroom teacher acquiesced. After the test, she heard rumors that Egan had given students answers, but she dismissed them. Santiago became suspicious, however, after the results were revealed and some of her students who were not high achievers in math scored abnormally well. Not surprisingly, five of the six students whose scores she questioned were among the nineteen who had the first eleven questions right. Moreover, according to the homeroom teacher, some of her students who had expected better scores, informed her that Egan had prompted the class to change incorrect choices and provided answers. Santiago believed them, telling us that her students “don’t lie.”

² According to Principal Carol Reid, a homeroom teacher generally proctors her own class. Moreover, once the schedule is made, it is rarely changed. In the event a substitution does occur, however, it must be done with the approval of the school administration and the schedule is updated to reflect the change. A review of the PS 113 proctor schedule for the 1999 Citywide math test shows that Santiago was assigned to proctor her class. Egan is not listed.

According to one student, after the exam, as he left, Egan told the class: "Don't tell anyone that I helped you or you'll be the ones that will get into trouble."

Through his attorney, Paul Egan declined to be interviewed by this office.

PS 163/District 3/Manhattan

Still another mother who had heard about our findings described in *Cheating The Children* contacted us after its release. She alleged proctor misconduct during the administration of her son's 4th grade Citywide mathematics exam in April 1999. Although she learned about the wrongdoing shortly after it occurred, this parent was reluctant to get the teacher in trouble. However, upon the release of our report, the mother realized that the problem was not limited to her son's classroom.

According to her son, before the test even started, his teacher and proctor **Paul Zomchek** told the class that he would be coming around to point out incorrect answers. In fact, he did just that: while he did not provide the correct answers, he pointed to those that needed to be changed. According to this student, Zomchek helped everyone in the class. Five additional students confirmed the account provided by the complainant's son. Moreover, six children described similar conduct by Zomchek during the State ELA exam in January 1999. According to these students, the teacher pointed to incorrect answers or suggested "you should check this over."

Moreover, we learned that a second individual who assisted Zomchek, "Miss Lucy," also provided help to the students. We identified this co-proctor as **Luz Rodriguez** and spoke with her. Although Rodriguez, a paraprofessional, denied pointing to wrong answers, she admitted that she and Zomchek looked over the students' exams. According to the paraprofessional, when she noticed that students were choosing incorrect responses, she informed Zomchek which children "were not doing well." She claimed that, in turn, the teacher told those students, "we taught you better than this," and had them check over the test.

Through his attorney, Paul Zomchek declined to be interviewed by this office.

PS 40/District 2/Manhattan

While parents were the source of the two prior allegations, we learned of other problems when individual districts began coping with the fallout from our report. In District 2, new facts came to light as officials sought to resolve the status of Teacher **Robert Smith**. In our report on cheating, we described how Smith used Terra Nova material to prepare his fifth grade class for the 1999 Citywide math test.³ Terra Nova questions are repeated from test to test and, in fact, Smith even told his class that some of the practice problems could appear on the actual exam. McGraw-Hill, which produces Terra Nova, placed an embargo on the purchase of this material within the five boroughs and it should not have been used as a practice tool. Smith declined to speak with our investigators and, therefore, he did not provide us with an explanation for his conduct. However, in a meeting with District 2 Deputy Superintendent Andrew Lachman, Smith claimed he obtained the material from **Alice McNally**, a PS 40 parent who teaches at PS 20 in District 1.⁴

We have substantiated that McNally, who is not a 5th grade teacher, obtained the practice material and provided it to Smith, her daughter's 5th grade teacher.

According to Lachman, Smith asserted that McNally received the practice material, later provided to him, from Margaret DeLuca, a District 1 consultant. Thus, we interviewed DeLuca who described herself as a "staff developer" who "teaches teachers." According to DeLuca, her work takes her all over the country and she has accumulated testing material issued by numerous publishers, from "just about everywhere." She specifically remembered meeting a New York City teacher named "McNally" who was particularly interested in some 5th grade testing material which she copied. DeLuca was aware that McNally did not teach 5th grade.

Curious about McNally's interest in 5th grade practice tools, given the fact that she teaches 3rd grade, we searched for an explanation. We found one upon learning that in the spring of 1999, her daughter was a 5th grade student at PS 40 assigned to Robert Smith's class.

Through her attorney, McNally declined to be interviewed by this office. Smith, who is on a sabbatical, also turned down the opportunity to speak with investigators.

³ McGraw-Hill, which produces Terra Nova, coined that name for the types of questions on the Citywide reading and mathematics tests. We found that the children were practicing with actual questions that would later appear on the test.

⁴ Smith is on a sabbatical and McNally continues to teach at PS 20.

In addition to shifting the blame onto McNally, during his meeting with Lachman, Smith also misstated the facts surrounding the case against him. According to Lachman, the teacher claimed that, having noticed the overlap of questions between those on the actual exam and practice material his class used, he immediately reported to PS 40 Administrative Assistant Janet Rashes, “we’ve got a problem.”

Rashes, however, disputes Smith’s version of the facts. According to her, Smith did not alert her to “the problem” and, in fact, had left for the day when the information surfaced.⁵ Instead, she learned about it from another teacher who heard from students in an after-school program that the exam was “easy” because the questions were “just like” the practice test his class had taken.⁶ Moreover, the after-school teacher obtained the student’s copy of the practice test which she provided to the administrative assistant. Rashes compared it to the actual test and found many of the questions to be “identical.” Finally, when she sought Smith’s explanation the next day, rather than pointing the finger at McNally, he claimed to have found the materials in his mailbox.⁷

PS 191/District 17/Brooklyn

At still another school in another district, an anonymous “concerned employee” alleged that an administrator forced staff members to change students’ answers on the 1999 Citywide reading test in order to help the school get removed from the SURR list.⁸ Unfortunately, because these employees remained unidentified, we had no specific individuals to investigate. Nevertheless, interviews with students confirmed that someone cheated on their behalf by erasing and changing answers after the exams had been turned in. Without the cooperation of those involved, however, we could not link the wrongdoing to the administration.

⁵ She gave consistent accounts to both our investigators and Lachman.

⁶ Sharon Finder, whom we also name in *Cheating The Children*, was this student’s teacher. The after-school teacher learned that Smith also had used the same material as Finder.

⁷ This was the same explanation that Finder gave Rashes.

⁸ PS 191 has been on the SURR list since 1995. SURR stands for Schools Under Registration Review, meaning that the school operates so poorly that the State has taken over responsibility for it. To get off the SURR list, the school must meet State goals on the State reading and math tests. Failure to improve can result in closure of the school.

Investigators interviewed students in various grade levels, assigned to different classes with different teachers. Upon reviewing their exam grid sheets, seven students – 3rd graders, 5th graders, and 6th graders – reported that they had not made all the erasures found on their answer documents. Their reactions varied from outrage – “No way” and “Absolutely not” – to confusion. Indeed, one girl struggled to reconcile her memory of the test with the document in front of her: had someone else changed her answers?

The experience of one 6th grade boy conclusively shows that his answers were changed sometime after he handed in his test. According to him, time ran out before he could complete all 50 questions. The student estimated reaching number 35; after that, he merely selected any answer without reading the questions. The boy was certain that he had not erased any of these choices because he neither had the time to do so nor the ability to evaluate the correct response since he did not even know the substance of the question. Nevertheless, a review of his answer sheet reveals ten erasures between question numbers 33 and 48, with seven of these changed from wrong to right. Moreover, the erasures in which the question was ultimately answered correctly occur in a cluster from number 38 through 47 – questions the student guessed at without changing.⁹ Finally, a year-to-year comparison of this boy’s scores shows a marked increase in his 6th grade achievement:

1996 – 5%

1997 – 9%

1998 – 11%

1999 – 30%

Unfortunately, without the cooperation of the staff member who reported this allegation to us, it was impossible to determine when and by whom this cheating scheme was carried out.

TESTING AFTER THE REPORT: THE ELA EXAM

In *Cheating The Children*, we found a test booklet that contained two handwritings, one clearly belonging to an adult. One particular line: “The hunter realized the rat was smart[.]” was not only written by a different hand, it was also out of character with the rest of the essay written by a student on the 1999 State English Language Assessment or ELA examination.¹⁰ Considering the public exposure given our

⁹ Question number 48 contained an erasure, but was ultimately answered incorrectly.

¹⁰ The insert is found between pages 18 and 19.

cheating findings, generally, and this example, specifically, we were dismayed by the number of new allegations reported following the 2000 ELA exam administered between February 1 through 3, 2000. Indeed, it was impossible to interview every student whose booklet contained a suspicious mark or erasure and we chose a random sampling. While we did not find educators who went so far as to write a complete sentence in a child's answer booklet, we found cheating nonetheless.

PS 7/District 24/Queens

Following the completion of day two of the ELA exam, a paraprofessional in one class reported being present while a teacher prepared a group of 4th graders for the third session, to be given the following day, by using the actual subject matter contained in that part of the test.

The ELA exam is a three-day test designed to assess various skills. The first day is multiple choice. Day two requires children to listen to a story, answer questions based on memory and note taking, and then devise a story on their own, on a given topic. Day three tests reading comprehension.

At PS 7, one teacher took advantage of the fact that the day three test material is contained within the same booklet used on day two. Although at the end of day two in the booklet the children are specifically advised: "Do NOT turn this page until you are told to do so[.]" Teacher **Jane Nevis** apparently considered herself exempt from that command.¹¹

Paraprofessional Kristen Murphy described her observations on February 2, 2000, following the completion of day two of the ELA exam. According to her, reading Teacher Jane Nevis asked Murphy to assist her in preparing a group of children, who participate in the Read 24 program, for the third day of the test.¹² During the lesson, Nevis explained "cubism," "artist motivation," "artist inspiration," and various art mediums. The teacher led a discussion about abstract art and the children compared different paintings. Nevis repeatedly stressed that the students "had to remember the words motivation and inspiration – and if by chance they see a #1 next to a word on the test, like motivation, they should look to the bottom of the page for the definition."

¹¹ However, every page contains a warning from McGraw-Hill: "Do not reproduce or discuss contents until end of designated makeup schedule."

¹² According to Murphy, the students participating in this program are in the bottom 10% performance level in reading.

Murphy did not realize the significance of her observations until later. Not having seen the test, the paraprofessional was unaware of its content. However, after the reading class, Murphy overheard 4th grade teachers discussing the material upcoming on the third day of the exam, and discovered that it corresponded to the lesson just given by Nevis.¹³

A review of the ELA booklet confirms that Nevis must have been aware of the content of day three and used that knowledge to prepare the children. In part one of the test on the third day, students read “The Languages of Art” and answered specific questions. Then, they were required to read a second passage, “A Peace of Art,” involving an interview with a ten-year-old whose artistic style was “cubism.” The interviewer asked: “Did anyone inspire you to become an artist?” In response, the artist described her “motivation.” In fact, that word is accompanied by a footnote which, at the bottom of the page, defines it as “reason for doing something.” One of the questions that followed required the students to write an answer discussing why the girl became an artist.

Interviews with students corroborated Murphy’s account. One boy said: “I don’t know how she knew motivation was on the test, but it was.” According to him, Nevis taught them that the words “motivation” and “inspiration” were important and that the class needed to remember them. A female student also recalled preparing for the final part of the ELA with the reading teacher and the paraprofessional. According to her, Nevis displayed artwork and discussed two artists. What the girl remembered most clearly, however, was being taught about “motivation and inspired.” According to a second boy, Nevis spoke about the type of art that uses shapes and displayed two pieces of artwork, while explaining the differences between the two pictures. Moreover, the teacher stressed certain words related to art, which the students should remember. According to a fourth student in the class with Nevis and Murphy, which followed part two of the ELA, they worked with a book of drawings and also practiced making pictures from shapes.

Through her attorney, Nevis declined to be interviewed by this office.

¹³ Nevis continues to teach at the school. Apparently, Nevis was not alone in reading ahead in the test booklet. However, we found no evidence that these other teachers helped their students.

PS 92/The Chancellor's District/Brooklyn

On February 1, 2000, the first day of the ELA exam, during the multiple-choice portion, Teacher Megan Armour observed a co-proctor pointing to answers on students' tests.¹⁴

Armour described her observations. According to her, while the test was in progress, co-proctor Teacher **Fritz Alexandre** was reading the ELA "manual" and circling something in it. He then walked up and down the first row of the class and, using his pen or pencil, pointed to the correct answer for a specific question. According to Armour, Alexandre targeted three particular students who, in her opinion, were the only children with a chance of passing the exam. She also caught Alexandre pointing and shaking his head to indicate "yes" or "no."

School administrators conducted an investigation at the behest of the Chancellor's District.¹⁵ As part of the inquiry, Alexandre gave a signed statement in which he claimed his conduct consisted only of stressing the need to double-check answers before shading in choices. He wrote:

While

overseeing the exam, I had noticed some careless mistakes made by some bright kids. I told these kids in particular what I had already told the whole class: "Check your answer again."

I believed

I could attract their attention on some mistakes without violating or trespassing the principles governing the climate of the class exam.

Sorry for having done that.

In a post script, Alexandre asserted that the third proctor in the room, Paraprofessional Ty Hall, introduced the idea of helping the children to double-check answers "in the eventuality of mistakes." Moreover, as he was about to comply by providing Hall with correct responses, Alexandre claimed that Assistant Principal Annie Porter "came up and told me that it was not a good thing to do. I immediately complied to Ms. Porter's intervention."

¹⁴ This was a class of special education students.

¹⁵ According to Deputy Superintendent Jerry Cioffi, at his direction, that same day, Alexandre was reassigned to the office of the superintendent for the Chancellor's District.

However, the other staff members dispute Alexandre's claims. According to Porter, she neither entered the room during the exam nor spoke with Alexandre. Armour confirmed her account. Hall, for his part, was completely unaware of Alexandre's conduct.

PS 150/District 30/Queens

During day two of the ELA exam, during the listening session, the students in **Joochi Chun's** 4th grade class gained an advantage when the teacher, who was proctoring the test, emphasized important words and phrases by changing the volume of her voice as she read the story. Although Chun had not specifically advised the children that her intonations would signal a significant point, these students quickly figured that out for themselves.

During the weeks prior to the administration of the exam, Chun worked intensely with the class on note taking. Because the test would require the children to listen to a story and write down the key points in order to answer questions, she taught them to use "bullets," described by one girl as "short phrases or even a single word that would help us know important parts." In fact, it was the extensive note taking by way of bullets that drew the suspicion of the scorers who referred the matter to us.

A review of the answer booklets for this class confirms that the children used Chun's method to take notes. In fact, using bullets, many the students copied down the entire text of the story.

While the students we spoke with praised the bullet method, during these interviews we also learned about Chun's use of voice inflection as she read the ELA listening passage. Whether or not the teacher deliberately changed her tone and volume to help them, the children described knowing what to write down as a result. According to the students, the teacher never instructed them that her reading method would emphasize or stress points in the story, but each child came to that conclusion independently and took advantage of it. According to one boy, whose reasoning was echoed by others: "I thought that Miss Chun was showing us important things in the story by raising her voice with a sentence or a word and would write it down in my notes."

Chun told investigators that she reads with "expression to highlight certain words or phrases to keep it interesting." Chun added that she does not teach her students to use her "expressions" to pick out key words or phrases.

EDUCATORS CONTINUE TO INTERFERE: PAM AND PAL

On March 1, 2000, students faced the Citywide Performance Assessment Mathematics or PAM test and the following day completed the Citywide Performance Assessment Language test or PAL. Once again, complaints of educator misconduct surfaced. While we referred most of the math and all of the language test allegations to Chancellor's Counsel Chad Vignola, the following examples show that cheating continues to take place.

PS 161/The Chancellor's District/Manhattan

In the wake of our report, new allegations have come from parents, teachers, and even students. At PS 161 in the Chancellor's District, a 5th grader entered the principal's office and complained that Teacher **Virgilio Rivera** was giving students answers during the PAM test and, in fact, became angry when the children refused to accept his assistance. According to the two assistant principals who were present when the girl entered, the child was visibly upset and wanted to contact her mother. The principal was notified and, in an attempt "to determine exactly what had transpired in the classroom," directed that everyone involved, including the students, give statements. Thereafter, she reported the results to officials at the Chancellor's District and this office was contacted.¹⁶

A review of the documents produced during the school's inquiry provides a consistent account of Rivera's misconduct. Rivera co-proctored the test with substitute teacher Elienne Joly who was assigned to the class.¹⁷ During the exam, after Joly caught Rivera speaking with students and chastised him for doing so, he ordered the substitute to the door to be a lookout. Confused by his demand, she did not comply. The co-proctor then yelled at her, frightening at least one boy. Next, Rivera went to the board and wrote out the answer to question number one. Thereafter, he tried to "force" the students to accept his response. In fact, he took the test booklet from one boy who would not comply, causing this child to burst into tears.

¹⁶ Rivera is still assigned to the school.

¹⁷ Joly was assigned to the class in a substitute capacity while the regular teacher is on maternity leave.

In a statement lacking in both expression and proper grammar, Rivera denied committing the conduct and blamed the children for the trouble in the classroom. He wrote:

I was in room 245 helping Ms. Jolly [*sic*] supervised [*sic*] the PAM test. Some students were talking and disturbing others during the test. I advised them about the rules when students are taking a test. I took the examen [*sic*] to [*sic*] two or three students because they were talking without control. I was surprised when I went to Ms. Griffin's office and she told me that one student went to her office saying that I said her [*sic*] the answers of the test. When I knew the name of the student I discovered that she was one of the student [*sic*] that I took the test [*sic*] because she was talking and disturbing during the test.

According to Joly, she observed Rivera speaking with a student and warned him to stop. As he continued to converse with the children, Rivera "said something to [Joly] which [she] did not understand and [she] kept walking." According to the children, the teacher was directing the substitute to the door to act as a lookout. Joly also confirmed that one boy began crying when Rivera confiscated his exam. According to the substitute, the teacher "obviously interfered" with the students during the test and "created a problem."

As it turns out, the principal gave Rivera proctor duty because she cannot give him a classroom position. Acting Principal Barbara Brown explained that she was assigned to the school after it was placed in the Chancellor's District in July 1999. At the same time, she was instructed to remove Rivera from regular teaching assignments pending his transfer from PS 161. However, he has yet to be moved elsewhere. With little else for him to do, Brown thought it would be safe to make him a co-proctor. Unfortunately, even Rivera's limited assignment on test day proved problematic for the school.

PS 92/The Chancellor's District/Brooklyn

On March 1st we learned that, once again, a proctor at PS 92 had given a student the answer to a question, this time on the PAM test which was administered that day.¹⁸ However, by the time our office was notified, the school administration had already conducted its own investigation. A review of the school's paperwork convinced us that cheating had occurred and we then verified the information gathered by the school.

Fifth grade teacher Frederika Swinger uncovered the misconduct during the exam and learned the full extent of it shortly after the booklets were passed in. According to her, just before the midway point, she observed her co-proctor, Librarian **John Paizis**, conversing with a male student ("Student A"). Upon advising Paizis to let the boy do his work, he replied that "[Student A] is having trouble with the Pr word," referring to probability. Swinger responded: "Well that's too bad!" and Paizis moved on. Then at the midway point, as the students continued to work, Swinger observed the librarian conversing with a second child ("Student B"). Before she could comment, he moved on. When the test was finished, Paizis left the classroom with the completed booklets. Student A, who had been denied assistance by the co-proctor as a result of Swinger's intervention, then complained, "it isn't fair that Mr. Paizis helped [Student B]." Swinger then learned from Student B that, for question number 3, Paizis told her to "divide by this and multiply by that."¹⁹

This was not the first time that Paizis interfered during a test. Approximately one month before the PAM, during a practice test, Swinger caught Paizis pointing to a student's test booklet and talking to the child. On that occasion, the teacher had Assistant Principal Hendrick Colbert intervene and she sought his assistance again after the PAM incident. According to Swinger, Colbert's initial reaction was: "Oh no, not again!"

Principal Diana Rahmaan sought guidance from officials at the Chancellor's District. At the direction of Robert Tobias, executive director of the Division of Assessment and Accountability, District Assessment Liaison Lucille Vecchiarelli instructed Rahmaan to take statements from everyone involved.

In John Paizis's signed statement, he denied giving a student an answer during the 5th grade PAM exam.

¹⁸ Earlier in this letter we describe cheating by Fritz Alexandre as he proctored the 2000 ELA exam on February 1, 2000. The PAM is not a multiple-choice test. Children write directly in the answer booklet and scorers want to see how they arrived at the answers. The resulting information is used for instructional planning.

¹⁹ Paizis continues to teach at the school.

PROBLEMS WITH REPORTING COMPLAINTS

For a variety of reasons, in a number of the cases, there was a delay in the allegation reaching us.

Despite the fact that we made clear to all those involved in the testing process that allegations of misconduct relating to the administration of standardized tests must be reported to this office without delay, in some instances, school-based investigations were conducted before we were notified. For example, at **PS 92**, on February 2nd, Megan Armour immediately reported her observations of co-proctor Fritz Alexandre's cheating to the principal who, in turn, notified officials in **the Chancellor's District**. In response, Principal Diana Rahmaan was instructed to "pull" Alexandre and take statements from those involved.²⁰ District Assessment Liaison Lucille Vecchiarelli notified Robert Tobias, executive director of the Division of Assessment and Accountability, who instructed her to "write it up." Whether or not he meant for a school-based investigation to take place, one did. In fact, that same morning Tobias received his requested write-up which provided the results of Rahmaan's inquiry. Nevertheless, it was not until February 7, 2000, that the allegation was finally forwarded to us. According to Tobias, while he knew that this incident should have been reported to this office, "at the time [they] were trying to figure out a procedure and to coordinate so that the case wouldn't get lost in the cracks." Obviously the best and easiest way to accomplish that would have been to immediately report the complaint to this office.

After the first case involving PS 92 was mishandled and we raised concerns with the Board's legal office, we were informed that Tobias and members of his division had been given specific directions to report cases directly to us. Nevertheless, three weeks later, Tobias again provided erroneous advice concerning a cheating allegation. Once more at **PS 92**, this time during the PAM test, a teacher made an allegation of cheating

²⁰ According to Rahmaan, Area Superintendent Irwin Kurz gave her this assignment. Beyond that, because accounts vary, it is unclear who ultimately made that decision. However, several individuals in the Chancellor's District, including Kurz, Supervising Superintendent Arnold Santandrea, and District Assessment Liaison Lucille Vecchiarelli were involved. Robert Tobias, executive director of the Division of Assessment and Accountability, was also contacted. Rahmaan had also twice been misinformed that the matter was already forwarded to this office. According to the principal, she was first given this erroneous information by Kurz and it was later repeated during a conference call with Santandrea and Deputy Superintendent Jerry Cioffi.

against a co-proctor, John Paizis. Although this time we received the complaint the day the cheating occurred, the school administration was instructed by officials at **the Chancellor's District** to conduct a preliminary investigation and to obtain handwritten statements.²¹ District Assessment Liaison Lucille Vecchiarelli was asked to explain why the principal was advised to take those actions. According to her, she sought guidance from Robert Tobias who instructed Vecchiarelli that this was the "proper procedure" to follow. Her handwritten notes indicate: "Write up alleg. send to Tobias – asap w statements & he'll follow up."

At **PS 161**, also in **the Chancellor's District**, the complaint again was delayed in reaching our office, but for a different reason. This time, because the information initially came from a visibly upset child, the principal, in her first year at the school, interviewed witnesses and took statements in an attempt "to determine exactly what had transpired in the classroom." Immediately thereafter, she notified Vecchiarelli who, in turn, contacted us. Although the school's investigation was performed with good intentions, the end result could have been very different.

The delay in receiving the complaint against Jane Nevis at **PS 7 in District 24** occurred because information regarding the misconduct was routed through the District Assessment Liaison to the Test Administration and Scanning Center ("SCAN") which created a log and notified Tobias, but did nothing else. Thus, although the Liaison learned about the allegation on February 2, 2000, the day it occurred, and SCAN was informed the next day, we were kept in the dark until February 9th. Even then, we only discovered it by accident when one of our investigators, at SCAN on an unrelated matter, received a copy of the log. Thereafter, we reviewed the PS 7 matter and other listed allegations, initiated some investigations, and referred the remainder to Chancellor's Counsel Chad Vignola. Since that time, SCAN has cooperated with us and now instructs principals and District Assessment Liaisons to report directly to this office.

At **PS 202 in District 19** in Brooklyn, the school administration completed its own investigation into suspicions raised by a scorer of the ELA exams before this office ever learned that a potential problem existed. The inquiry included engaging the students in the class in question "in an informal discussion to elicit test-taking strategies that they

²¹ District Assessment Liaison Lucille Vecchiarelli reported the information to us on March 1, 2000.

used and would recommend to others.”²² Thereafter, the children wrote out their recommendations. As a result, according to Acting Deputy Superintendent Josephine Urso, the school and district determined that “nothing was done inappropriately.”

In fact, the investigation was performed at the behest of Urso who explained that it “crossed her mind” to call this office about the matter, but she “wanted to check it out first.” Although she initially asserted that the Superintendent was aware of the inquiry, including the debriefing of students, Urso later admitted, “well, I never actually told [Superintendent] Mahon that.”²³

CONCLUSION

The conduct committed by the individual educators highlighted in this report is cheating. The duties of a test proctor are not complicated, yet we continue to find teachers and paraprofessionals who have overstepped their roles. Educator cheating does not help schoolchildren, in fact, it hurts them. It must not be tolerated.

RECOMMENDATIONS

■ We make the following recommendations concerning the individuals named in this report:

Paul Egan induced his students to join in his wrongdoing when he provided answers to the first eleven questions on the 1999 Citywide mathematics exam and tempted them to cheat by using his choices. Egan’s misconduct must result in the termination of his employment and this matter must be considered should he ever apply for reemployment with the Board.

Strong disciplinary action, which may appropriately include termination of employment, must be taken against **Paul Zomchek** and **Alice McNally** whose misconduct occurred prior to the release of our December 1999 report. We reiterate that same recommendation, first made in *Cheating The Children*, regarding **Robert Smith**. In so doing, the Board’s legal office and Smith’s supervisors should consider not only the

²² Memorandum from Interim Acting Director of Assessment and Data Deborah Montagna to Acting Deputy Superintendent Josephine Urso, dated February 18, 2000.

²³ According to District Assessment Liaison Carmel Lamourt, she advised the acting deputy superintendent to contact this office, however, Urso first wanted to notify the superintendent.

conduct described in our report, but his disingenuous remarks to the Deputy Superintendent of District 2 after its release.²⁴ Moreover, paraprofessional **Luz Rodriguez** also interfered with the testing process under Zomchek's supervision. She must be advised that such conduct is unacceptable and future infractions will result in disciplinary action which could include loss of her employment.

Jane Nevis first cheated by looking ahead in the booklet to preview the testing material on the 2000 ELA exam. She compounded that infraction by using the information to prepare her students for day three of the test. Her employment must be terminated and this matter must be considered should Nevis ever apply for reemployment with the Board.

Virgilio Rivera created utter chaos during his stint as proctor for the 2000 PAM test. He interfered during its administration: writing an answer on the board and trying to force children to accept it, yelling at his co-proctor, taking students' booklets, and causing a boy to burst into tears. Moreover, his illiterate attempt to explain his version of the events in a written statement calls into question his fitness as an educator. His employment must be terminated and this matter must be considered should Rivera ever apply for reemployment with the Board.

Strong disciplinary action, which may appropriately include termination of employment, must be taken against **Fritz Alexandre** and **John Paizis**. In deciding what measures to take, it would be prudent to consider that their cheating occurred even after the widely-disseminated findings of our report.

Although the children in **Joochi Chun's** fourth grade class benefited from her voice inflections during the reading of the story in the listening session of the ELA exam, we could not establish that this conduct was a deliberate attempt to give the children an unfair advantage. Therefore, we do not recommend discipline. However, Chun should be advised that her actions were inappropriate and future indiscretions will result in disciplinary action which could include the loss of her employment. Moreover, below, we make a specific recommendation to avoid this problem Statewide.

²⁴ See page 5 of this letter.

■ Based on the problems we uncovered concerning the ELA exams, we make the following recommendations:

Day two and day three of the test should be published in separate booklets distributed on the day of those sessions. Thus, proctors will first learn the material to be tested at the same time the children do.

Steps must be taken to ensure a uniform presentation of the material in order to avoid the possibility of an unfair advantage or disadvantage caused by the proctor's personal method, whether going too slow or too fast, or highlighting details by voice change.

■ School administrators and educators should not conduct investigations of misconduct, including complaints of cheating. Steps must be taken to ensure that these allegations are reported directly and without delay to investigators who are equipped to evaluate the information and take appropriate action.

■ Information obtained during our investigation suggests that there is an unofficial market for obtaining Terra Nova material, whether by the method described here or directly from McGraw-Hill through orders placed from suburban homes. We recommend that the use of practice materials be reviewed and that reasonable precautions be taken to eliminate the opportunity to gain an unfair advantage.

■ As part of our recommendations in *Cheating The Children* we noted that, in our view, the most obvious solution is also the simplest:

The Chancellor must unequivocally state that misconduct performed during the administration of a standardized test – whether it is called cheating, interference, tampering, or any other name – is wrong and will not be tolerated. In fact, those who are caught cheating must face serious disciplinary action, including loss of employment.

Consistent with our view, Chancellor Levy took a strong stand on the cheating issue. Prior to the Citywide reading exam on April 12, 2000, we notified him that the problem of educator cheating still exists. His response was swift and to the point. The communication to all principals was clear: "Please let's focus on real achievement and send the message that cheating will not be tolerated." We suggest that this message be reinforced before the administration of future tests.

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

Sincerely,

EDWARD F. STANCIK
Special Commissioner
of Investigation for the
New York City School District

By:

Regina A. Loughran
Deputy Commissioner

EFS:RAL:ai

c: Members of the Board

May 2, 2000

Hon. Edward J. Kuriansky
Commissioner
New York City Department of Investigation
80 Maiden Lane, 17th Floor
New York, NY 10038

Re: EDUCATOR CHEATING

Dear Commissioner Kuriansky:

On December 7, 1999, this office released a report, *Cheating The Children: Educator Misconduct On Standardized Tests* (“*Cheating The Children*”), which detailed the findings of our long-term investigation into cheating by proctors during the administration of Citywide and State examinations. Almost immediately, our intake unit was busy with new complaints of wrongdoing committed by Board of Education employees during the testing process. Then, in February 2000, while we were conducting investigations into those allegations, students took the State English Language Assessment (“ELA”) examination and reports of suspicious behavior and writing in test booklets again poured into our office. As we began to look at those cases, in March 2000, the Citywide Performance Assessment Mathematics (“PAM”) and Performance Assessment Language (“PAL”) tests were administered. Once more, allegations of cheating surfaced.

Evidence gathered during our renewed inquiry again has substantiated cheating by nine educators at eight schools.¹ Once again we found proctors who gave answers to

¹ One of these schools fell victim to two separate proctors who cheated in two different exams. In addition, one of the new matters is related to another which was included in our report, *Cheating The Children*, and we re-visit our prior case here.

students, alerted them to wrong responses, and changed student choices after the exam was turned in. Moreover, this investigation uncovered new methods of misconduct, including prepping children for the third day of the ELA exam by using the actual test material. Finally, our investigations continued to be impeded by delays in the reporting of testing allegations to this office. Aside from the matters reported on here, we continue to pursue certain allegations and have referred others to Chancellor's Counsel Chad Vignola.

AFTER THE REPORT: MORE ALLEGATIONS

Immediately after *Cheating The Children* publicly exposed the problem, we received additional allegations from a variety of sources. Those described in this section came from parents, one of the teachers named in our first report, and an anonymous "concerned employee."

IS 113/District 11/The Bronx

In the days after the release of *Cheating The Children*, a mother contacted this office to complain that her daughter's class was given the answers to the first eleven questions on the 7th grade Citywide math test in the spring of 1999. Moreover, when her daughter encountered problems with 8th grade mathematics, she was denied extra help based on her earlier test score.

We confirmed that mathematics Teacher **Paul Egan** used several different methods to cheat. First, he purposely displayed the answers to the first eleven questions by leaving them unguarded on his desk for the students to find. Then, Egan canvassed the room and where he saw an incorrect response, told the student to check it, meaning that the original selection was a wrong choice. Finally, according to one girl, the teacher gave "hints." For example, if the response required the multiplication of 4×3 and the student was baffled, Egan would suggest adding 4 plus 4 plus 4 to arrive at the answer.

The complainant's daughter described Egan's conduct. After the test began, she saw the teacher speak with one of her male classmates who, in turn, then spoke to other students, including her. The boy told her: "Mr. Egan gave me the answers to some of the questions," and asked if she wanted them. Thereafter, he wrote a series of letter responses on the girl's scrap paper. According to her, later in the exam, although she did not ask for help, Egan twice told her to re-do an answer he said was wrong. On the first occasion, she declined to do so, believing she had chosen correctly. After a second urging, however, the girl realized that Egan was right and she changed her answer.

Seeking an explanation for his conduct, her mother confronted Egan. He initially denied giving the students answers, but ultimately admitted doing so when the parent asserted that her daughter would not lie. Egan claimed that he was “only helping the kids,” and approached only those students who raised their hands.

Through interviews with other children in the class, we learned that Egan’s cheating scheme was far more calculated than the girl and her mother realized. In addition to prompting students to change responses and giving “hints” on how to determine the correct one, the teacher concocted a plan to provide specific answers. According to students, before the exam began, Egan “strongly suggested” that the class sharpen their pencils and then he exited the room. As they complied, the students realized that the teacher had left the answers to the first eleven test questions on the desk by the sharpener.

A review of the answer grids for the students whom Egan proctored corroborates the information provided by the children. Of the thirty-two who took the exam proctored by Egan, nineteen answered all of the first eleven questions correctly. Of these nineteen, only one student erased any of the first eleven responses and, on the one occasion that she did, her answer changed from wrong to right. One boy, who clearly had problems with the test, apparently had no trouble with the first eleven questions. He answered these correctly without erasures, however, for the remaining thirty-nine questions, this student erased nineteen times – almost every other question.

The homeroom teacher assigned to this class, Marisol Santiago, also provided relevant information. Although normally she would have been the proctor, a few days before this exam, Egan suggested that he take over, in case any questions arose during its administration.² Because this seemed logical, the homeroom teacher acquiesced. After the test, she heard rumors that Egan had given students answers, but she dismissed them. Santiago became suspicious, however, after the results were revealed and some of her students who were not high achievers in math scored abnormally well. Not surprisingly, five of the six students whose scores she questioned were among the nineteen who had the first eleven questions right. Moreover, according to the homeroom teacher, some of her students who had expected better scores, informed her that Egan had prompted the class to change incorrect choices and provided answers. Santiago believed them, telling us that her students “don’t lie.”

² According to Principal Carol Reid, a homeroom teacher generally proctors her own class. Moreover, once the schedule is made, it is rarely changed. In the event a substitution does occur, however, it must be done with the approval of the school administration and the schedule is updated to reflect the change. A review of the PS 113 proctor schedule for the 1999 Citywide math test shows that Santiago was assigned to proctor her class. Egan is not listed.

According to one student, after the exam, as he left, Egan told the class: "Don't tell anyone that I helped you or you'll be the ones that will get into trouble."

Through his attorney, Paul Egan declined to be interviewed by this office.

PS 163/District 3/Manhattan

Still another mother who had heard about our findings described in *Cheating The Children* contacted us after its release. She alleged proctor misconduct during the administration of her son's 4th grade Citywide mathematics exam in April 1999. Although she learned about the wrongdoing shortly after it occurred, this parent was reluctant to get the teacher in trouble. However, upon the release of our report, the mother realized that the problem was not limited to her son's classroom.

According to her son, before the test even started, his teacher and proctor **Paul Zomchek** told the class that he would be coming around to point out incorrect answers. In fact, he did just that: while he did not provide the correct answers, he pointed to those that needed to be changed. According to this student, Zomchek helped everyone in the class. Five additional students confirmed the account provided by the complainant's son. Moreover, six children described similar conduct by Zomchek during the State ELA exam in January 1999. According to these students, the teacher pointed to incorrect answers or suggested "you should check this over."

Moreover, we learned that a second individual who assisted Zomchek, "Miss Lucy," also provided help to the students. We identified this co-proctor as **Luz Rodriguez** and spoke with her. Although Rodriguez, a paraprofessional, denied pointing to wrong answers, she admitted that she and Zomchek looked over the students' exams. According to the paraprofessional, when she noticed that students were choosing incorrect responses, she informed Zomchek which children "were not doing well." She claimed that, in turn, the teacher told those students, "we taught you better than this," and had them check over the test.

Through his attorney, Paul Zomchek declined to be interviewed by this office.

PS 40/District 2/Manhattan

While parents were the source of the two prior allegations, we learned of other problems when individual districts began coping with the fallout from our report. In District 2, new facts came to light as officials sought to resolve the status of Teacher **Robert Smith**. In our report on cheating, we described how Smith used Terra Nova material to prepare his fifth grade class for the 1999 Citywide math test.³ Terra Nova questions are repeated from test to test and, in fact, Smith even told his class that some of the practice problems could appear on the actual exam. McGraw-Hill, which produces Terra Nova, placed an embargo on the purchase of this material within the five boroughs and it should not have been used as a practice tool. Smith declined to speak with our investigators and, therefore, he did not provide us with an explanation for his conduct. However, in a meeting with District 2 Deputy Superintendent Andrew Lachman, Smith claimed he obtained the material from **Alice McNally**, a PS 40 parent who teaches at PS 20 in District 1.⁴

We have substantiated that McNally, who is not a 5th grade teacher, obtained the practice material and provided it to Smith, her daughter's 5th grade teacher.

According to Lachman, Smith asserted that McNally received the practice material, later provided to him, from Margaret DeLuca, a District 1 consultant. Thus, we interviewed DeLuca who described herself as a "staff developer" who "teaches teachers." According to DeLuca, her work takes her all over the country and she has accumulated testing material issued by numerous publishers, from "just about everywhere." She specifically remembered meeting a New York City teacher named "McNally" who was particularly interested in some 5th grade testing material which she copied. DeLuca was aware that McNally did not teach 5th grade.

Curious about McNally's interest in 5th grade practice tools, given the fact that she teaches 3rd grade, we searched for an explanation. We found one upon learning that in the spring of 1999, her daughter was a 5th grade student at PS 40 assigned to Robert Smith's class.

Through her attorney, McNally declined to be interviewed by this office. Smith, who is on a sabbatical, also turned down the opportunity to speak with investigators.

³ McGraw-Hill, which produces Terra Nova, coined that name for the types of questions on the Citywide reading and mathematics tests. We found that the children were practicing with actual questions that would later appear on the test.

⁴ Smith is on a sabbatical and McNally continues to teach at PS 20.

In addition to shifting the blame onto McNally, during his meeting with Lachman, Smith also misstated the facts surrounding the case against him. According to Lachman, the teacher claimed that, having noticed the overlap of questions between those on the actual exam and practice material his class used, he immediately reported to PS 40 Administrative Assistant Janet Rashes, “we’ve got a problem.”

Rashes, however, disputes Smith’s version of the facts. According to her, Smith did not alert her to “the problem” and, in fact, had left for the day when the information surfaced.⁵ Instead, she learned about it from another teacher who heard from students in an after-school program that the exam was “easy” because the questions were “just like” the practice test his class had taken.⁶ Moreover, the after-school teacher obtained the student’s copy of the practice test which she provided to the administrative assistant. Rashes compared it to the actual test and found many of the questions to be “identical.” Finally, when she sought Smith’s explanation the next day, rather than pointing the finger at McNally, he claimed to have found the materials in his mailbox.⁷

PS 191/District 17/Brooklyn

At still another school in another district, an anonymous “concerned employee” alleged that an administrator forced staff members to change students’ answers on the 1999 Citywide reading test in order to help the school get removed from the SURR list.⁸ Unfortunately, because these employees remained unidentified, we had no specific individuals to investigate. Nevertheless, interviews with students confirmed that someone cheated on their behalf by erasing and changing answers after the exams had been turned in. Without the cooperation of those involved, however, we could not link the wrongdoing to the administration.

⁵ She gave consistent accounts to both our investigators and Lachman.

⁶ Sharon Finder, whom we also name in *Cheating The Children*, was this student’s teacher. The after-school teacher learned that Smith also had used the same material as Finder.

⁷ This was the same explanation that Finder gave Rashes.

⁸ PS 191 has been on the SURR list since 1995. SURR stands for Schools Under Registration Review, meaning that the school operates so poorly that the State has taken over responsibility for it. To get off the SURR list, the school must meet State goals on the State reading and math tests. Failure to improve can result in closure of the school.

Investigators interviewed students in various grade levels, assigned to different classes with different teachers. Upon reviewing their exam grid sheets, seven students – 3rd graders, 5th graders, and 6th graders – reported that they had not made all the erasures found on their answer documents. Their reactions varied from outrage – “No way” and “Absolutely not” – to confusion. Indeed, one girl struggled to reconcile her memory of the test with the document in front of her: had someone else changed her answers?

The experience of one 6th grade boy conclusively shows that his answers were changed sometime after he handed in his test. According to him, time ran out before he could complete all 50 questions. The student estimated reaching number 35; after that, he merely selected any answer without reading the questions. The boy was certain that he had not erased any of these choices because he neither had the time to do so nor the ability to evaluate the correct response since he did not even know the substance of the question. Nevertheless, a review of his answer sheet reveals ten erasures between question numbers 33 and 48, with seven of these changed from wrong to right. Moreover, the erasures in which the question was ultimately answered correctly occur in a cluster from number 38 through 47 – questions the student guessed at without changing.⁹ Finally, a year-to-year comparison of this boy’s scores shows a marked increase in his 6th grade achievement:

1996 – 5%

1997 – 9%

1998 – 11%

1999 – 30%

Unfortunately, without the cooperation of the staff member who reported this allegation to us, it was impossible to determine when and by whom this cheating scheme was carried out.

TESTING AFTER THE REPORT: THE ELA EXAM

In *Cheating The Children*, we found a test booklet that contained two handwritings, one clearly belonging to an adult. One particular line: “The hunter realized the rat was smart[.]” was not only written by a different hand, it was also out of character with the rest of the essay written by a student on the 1999 State English Language Assessment or ELA examination.¹⁰ Considering the public exposure given our

⁹ Question number 48 contained an erasure, but was ultimately answered incorrectly.

¹⁰ The insert is found between pages 18 and 19.

cheating findings, generally, and this example, specifically, we were dismayed by the number of new allegations reported following the 2000 ELA exam administered between February 1 through 3, 2000. Indeed, it was impossible to interview every student whose booklet contained a suspicious mark or erasure and we chose a random sampling. While we did not find educators who went so far as to write a complete sentence in a child's answer booklet, we found cheating nonetheless.

PS 7/District 24/Queens

Following the completion of day two of the ELA exam, a paraprofessional in one class reported being present while a teacher prepared a group of 4th graders for the third session, to be given the following day, by using the actual subject matter contained in that part of the test.

The ELA exam is a three-day test designed to assess various skills. The first day is multiple choice. Day two requires children to listen to a story, answer questions based on memory and note taking, and then devise a story on their own, on a given topic. Day three tests reading comprehension.

At PS 7, one teacher took advantage of the fact that the day three test material is contained within the same booklet used on day two. Although at the end of day two in the booklet the children are specifically advised: "Do NOT turn this page until you are told to do so[.]" Teacher **Jane Nevis** apparently considered herself exempt from that command.¹¹

Paraprofessional Kristen Murphy described her observations on February 2, 2000, following the completion of day two of the ELA exam. According to her, reading Teacher Jane Nevis asked Murphy to assist her in preparing a group of children, who participate in the Read 24 program, for the third day of the test.¹² During the lesson, Nevis explained "cubism," "artist motivation," "artist inspiration," and various art mediums. The teacher led a discussion about abstract art and the children compared different paintings. Nevis repeatedly stressed that the students "had to remember the words motivation and inspiration – and if by chance they see a #1 next to a word on the test, like motivation, they should look to the bottom of the page for the definition."

¹¹ However, every page contains a warning from McGraw-Hill: "Do not reproduce or discuss contents until end of designated makeup schedule."

¹² According to Murphy, the students participating in this program are in the bottom 10% performance level in reading.

Murphy did not realize the significance of her observations until later. Not having seen the test, the paraprofessional was unaware of its content. However, after the reading class, Murphy overheard 4th grade teachers discussing the material upcoming on the third day of the exam, and discovered that it corresponded to the lesson just given by Nevis.¹³

A review of the ELA booklet confirms that Nevis must have been aware of the content of day three and used that knowledge to prepare the children. In part one of the test on the third day, students read “The Languages of Art” and answered specific questions. Then, they were required to read a second passage, “A Peace of Art,” involving an interview with a ten-year-old whose artistic style was “cubism.” The interviewer asked: “Did anyone inspire you to become an artist?” In response, the artist described her “motivation.” In fact, that word is accompanied by a footnote which, at the bottom of the page, defines it as “reason for doing something.” One of the questions that followed required the students to write an answer discussing why the girl became an artist.

Interviews with students corroborated Murphy’s account. One boy said: “I don’t know how she knew motivation was on the test, but it was.” According to him, Nevis taught them that the words “motivation” and “inspiration” were important and that the class needed to remember them. A female student also recalled preparing for the final part of the ELA with the reading teacher and the paraprofessional. According to her, Nevis displayed artwork and discussed two artists. What the girl remembered most clearly, however, was being taught about “motivation and inspired.” According to a second boy, Nevis spoke about the type of art that uses shapes and displayed two pieces of artwork, while explaining the differences between the two pictures. Moreover, the teacher stressed certain words related to art, which the students should remember. According to a fourth student in the class with Nevis and Murphy, which followed part two of the ELA, they worked with a book of drawings and also practiced making pictures from shapes.

Through her attorney, Nevis declined to be interviewed by this office.

¹³ Nevis continues to teach at the school. Apparently, Nevis was not alone in reading ahead in the test booklet. However, we found no evidence that these other teachers helped their students.

PS 92/The Chancellor's District/Brooklyn

On February 1, 2000, the first day of the ELA exam, during the multiple-choice portion, Teacher Megan Armour observed a co-proctor pointing to answers on students' tests.¹⁴

Armour described her observations. According to her, while the test was in progress, co-proctor Teacher **Fritz Alexandre** was reading the ELA "manual" and circling something in it. He then walked up and down the first row of the class and, using his pen or pencil, pointed to the correct answer for a specific question. According to Armour, Alexandre targeted three particular students who, in her opinion, were the only children with a chance of passing the exam. She also caught Alexandre pointing and shaking his head to indicate "yes" or "no."

School administrators conducted an investigation at the behest of the Chancellor's District.¹⁵ As part of the inquiry, Alexandre gave a signed statement in which he claimed his conduct consisted only of stressing the need to double-check answers before shading in choices. He wrote:

While

overseeing the exam, I had noticed some careless mistakes made by some bright kids. I told these kids in particular what I had already told the whole class: "Check your answer again."

I believed

I could attract their attention on some mistakes without violating or trespassing the principles governing the climate of the class exam.

Sorry for having done that.

In a post script, Alexandre asserted that the third proctor in the room, Paraprofessional Ty Hall, introduced the idea of helping the children to double-check answers "in the eventuality of mistakes." Moreover, as he was about to comply by providing Hall with correct responses, Alexandre claimed that Assistant Principal Annie Porter "came up and told me that it was not a good thing to do. I immediately complied to Ms. Porter's intervention."

¹⁴ This was a class of special education students.

¹⁵ According to Deputy Superintendent Jerry Cioffi, at his direction, that same day, Alexandre was reassigned to the office of the superintendent for the Chancellor's District.

However, the other staff members dispute Alexandre's claims. According to Porter, she neither entered the room during the exam nor spoke with Alexandre. Armour confirmed her account. Hall, for his part, was completely unaware of Alexandre's conduct.

PS 150/District 30/Queens

During day two of the ELA exam, during the listening session, the students in **Joochi Chun's** 4th grade class gained an advantage when the teacher, who was proctoring the test, emphasized important words and phrases by changing the volume of her voice as she read the story. Although Chun had not specifically advised the children that her intonations would signal a significant point, these students quickly figured that out for themselves.

During the weeks prior to the administration of the exam, Chun worked intensely with the class on note taking. Because the test would require the children to listen to a story and write down the key points in order to answer questions, she taught them to use "bullets," described by one girl as "short phrases or even a single word that would help us know important parts." In fact, it was the extensive note taking by way of bullets that drew the suspicion of the scorers who referred the matter to us.

A review of the answer booklets for this class confirms that the children used Chun's method to take notes. In fact, using bullets, many the students copied down the entire text of the story.

While the students we spoke with praised the bullet method, during these interviews we also learned about Chun's use of voice inflection as she read the ELA listening passage. Whether or not the teacher deliberately changed her tone and volume to help them, the children described knowing what to write down as a result. According to the students, the teacher never instructed them that her reading method would emphasize or stress points in the story, but each child came to that conclusion independently and took advantage of it. According to one boy, whose reasoning was echoed by others: "I thought that Miss Chun was showing us important things in the story by raising her voice with a sentence or a word and would write it down in my notes."

Chun told investigators that she reads with "expression to highlight certain words or phrases to keep it interesting." Chun added that she does not teach her students to use her "expressions" to pick out key words or phrases.

EDUCATORS CONTINUE TO INTERFERE: PAM AND PAL

On March 1, 2000, students faced the Citywide Performance Assessment Mathematics or PAM test and the following day completed the Citywide Performance Assessment Language test or PAL. Once again, complaints of educator misconduct surfaced. While we referred most of the math and all of the language test allegations to Chancellor's Counsel Chad Vignola, the following examples show that cheating continues to take place.

PS 161/The Chancellor's District/Manhattan

In the wake of our report, new allegations have come from parents, teachers, and even students. At PS 161 in the Chancellor's District, a 5th grader entered the principal's office and complained that Teacher **Virgilio Rivera** was giving students answers during the PAM test and, in fact, became angry when the children refused to accept his assistance. According to the two assistant principals who were present when the girl entered, the child was visibly upset and wanted to contact her mother. The principal was notified and, in an attempt "to determine exactly what had transpired in the classroom," directed that everyone involved, including the students, give statements. Thereafter, she reported the results to officials at the Chancellor's District and this office was contacted.¹⁶

A review of the documents produced during the school's inquiry provides a consistent account of Rivera's misconduct. Rivera co-proctored the test with substitute teacher Elienne Joly who was assigned to the class.¹⁷ During the exam, after Joly caught Rivera speaking with students and chastised him for doing so, he ordered the substitute to the door to be a lookout. Confused by his demand, she did not comply. The co-proctor then yelled at her, frightening at least one boy. Next, Rivera went to the board and wrote out the answer to question number one. Thereafter, he tried to "force" the students to accept his response. In fact, he took the test booklet from one boy who would not comply, causing this child to burst into tears.

¹⁶ Rivera is still assigned to the school.

¹⁷ Joly was assigned to the class in a substitute capacity while the regular teacher is on maternity leave.

In a statement lacking in both expression and proper grammar, Rivera denied committing the conduct and blamed the children for the trouble in the classroom. He wrote:

I was in room 245 helping Ms. Jolly [*sic*] supervised [*sic*] the PAM test. Some students were talking and disturbing others during the test. I advised them about the rules when students are taking a test. I took the examen [*sic*] to [*sic*] two or three students because they were talking without control. I was surprised when I went to Ms. Griffin's office and she told me that one student went to her office saying that I said her [*sic*] the answers of the test. When I knew the name of the student I discovered that she was one of the student [*sic*] that I took the test [*sic*] because she was talking and disturbing during the test.

According to Joly, she observed Rivera speaking with a student and warned him to stop. As he continued to converse with the children, Rivera "said something to [Joly] which [she] did not understand and [she] kept walking." According to the children, the teacher was directing the substitute to the door to act as a lookout. Joly also confirmed that one boy began crying when Rivera confiscated his exam. According to the substitute, the teacher "obviously interfered" with the students during the test and "created a problem."

As it turns out, the principal gave Rivera proctor duty because she cannot give him a classroom position. Acting Principal Barbara Brown explained that she was assigned to the school after it was placed in the Chancellor's District in July 1999. At the same time, she was instructed to remove Rivera from regular teaching assignments pending his transfer from PS 161. However, he has yet to be moved elsewhere. With little else for him to do, Brown thought it would be safe to make him a co-proctor. Unfortunately, even Rivera's limited assignment on test day proved problematic for the school.

PS 92/The Chancellor's District/Brooklyn

On March 1st we learned that, once again, a proctor at PS 92 had given a student the answer to a question, this time on the PAM test which was administered that day.¹⁸ However, by the time our office was notified, the school administration had already conducted its own investigation. A review of the school's paperwork convinced us that cheating had occurred and we then verified the information gathered by the school.

Fifth grade teacher Frederika Swinger uncovered the misconduct during the exam and learned the full extent of it shortly after the booklets were passed in. According to her, just before the midway point, she observed her co-proctor, Librarian **John Paizis**, conversing with a male student ("Student A"). Upon advising Paizis to let the boy do his work, he replied that "[Student A] is having trouble with the Pr word," referring to probability. Swinger responded: "Well that's too bad!" and Paizis moved on. Then at the midway point, as the students continued to work, Swinger observed the librarian conversing with a second child ("Student B"). Before she could comment, he moved on. When the test was finished, Paizis left the classroom with the completed booklets. Student A, who had been denied assistance by the co-proctor as a result of Swinger's intervention, then complained, "it isn't fair that Mr. Paizis helped [Student B]." Swinger then learned from Student B that, for question number 3, Paizis told her to "divide by this and multiply by that."¹⁹

This was not the first time that Paizis interfered during a test. Approximately one month before the PAM, during a practice test, Swinger caught Paizis pointing to a student's test booklet and talking to the child. On that occasion, the teacher had Assistant Principal Hendrick Colbert intervene and she sought his assistance again after the PAM incident. According to Swinger, Colbert's initial reaction was: "Oh no, not again!"

Principal Diana Rahmaan sought guidance from officials at the Chancellor's District. At the direction of Robert Tobias, executive director of the Division of Assessment and Accountability, District Assessment Liaison Lucille Vecchiarelli instructed Rahmaan to take statements from everyone involved.

In John Paizis's signed statement, he denied giving a student an answer during the 5th grade PAM exam.

¹⁸ Earlier in this letter we describe cheating by Fritz Alexandre as he proctored the 2000 ELA exam on February 1, 2000. The PAM is not a multiple-choice test. Children write directly in the answer booklet and scorers want to see how they arrived at the answers. The resulting information is used for instructional planning.

¹⁹ Paizis continues to teach at the school.

PROBLEMS WITH REPORTING COMPLAINTS

For a variety of reasons, in a number of the cases, there was a delay in the allegation reaching us.

Despite the fact that we made clear to all those involved in the testing process that allegations of misconduct relating to the administration of standardized tests must be reported to this office without delay, in some instances, school-based investigations were conducted before we were notified. For example, at **PS 92**, on February 2nd, Megan Armour immediately reported her observations of co-proctor Fritz Alexandre's cheating to the principal who, in turn, notified officials in **the Chancellor's District**. In response, Principal Diana Rahmaan was instructed to "pull" Alexandre and take statements from those involved.²⁰ District Assessment Liaison Lucille Vecchiarelli notified Robert Tobias, executive director of the Division of Assessment and Accountability, who instructed her to "write it up." Whether or not he meant for a school-based investigation to take place, one did. In fact, that same morning Tobias received his requested write-up which provided the results of Rahmaan's inquiry. Nevertheless, it was not until February 7, 2000, that the allegation was finally forwarded to us. According to Tobias, while he knew that this incident should have been reported to this office, "at the time [they] were trying to figure out a procedure and to coordinate so that the case wouldn't get lost in the cracks." Obviously the best and easiest way to accomplish that would have been to immediately report the complaint to this office.

After the first case involving PS 92 was mishandled and we raised concerns with the Board's legal office, we were informed that Tobias and members of his division had been given specific directions to report cases directly to us. Nevertheless, three weeks later, Tobias again provided erroneous advice concerning a cheating allegation. Once more at **PS 92**, this time during the PAM test, a teacher made an allegation of cheating

²⁰ According to Rahmaan, Area Superintendent Irwin Kurz gave her this assignment. Beyond that, because accounts vary, it is unclear who ultimately made that decision. However, several individuals in the Chancellor's District, including Kurz, Supervising Superintendent Arnold Santandrea, and District Assessment Liaison Lucille Vecchiarelli were involved. Robert Tobias, executive director of the Division of Assessment and Accountability, was also contacted. Rahmaan had also twice been misinformed that the matter was already forwarded to this office. According to the principal, she was first given this erroneous information by Kurz and it was later repeated during a conference call with Santandrea and Deputy Superintendent Jerry Cioffi.

against a co-proctor, John Paizis. Although this time we received the complaint the day the cheating occurred, the school administration was instructed by officials at **the Chancellor's District** to conduct a preliminary investigation and to obtain handwritten statements.²¹ District Assessment Liaison Lucille Vecchiarelli was asked to explain why the principal was advised to take those actions. According to her, she sought guidance from Robert Tobias who instructed Vecchiarelli that this was the "proper procedure" to follow. Her handwritten notes indicate: "Write up alleg. send to Tobias – asap w statements & he'll follow up."

At **PS 161**, also in **the Chancellor's District**, the complaint again was delayed in reaching our office, but for a different reason. This time, because the information initially came from a visibly upset child, the principal, in her first year at the school, interviewed witnesses and took statements in an attempt "to determine exactly what had transpired in the classroom." Immediately thereafter, she notified Vecchiarelli who, in turn, contacted us. Although the school's investigation was performed with good intentions, the end result could have been very different.

The delay in receiving the complaint against Jane Nevis at **PS 7 in District 24** occurred because information regarding the misconduct was routed through the District Assessment Liaison to the Test Administration and Scanning Center ("SCAN") which created a log and notified Tobias, but did nothing else. Thus, although the Liaison learned about the allegation on February 2, 2000, the day it occurred, and SCAN was informed the next day, we were kept in the dark until February 9th. Even then, we only discovered it by accident when one of our investigators, at SCAN on an unrelated matter, received a copy of the log. Thereafter, we reviewed the PS 7 matter and other listed allegations, initiated some investigations, and referred the remainder to Chancellor's Counsel Chad Vignola. Since that time, SCAN has cooperated with us and now instructs principals and District Assessment Liaisons to report directly to this office.

At **PS 202 in District 19** in Brooklyn, the school administration completed its own investigation into suspicions raised by a scorer of the ELA exams before this office ever learned that a potential problem existed. The inquiry included engaging the students in the class in question "in an informal discussion to elicit test-taking strategies that they

²¹ District Assessment Liaison Lucille Vecchiarelli reported the information to us on March 1, 2000.

used and would recommend to others.”²² Thereafter, the children wrote out their recommendations. As a result, according to Acting Deputy Superintendent Josephine Urso, the school and district determined that “nothing was done inappropriately.”

In fact, the investigation was performed at the behest of Urso who explained that it “crossed her mind” to call this office about the matter, but she “wanted to check it out first.” Although she initially asserted that the Superintendent was aware of the inquiry, including the debriefing of students, Urso later admitted, “well, I never actually told [Superintendent] Mahon that.”²³

CONCLUSION

The conduct committed by the individual educators highlighted in this report is cheating. The duties of a test proctor are not complicated, yet we continue to find teachers and paraprofessionals who have overstepped their roles. Educator cheating does not help schoolchildren, in fact, it hurts them. It must not be tolerated.

RECOMMENDATIONS

■ We make the following recommendations concerning the individuals named in this report:

Paul Egan induced his students to join in his wrongdoing when he provided answers to the first eleven questions on the 1999 Citywide mathematics exam and tempted them to cheat by using his choices. Egan’s misconduct must result in the termination of his employment and this matter must be considered should he ever apply for reemployment with the Board.

Strong disciplinary action, which may appropriately include termination of employment, must be taken against **Paul Zomchek** and **Alice McNally** whose misconduct occurred prior to the release of our December 1999 report. We reiterate that same recommendation, first made in *Cheating The Children*, regarding **Robert Smith**. In so doing, the Board’s legal office and Smith’s supervisors should consider not only the

²² Memorandum from Interim Acting Director of Assessment and Data Deborah Montagna to Acting Deputy Superintendent Josephine Urso, dated February 18, 2000.

²³ According to District Assessment Liaison Carmel Lamourt, she advised the acting deputy superintendent to contact this office, however, Urso first wanted to notify the superintendent.

conduct described in our report, but his disingenuous remarks to the Deputy Superintendent of District 2 after its release.²⁴ Moreover, paraprofessional **Luz Rodriguez** also interfered with the testing process under Zomchek's supervision. She must be advised that such conduct is unacceptable and future infractions will result in disciplinary action which could include loss of her employment.

Jane Nevis first cheated by looking ahead in the booklet to preview the testing material on the 2000 ELA exam. She compounded that infraction by using the information to prepare her students for day three of the test. Her employment must be terminated and this matter must be considered should Nevis ever apply for reemployment with the Board.

Virgilio Rivera created utter chaos during his stint as proctor for the 2000 PAM test. He interfered during its administration: writing an answer on the board and trying to force children to accept it, yelling at his co-proctor, taking students' booklets, and causing a boy to burst into tears. Moreover, his illiterate attempt to explain his version of the events in a written statement calls into question his fitness as an educator. His employment must be terminated and this matter must be considered should Rivera ever apply for reemployment with the Board.

Strong disciplinary action, which may appropriately include termination of employment, must be taken against **Fritz Alexandre** and **John Paizis**. In deciding what measures to take, it would be prudent to consider that their cheating occurred even after the widely-disseminated findings of our report.

Although the children in **Joochi Chun's** fourth grade class benefited from her voice inflections during the reading of the story in the listening session of the ELA exam, we could not establish that this conduct was a deliberate attempt to give the children an unfair advantage. Therefore, we do not recommend discipline. However, Chun should be advised that her actions were inappropriate and future indiscretions will result in disciplinary action which could include the loss of her employment. Moreover, below, we make a specific recommendation to avoid this problem Statewide.

²⁴ See page 5 of this letter.

■ Based on the problems we uncovered concerning the ELA exams, we make the following recommendations:

Day two and day three of the test should be published in separate booklets distributed on the day of those sessions. Thus, proctors will first learn the material to be tested at the same time the children do.

Steps must be taken to ensure a uniform presentation of the material in order to avoid the possibility of an unfair advantage or disadvantage caused by the proctor's personal method, whether going too slow or too fast, or highlighting details by voice change.

■ School administrators and educators should not conduct investigations of misconduct, including complaints of cheating. Steps must be taken to ensure that these allegations are reported directly and without delay to investigators who are equipped to evaluate the information and take appropriate action.

■ Information obtained during our investigation suggests that there is an unofficial market for obtaining Terra Nova material, whether by the method described here or directly from McGraw-Hill through orders placed from suburban homes. We recommend that the use of practice materials be reviewed and that reasonable precautions be taken to eliminate the opportunity to gain an unfair advantage.

■ As part of our recommendations in *Cheating The Children* we noted that, in our view, the most obvious solution is also the simplest:

The Chancellor must unequivocally state that misconduct performed during the administration of a standardized test – whether it is called cheating, interference, tampering, or any other name – is wrong and will not be tolerated. In fact, those who are caught cheating must face serious disciplinary action, including loss of employment.

Consistent with our view, Chancellor Levy took a strong stand on the cheating issue. Prior to the Citywide reading exam on April 12, 2000, we notified him that the problem of educator cheating still exists. His response was swift and to the point. The communication to all principals was clear: "Please let's focus on real achievement and send the message that cheating will not be tolerated." We have suggested to the Chancellor that this message be reinforced before the administration of future tests.

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

Sincerely,

EDWARD F. STANCIK
Special Commissioner
of Investigation for the
New York City School District

By:

Regina A. Loughran
Deputy Commissioner

EFS:RAL:ai

May 2, 2000

Hon. Richard P. Mills
Commissioner
New York State Department of Education

Washington Avenue
Albany, NY 12231

Re: EDUCATOR CHEATING

Dear Commissioner Mills:

On December 7, 1999, this office released a report, *Cheating The Children: Educator Misconduct On Standardized Tests* (“*Cheating The Children*”), which detailed the findings of our long-term investigation into cheating by proctors during the administration of Citywide and State examinations. Almost immediately, our intake unit was busy with new complaints of wrongdoing committed by Board of Education employees during the testing process. Then, in February 2000, while we were conducting investigations into those allegations, students took the State English Language Assessment (“ELA”) examination and reports of suspicious behavior and writing in test booklets again poured into our office. As we began to look at those cases, in March 2000, the Citywide Performance Assessment Mathematics (“PAM”) and Performance Assessment Language (“PAL”) tests were administered. Once more, allegations of cheating surfaced.

Evidence gathered during our renewed inquiry again has substantiated cheating by nine educators at eight schools.²⁵ Once again we found proctors who gave answers to

²⁵ One of these schools fell victim to two separate proctors who cheated in two different exams. In addition, one of the new matters is related to another which was included in our report, *Cheating The Children*, and we re-visit our prior case here.

students, alerted them to wrong responses, and changed student choices after the exam was turned in. Moreover, this investigation uncovered new methods of misconduct, including prepping children for the third day of the ELA exam by using the actual test material. Finally, our investigations continued to be impeded by delays in the reporting of testing allegations to this office. Aside from the matters reported on here, we continue to pursue certain allegations and have referred others to Chancellor's Counsel Chad Vignola.

AFTER THE REPORT: MORE ALLEGATIONS

Immediately after *Cheating The Children* publicly exposed the problem, we received additional allegations from a variety of sources. Those described in this section came from parents, one of the teachers named in our first report, and an anonymous "concerned employee."

IS 113/District 11/The Bronx

In the days after the release of *Cheating The Children*, a mother contacted this office to complain that her daughter's class was given the answers to the first eleven questions on the 7th grade Citywide math test in the spring of 1999. Moreover, when her daughter encountered problems with 8th grade mathematics, she was denied extra help based on her earlier test score.

We confirmed that mathematics Teacher **Paul Egan** used several different methods to cheat. First, he purposely displayed the answers to the first eleven questions by leaving them unguarded on his desk for the students to find. Then, Egan canvassed the room and where he saw an incorrect response, told the student to check it, meaning that the original selection was a wrong choice. Finally, according to one girl, the teacher gave "hints." For example, if the response required the multiplication of 4×3 and the student was baffled, Egan would suggest adding 4 plus 4 plus 4 to arrive at the answer.

The complainant's daughter described Egan's conduct. After the test began, she saw the teacher speak with one of her male classmates who, in turn, then spoke to other students, including her. The boy told her: "Mr. Egan gave me the answers to some of the questions," and asked if she wanted them. Thereafter, he wrote a series of letter responses on the girl's scrap paper. According to her, later in the exam, although she did not ask for help, Egan twice told her to re-do an answer he said was wrong. On the first occasion, she declined to do so, believing she had chosen correctly. After a second urging, however, the girl realized that Egan was right and she changed her answer.

Seeking an explanation for his conduct, her mother confronted Egan. He initially denied giving the students answers, but ultimately admitted doing so when the parent asserted that her daughter would not lie. Egan claimed that he was “only helping the kids,” and approached only those students who raised their hands.

Through interviews with other children in the class, we learned that Egan’s cheating scheme was far more calculated than the girl and her mother realized. In addition to prompting students to change responses and giving “hints” on how to determine the correct one, the teacher concocted a plan to provide specific answers. According to students, before the exam began, Egan “strongly suggested” that the class sharpen their pencils and then he exited the room. As they complied, the students realized that the teacher had left the answers to the first eleven test questions on the desk by the sharpener.

A review of the answer grids for the students whom Egan proctored corroborates the information provided by the children. Of the thirty-two who took the exam proctored by Egan, nineteen answered all of the first eleven questions correctly. Of these nineteen, only one student erased any of the first eleven responses and, on the one occasion that she did, her answer changed from wrong to right. One boy, who clearly had problems with the test, apparently had no trouble with the first eleven questions. He answered these correctly without erasures, however, for the remaining thirty-nine questions, this student erased nineteen times – almost every other question.

The homeroom teacher assigned to this class, Marisol Santiago, also provided relevant information. Although normally she would have been the proctor, a few days before this exam, Egan suggested that he take over, in case any questions arose during its administration.²⁶ Because this seemed logical, the homeroom teacher acquiesced. After the test, she heard rumors that Egan had given students answers, but she dismissed them. Santiago became suspicious, however, after the results were revealed and some of her students who were not high achievers in math scored abnormally well. Not surprisingly, five of the six students whose scores she questioned were among the nineteen who had the first eleven questions right. Moreover, according to the homeroom teacher, some of her students who had expected better scores, informed her that Egan had prompted the class to change incorrect choices and provided answers. Santiago believed them, telling us that her students “don’t lie.”

²⁶ According to Principal Carol Reid, a homeroom teacher generally proctors her own class. Moreover, once the schedule is made, it is rarely changed. In the event a substitution does occur, however, it must be done with the approval of the school administration and the schedule is updated to reflect the change. A review of the PS 113 proctor schedule for the 1999 Citywide math test shows that Santiago was assigned to proctor her class. Egan is not listed.

According to one student, after the exam, as he left, Egan told the class: "Don't tell anyone that I helped you or you'll be the ones that will get into trouble."

Through his attorney, Paul Egan declined to be interviewed by this office.

PS 163/District 3/Manhattan

Still another mother who had heard about our findings described in *Cheating The Children* contacted us after its release. She alleged proctor misconduct during the administration of her son's 4th grade Citywide mathematics exam in April 1999. Although she learned about the wrongdoing shortly after it occurred, this parent was reluctant to get the teacher in trouble. However, upon the release of our report, the mother realized that the problem was not limited to her son's classroom.

According to her son, before the test even started, his teacher and proctor **Paul Zomchek** told the class that he would be coming around to point out incorrect answers. In fact, he did just that: while he did not provide the correct answers, he pointed to those that needed to be changed. According to this student, Zomchek helped everyone in the class. Five additional students confirmed the account provided by the complainant's son. Moreover, six children described similar conduct by Zomchek during the State ELA exam in January 1999. According to these students, the teacher pointed to incorrect answers or suggested "you should check this over."

Moreover, we learned that a second individual who assisted Zomchek, "Miss Lucy," also provided help to the students. We identified this co-proctor as **Luz Rodriguez** and spoke with her. Although Rodriguez, a paraprofessional, denied pointing to wrong answers, she admitted that she and Zomchek looked over the students' exams. According to the paraprofessional, when she noticed that students were choosing incorrect responses, she informed Zomchek which children "were not doing well." She claimed that, in turn, the teacher told those students, "we taught you better than this," and had them check over the test.

Through his attorney, Paul Zomchek declined to be interviewed by this office.

PS 40/District 2/Manhattan

While parents were the source of the two prior allegations, we learned of other problems when individual districts began coping with the fallout from our report. In District 2, new facts came to light as officials sought to resolve the status of Teacher **Robert Smith**. In our report on cheating, we described how Smith used Terra Nova material to prepare his fifth grade class for the 1999 Citywide math test.²⁷ Terra Nova questions are repeated from test to test and, in fact, Smith even told his class that some of the practice problems could appear on the actual exam. McGraw-Hill, which produces Terra Nova, placed an embargo on the purchase of this material within the five boroughs and it should not have been used as a practice tool. Smith declined to speak with our investigators and, therefore, he did not provide us with an explanation for his conduct. However, in a meeting with District 2 Deputy Superintendent Andrew Lachman, Smith claimed he obtained the material from **Alice McNally**, a PS 40 parent who teaches at PS 20 in District 1.²⁸

We have substantiated that McNally, who is not a 5th grade teacher, obtained the practice material and provided it to Smith, her daughter's 5th grade teacher.

According to Lachman, Smith asserted that McNally received the practice material, later provided to him, from Margaret DeLuca, a District 1 consultant. Thus, we interviewed DeLuca who described herself as a "staff developer" who "teaches teachers." According to DeLuca, her work takes her all over the country and she has accumulated testing material issued by numerous publishers, from "just about everywhere." She specifically remembered meeting a New York City teacher named "McNally" who was particularly interested in some 5th grade testing material which she copied. DeLuca was aware that McNally did not teach 5th grade.

Curious about McNally's interest in 5th grade practice tools, given the fact that she teaches 3rd grade, we searched for an explanation. We found one upon learning that in the spring of 1999, her daughter was a 5th grade student at PS 40 assigned to Robert Smith's class.

Through her attorney, McNally declined to be interviewed by this office. Smith, who is on a sabbatical, also turned down the opportunity to speak with investigators.

²⁷ McGraw-Hill, which produces Terra Nova, coined that name for the types of questions on the Citywide reading and mathematics tests. We found that the children were practicing with actual questions that would later appear on the test.

²⁸ Smith is on a sabbatical and McNally continues to teach at PS 20.

In addition to shifting the blame onto McNally, during his meeting with Lachman, Smith also misstated the facts surrounding the case against him. According to Lachman, the teacher claimed that, having noticed the overlap of questions between those on the actual exam and practice material his class used, he immediately reported to PS 40 Administrative Assistant Janet Rashes, “we’ve got a problem.”

Rashes, however, disputes Smith’s version of the facts. According to her, Smith did not alert her to “the problem” and, in fact, had left for the day when the information surfaced.²⁹ Instead, she learned about it from another teacher who heard from students in an after-school program that the exam was “easy” because the questions were “just like” the practice test his class had taken.³⁰ Moreover, the after-school teacher obtained the student’s copy of the practice test which she provided to the administrative assistant. Rashes compared it to the actual test and found many of the questions to be “identical.” Finally, when she sought Smith’s explanation the next day, rather than pointing the finger at McNally, he claimed to have found the materials in his mailbox.³¹

PS 191/District 17/Brooklyn

At still another school in another district, an anonymous “concerned employee” alleged that an administrator forced staff members to change students’ answers on the 1999 Citywide reading test in order to help the school get removed from the SURR list.³² Unfortunately, because these employees remained unidentified, we had no specific individuals to investigate. Nevertheless, interviews with students confirmed that someone cheated on their behalf by erasing and changing answers after the exams had been turned in. Without the cooperation of those involved, however, we could not link the wrongdoing to the administration.

²⁹ She gave consistent accounts to both our investigators and Lachman.

³⁰ Sharon Finder, whom we also name in *Cheating The Children*, was this student’s teacher. The after-school teacher learned that Smith also had used the same material as Finder.

³¹ This was the same explanation that Finder gave Rashes.

³² PS 191 has been on the SURR list since 1995. SURR stands for Schools Under Registration Review, meaning that the school operates so poorly that the State has taken over responsibility for it. To get off the SURR list, the school must meet State goals on the State reading and math tests. Failure to improve can result in closure of the school.

Investigators interviewed students in various grade levels, assigned to different classes with different teachers. Upon reviewing their exam grid sheets, seven students – 3rd graders, 5th graders, and 6th graders – reported that they had not made all the erasures found on their answer documents. Their reactions varied from outrage – “No way” and “Absolutely not” – to confusion. Indeed, one girl struggled to reconcile her memory of the test with the document in front of her: had someone else changed her answers?

The experience of one 6th grade boy conclusively shows that his answers were changed sometime after he handed in his test. According to him, time ran out before he could complete all 50 questions. The student estimated reaching number 35; after that, he merely selected any answer without reading the questions. The boy was certain that he had not erased any of these choices because he neither had the time to do so nor the ability to evaluate the correct response since he did not even know the substance of the question. Nevertheless, a review of his answer sheet reveals ten erasures between question numbers 33 and 48, with seven of these changed from wrong to right. Moreover, the erasures in which the question was ultimately answered correctly occur in a cluster from number 38 through 47 – questions the student guessed at without changing.³³ Finally, a year-to-year comparison of this boy’s scores shows a marked increase in his 6th grade achievement:

1996 – 5%

1997 – 9%

1998 – 11%

1999 – 30%

Unfortunately, without the cooperation of the staff member who reported this allegation to us, it was impossible to determine when and by whom this cheating scheme was carried out.

TESTING AFTER THE REPORT: THE ELA EXAM

In *Cheating The Children*, we found a test booklet that contained two handwritings, one clearly belonging to an adult. One particular line: “The hunter realized the rat was smart[,]” was not only written by a different hand, it was also out of character with the rest of the essay written by a student on the 1999 State English Language Assessment or ELA examination.³⁴ Considering the public exposure given our

³³ Question number 48 contained an erasure, but was ultimately answered incorrectly.

³⁴ The insert is found between pages 18 and 19.

cheating findings, generally, and this example, specifically, we were dismayed by the number of new allegations reported following the 2000 ELA exam administered between February 1 through 3, 2000. Indeed, it was impossible to interview every student whose booklet contained a suspicious mark or erasure and we chose a random sampling. While we did not find educators who went so far as to write a complete sentence in a child's answer booklet, we found cheating nonetheless.

PS 7/District 24/Queens

Following the completion of day two of the ELA exam, a paraprofessional in one class reported being present while a teacher prepared a group of 4th graders for the third session, to be given the following day, by using the actual subject matter contained in that part of the test.

The ELA exam is a three-day test designed to assess various skills. The first day is multiple choice. Day two requires children to listen to a story, answer questions based on memory and note taking, and then devise a story on their own, on a given topic. Day three tests reading comprehension.

At PS 7, one teacher took advantage of the fact that the day three test material is contained within the same booklet used on day two. Although at the end of day two in the booklet the children are specifically advised: "Do NOT turn this page until you are told to do so[.]" Teacher **Jane Nevis** apparently considered herself exempt from that command.³⁵

Paraprofessional Kristen Murphy described her observations on February 2, 2000, following the completion of day two of the ELA exam. According to her, reading Teacher Jane Nevis asked Murphy to assist her in preparing a group of children, who participate in the Read 24 program, for the third day of the test.³⁶ During the lesson, Nevis explained "cubism," "artist motivation," "artist inspiration," and various art mediums. The teacher led a discussion about abstract art and the children compared different paintings. Nevis repeatedly stressed that the students "had to remember the words motivation and inspiration – and if by chance they see a #1 next to a word on the test, like motivation, they should look to the bottom of the page for the definition."

³⁵ However, every page contains a warning from McGraw-Hill: "Do not reproduce or discuss contents until end of designated makeup schedule."

³⁶ According to Murphy, the students participating in this program are in the bottom 10% performance level in reading.

Murphy did not realize the significance of her observations until later. Not having seen the test, the paraprofessional was unaware of its content. However, after the reading class, Murphy overheard 4th grade teachers discussing the material upcoming on the third day of the exam, and discovered that it corresponded to the lesson just given by Nevis.³⁷

A review of the ELA booklet confirms that Nevis must have been aware of the content of day three and used that knowledge to prepare the children. In part one of the test on the third day, students read “The Languages of Art” and answered specific questions. Then, they were required to read a second passage, “A Peace of Art,” involving an interview with a ten-year-old whose artistic style was “cubism.” The interviewer asked: “Did anyone inspire you to become an artist?” In response, the artist described her “motivation.” In fact, that word is accompanied by a footnote which, at the bottom of the page, defines it as “reason for doing something.” One of the questions that followed required the students to write an answer discussing why the girl became an artist.

Interviews with students corroborated Murphy’s account. One boy said: “I don’t know how she knew motivation was on the test, but it was.” According to him, Nevis taught them that the words “motivation” and “inspiration” were important and that the class needed to remember them. A female student also recalled preparing for the final part of the ELA with the reading teacher and the paraprofessional. According to her, Nevis displayed artwork and discussed two artists. What the girl remembered most clearly, however, was being taught about “motivation and inspired.” According to a second boy, Nevis spoke about the type of art that uses shapes and displayed two pieces of artwork, while explaining the differences between the two pictures. Moreover, the teacher stressed certain words related to art, which the students should remember. According to a fourth student in the class with Nevis and Murphy, which followed part two of the ELA, they worked with a book of drawings and also practiced making pictures from shapes.

Through her attorney, Nevis declined to be interviewed by this office.

³⁷ Nevis continues to teach at the school. Apparently, Nevis was not alone in reading ahead in the test booklet. However, we found no evidence that these other teachers helped their students.

PS 92/The Chancellor's District/Brooklyn

On February 1, 2000, the first day of the ELA exam, during the multiple-choice portion, Teacher Megan Armour observed a co-proctor pointing to answers on students' tests.³⁸

Armour described her observations. According to her, while the test was in progress, co-proctor Teacher **Fritz Alexandre** was reading the ELA "manual" and circling something in it. He then walked up and down the first row of the class and, using his pen or pencil, pointed to the correct answer for a specific question. According to Armour, Alexandre targeted three particular students who, in her opinion, were the only children with a chance of passing the exam. She also caught Alexandre pointing and shaking his head to indicate "yes" or "no."

School administrators conducted an investigation at the behest of the Chancellor's District.³⁹ As part of the inquiry, Alexandre gave a signed statement in which he claimed his conduct consisted only of stressing the need to double-check answers before shading in choices. He wrote:

While

overseeing the exam, I had noticed some careless mistakes made by some bright kids. I told these kids in particular what I had already told the whole class: "Check your answer again."

I believed

I could attract their attention on some mistakes without violating or trespassing the principles governing the climate of the class exam.

Sorry for having done that.

In a post script, Alexandre asserted that the third proctor in the room, Paraprofessional Ty Hall, introduced the idea of helping the children to double-check answers "in the eventuality of mistakes." Moreover, as he was about to comply by providing Hall with correct responses, Alexandre claimed that Assistant Principal Annie Porter "came up and told me that it was not a good thing to do. I immediately complied to Ms. Porter's intervention."

³⁸ This was a class of special education students.

³⁹ According to Deputy Superintendent Jerry Cioffi, at his direction, that same day, Alexandre was reassigned to the office of the superintendent for the Chancellor's District.

However, the other staff members dispute Alexandre's claims. According to Porter, she neither entered the room during the exam nor spoke with Alexandre. Armour confirmed her account. Hall, for his part, was completely unaware of Alexandre's conduct.

PS 150/District 30/Queens

During day two of the ELA exam, during the listening session, the students in **Joohi Chun's** 4th grade class gained an advantage when the teacher, who was proctoring the test, emphasized important words and phrases by changing the volume of her voice as she read the story. Although Chun had not specifically advised the children that her intonations would signal a significant point, these students quickly figured that out for themselves.

During the weeks prior to the administration of the exam, Chun worked intensely with the class on note taking. Because the test would require the children to listen to a story and write down the key points in order to answer questions, she taught them to use "bullets," described by one girl as "short phrases or even a single word that would help us know important parts." In fact, it was the extensive note taking by way of bullets that drew the suspicion of the scorers who referred the matter to us.

A review of the answer booklets for this class confirms that the children used Chun's method to take notes. In fact, using bullets, many the students copied down the entire text of the story.

While the students we spoke with praised the bullet method, during these interviews we also learned about Chun's use of voice inflection as she read the ELA listening passage. Whether or not the teacher deliberately changed her tone and volume to help them, the children described knowing what to write down as a result. According to the students, the teacher never instructed them that her reading method would emphasize or stress points in the story, but each child came to that conclusion independently and took advantage of it. According to one boy, whose reasoning was echoed by others: "I thought that Miss Chun was showing us important things in the story by raising her voice with a sentence or a word and would write it down in my notes."

Chun told investigators that she reads with "expression to highlight certain words or phrases to keep it interesting." Chun added that she does not teach her students to use her "expressions" to pick out key words or phrases.

EDUCATORS CONTINUE TO INTERFERE: PAM AND PAL

On March 1, 2000, students faced the Citywide Performance Assessment Mathematics or PAM test and the following day completed the Citywide Performance Assessment Language test or PAL. Once again, complaints of educator misconduct surfaced. While we referred most of the math and all of the language test allegations to Chancellor's Counsel Chad Vignola, the following examples show that cheating continues to take place.

PS 161/The Chancellor's District/Manhattan

In the wake of our report, new allegations have come from parents, teachers, and even students. At PS 161 in the Chancellor's District, a 5th grader entered the principal's office and complained that Teacher **Virgilio Rivera** was giving students answers during the PAM test and, in fact, became angry when the children refused to accept his assistance. According to the two assistant principals who were present when the girl entered, the child was visibly upset and wanted to contact her mother. The principal was notified and, in an attempt "to determine exactly what had transpired in the classroom," directed that everyone involved, including the students, give statements. Thereafter, she reported the results to officials at the Chancellor's District and this office was contacted.⁴⁰

A review of the documents produced during the school's inquiry provides a consistent account of Rivera's misconduct. Rivera co-proctored the test with substitute teacher Elienne Joly who was assigned to the class.⁴¹ During the exam, after Joly caught Rivera speaking with students and chastised him for doing so, he ordered the substitute to the door to be a lookout. Confused by his demand, she did not comply. The co-proctor then yelled at her, frightening at least one boy. Next, Rivera went to the board and wrote out the answer to question number one. Thereafter, he tried to "force" the students to accept his response. In fact, he took the test booklet from one boy who would not comply, causing this child to burst into tears.

⁴⁰ Rivera is still assigned to the school.

⁴¹ Joly was assigned to the class in a substitute capacity while the regular teacher is on maternity leave.

In a statement lacking in both expression and proper grammar, Rivera denied committing the conduct and blamed the children for the trouble in the classroom. He wrote:

I was in room 245 helping Ms. Jolly [*sic*] supervised [*sic*] the PAM test. Some students were talking and disturbing others during the test. I advised them about the rules when students are taking a test. I took the examen [*sic*] to [*sic*] two or three students because they were talking without control. I was surprised when I went to Ms. Griffin's office and she told me that one student went to her office saying that I said her [*sic*] the answers of the test. When I knew the name of the student I discovered that she was one of the student [*sic*] that I took the test [*sic*] because she was talking and disturbing during the test.

According to Joly, she observed Rivera speaking with a student and warned him to stop. As he continued to converse with the children, Rivera "said something to [Joly] which [she] did not understand and [she] kept walking." According to the children, the teacher was directing the substitute to the door to act as a lookout. Joly also confirmed that one boy began crying when Rivera confiscated his exam. According to the substitute, the teacher "obviously interfered" with the students during the test and "created a problem."

As it turns out, the principal gave Rivera proctor duty because she cannot give him a classroom position. Acting Principal Barbara Brown explained that she was assigned to the school after it was placed in the Chancellor's District in July 1999. At the same time, she was instructed to remove Rivera from regular teaching assignments pending his transfer from PS 161. However, he has yet to be moved elsewhere. With little else for him to do, Brown thought it would be safe to make him a co-proctor. Unfortunately, even Rivera's limited assignment on test day proved problematic for the school.

PS 92/The Chancellor's District/Brooklyn

On March 1st we learned that, once again, a proctor at PS 92 had given a student the answer to a question, this time on the PAM test which was administered that day.⁴² However, by the time our office was notified, the school administration had already conducted its own investigation. A review of the school's paperwork convinced us that cheating had occurred and we then verified the information gathered by the school.

Fifth grade teacher Frederika Swinger uncovered the misconduct during the exam and learned the full extent of it shortly after the booklets were passed in. According to her, just before the midway point, she observed her co-proctor, Librarian **John Paizis**, conversing with a male student ("Student A"). Upon advising Paizis to let the boy do his work, he replied that "[Student A] is having trouble with the Pr word," referring to probability. Swinger responded: "Well that's too bad!" and Paizis moved on. Then at the midway point, as the students continued to work, Swinger observed the librarian conversing with a second child ("Student B"). Before she could comment, he moved on. When the test was finished, Paizis left the classroom with the completed booklets. Student A, who had been denied assistance by the co-proctor as a result of Swinger's intervention, then complained, "it isn't fair that Mr. Paizis helped [Student B]." Swinger then learned from Student B that, for question number 3, Paizis told her to "divide by this and multiply by that."⁴³

This was not the first time that Paizis interfered during a test. Approximately one month before the PAM, during a practice test, Swinger caught Paizis pointing to a student's test booklet and talking to the child. On that occasion, the teacher had Assistant Principal Hendrick Colbert intervene and she sought his assistance again after the PAM incident. According to Swinger, Colbert's initial reaction was: "Oh no, not again!"

Principal Diana Rahmaan sought guidance from officials at the Chancellor's District. At the direction of Robert Tobias, executive director of the Division of Assessment and Accountability, District Assessment Liaison Lucille Vecchiarelli instructed Rahmaan to take statements from everyone involved.

In John Paizis's signed statement, he denied giving a student an answer during the 5th grade PAM exam.

⁴² Earlier in this letter we describe cheating by Fritz Alexandre as he proctored the 2000 ELA exam on February 1, 2000. The PAM is not a multiple-choice test. Children write directly in the answer booklet and scorers want to see how they arrived at the answers. The resulting information is used for instructional planning.

⁴³ Paizis continues to teach at the school.

PROBLEMS WITH REPORTING COMPLAINTS

For a variety of reasons, in a number of the cases, there was a delay in the allegation reaching us.

Despite the fact that we made clear to all those involved in the testing process that allegations of misconduct relating to the administration of standardized tests must be reported to this office without delay, in some instances, school-based investigations were conducted before we were notified. For example, at **PS 92**, on February 2nd, Megan Armour immediately reported her observations of co-proctor Fritz Alexandre's cheating to the principal who, in turn, notified officials in **the Chancellor's District**. In response, Principal Diana Rahmaan was instructed to "pull" Alexandre and take statements from those involved.⁴⁴ District Assessment Liaison Lucille Vecchiarelli notified Robert Tobias, executive director of the Division of Assessment and Accountability, who instructed her to "write it up." Whether or not he meant for a school-based investigation to take place, one did. In fact, that same morning Tobias received his requested write-up which provided the results of Rahmaan's inquiry. Nevertheless, it was not until February 7, 2000, that the allegation was finally forwarded to us. According to Tobias, while he knew that this incident should have been reported to this office, "at the time [they] were trying to figure out a procedure and to coordinate so that the case wouldn't get lost in the cracks." Obviously the best and easiest way to accomplish that would have been to immediately report the complaint to this office.

After the first case involving PS 92 was mishandled and we raised concerns with the Board's legal office, we were informed that Tobias and members of his division had been given specific directions to report cases directly to us. Nevertheless, three weeks later, Tobias again provided erroneous advice concerning a cheating allegation. Once more at **PS 92**, this time during the PAM test, a teacher made an allegation of cheating

⁴⁴ According to Rahmaan, Area Superintendent Irwin Kurz gave her this assignment. Beyond that, because accounts vary, it is unclear who ultimately made that decision. However, several individuals in the Chancellor's District, including Kurz, Supervising Superintendent Arnold Santandrea, and District Assessment Liaison Lucille Vecchiarelli were involved. Robert Tobias, executive director of the Division of Assessment and Accountability, was also contacted. Rahmaan had also twice been misinformed that the matter was already forwarded to this office. According to the principal, she was first given this erroneous information by Kurz and it was later repeated during a conference call with Santandrea and Deputy Superintendent Jerry Cioffi.

against a co-proctor, John Paizis. Although this time we received the complaint the day the cheating occurred, the school administration was instructed by officials at **the Chancellor's District** to conduct a preliminary investigation and to obtain handwritten statements.⁴⁵ District Assessment Liaison Lucille Vecchiarelli was asked to explain why the principal was advised to take those actions. According to her, she sought guidance from Robert Tobias who instructed Vecchiarelli that this was the "proper procedure" to follow. Her handwritten notes indicate: "Write up alleg. send to Tobias – asap w statements & he'll follow up."

At **PS 161**, also in **the Chancellor's District**, the complaint again was delayed in reaching our office, but for a different reason. This time, because the information initially came from a visibly upset child, the principal, in her first year at the school, interviewed witnesses and took statements in an attempt "to determine exactly what had transpired in the classroom." Immediately thereafter, she notified Vecchiarelli who, in turn, contacted us. Although the school's investigation was performed with good intentions, the end result could have been very different.

The delay in receiving the complaint against Jane Nevis at **PS 7 in District 24** occurred because information regarding the misconduct was routed through the District Assessment Liaison to the Test Administration and Scanning Center ("SCAN") which created a log and notified Tobias, but did nothing else. Thus, although the Liaison learned about the allegation on February 2, 2000, the day it occurred, and SCAN was informed the next day, we were kept in the dark until February 9th. Even then, we only discovered it by accident when one of our investigators, at SCAN on an unrelated matter, received a copy of the log. Thereafter, we reviewed the PS 7 matter and other listed allegations, initiated some investigations, and referred the remainder to Chancellor's Counsel Chad Vignola. Since that time, SCAN has cooperated with us and now instructs principals and District Assessment Liaisons to report directly to this office.

At **PS 202 in District 19** in Brooklyn, the school administration completed its own investigation into suspicions raised by a scorer of the ELA exams before this office ever learned that a potential problem existed. The inquiry included engaging the students in the class in question "in an informal discussion to elicit test-taking strategies that they

⁴⁵ District Assessment Liaison Lucille Vecchiarelli reported the information to us on March 1, 2000.

used and would recommend to others.”⁴⁶ Thereafter, the children wrote out their recommendations. As a result, according to Acting Deputy Superintendent Josephine Urso, the school and district determined that “nothing was done inappropriately.”

In fact, the investigation was performed at the behest of Urso who explained that it “crossed her mind” to call this office about the matter, but she “wanted to check it out first.” Although she initially asserted that the Superintendent was aware of the inquiry, including the debriefing of students, Urso later admitted, “well, I never actually told [Superintendent] Mahon that.”⁴⁷

CONCLUSION

The conduct committed by the individual educators highlighted in this report is cheating. The duties of a test proctor are not complicated, yet we continue to find teachers and paraprofessionals who have overstepped their roles. Educator cheating does not help schoolchildren, in fact, it hurts them. It must not be tolerated.

RECOMMENDATIONS

■ We make the following recommendations concerning the individuals named in this report:

Paul Egan induced his students to join in his wrongdoing when he provided answers to the first eleven questions on the 1999 Citywide mathematics exam and tempted them to cheat by using his choices. Egan’s misconduct must result in the termination of his employment and this matter must be considered should he ever apply for reemployment with the Board.

Strong disciplinary action, which may appropriately include termination of employment, must be taken against **Paul Zomchek** and **Alice McNally** whose misconduct occurred prior to the release of our December 1999 report. We reiterate that same recommendation, first made in *Cheating The Children*, regarding **Robert Smith**. In so doing, the Board’s legal office and Smith’s supervisors should consider not only the

⁴⁶ Memorandum from Interim Acting Director of Assessment and Data Deborah Montagna to Acting Deputy Superintendent Josephine Urso, dated February 18, 2000.

⁴⁷ According to District Assessment Liaison Carmel Lamourt, she advised the acting deputy superintendent to contact this office, however, Urso first wanted to notify the superintendent.

conduct described in our report, but his disingenuous remarks to the Deputy Superintendent of District 2 after its release.⁴⁸ Moreover, paraprofessional **Luz Rodriguez** also interfered with the testing process under Zomchek's supervision. She must be advised that such conduct is unacceptable and future infractions will result in disciplinary action which could include loss of her employment.

Jane Nevis first cheated by looking ahead in the booklet to preview the testing material on the 2000 ELA exam. She compounded that infraction by using the information to prepare her students for day three of the test. Her employment must be terminated and this matter must be considered should Nevis ever apply for reemployment with the Board.

Virgilio Rivera created utter chaos during his stint as proctor for the 2000 PAM test. He interfered during its administration: writing an answer on the board and trying to force children to accept it, yelling at his co-proctor, taking students' booklets, and causing a boy to burst into tears. Moreover, his illiterate attempt to explain his version of the events in a written statement calls into question his fitness as an educator. His employment must be terminated and this matter must be considered should Rivera ever apply for reemployment with the Board.

Strong disciplinary action, which may appropriately include termination of employment, must be taken against **Fritz Alexandre** and **John Paizis**. In deciding what measures to take, it would be prudent to consider that their cheating occurred even after the widely-disseminated findings of our report.

Although the children in **Joohi Chun's** fourth grade class benefited from her voice inflections during the reading of the story in the listening session of the ELA exam, we could not establish that this conduct was a deliberate attempt to give the children an unfair advantage. Therefore, we do not recommend discipline. However, Chun should be advised that her actions were inappropriate and future indiscretions will result in disciplinary action which could include the loss of her employment. Moreover, below, we make a specific recommendation to avoid this problem Statewide.

⁴⁸ See page 5 of this letter.

■ Based on the problems we uncovered concerning the ELA exams, we make the following recommendations:

Day two and day three of the test should be published in separate booklets distributed on the day of those sessions. Thus, proctors will first learn the material to be tested at the same time the children do.

Steps must be taken to ensure a uniform presentation of the material in order to avoid the possibility of an unfair advantage or disadvantage caused by the proctor's personal method, whether going too slow or too fast, or highlighting details by voice change.

■ School administrators and educators should not conduct investigations of misconduct, including complaints of cheating. Steps must be taken to ensure that these allegations are reported directly and without delay to investigators who are equipped to evaluate the information and take appropriate action.

■ Information obtained during our investigation suggests that there is an unofficial market for obtaining Terra Nova material, whether by the method described here or directly from McGraw-Hill through orders placed from suburban homes. We recommend that the use of practice materials be reviewed and that reasonable precautions be taken to eliminate the opportunity to gain an unfair advantage.

■ As part of our recommendations in *Cheating The Children* we noted that, in our view, the most obvious solution is also the simplest:

The Chancellor must unequivocally state that misconduct performed during the administration of a standardized test – whether it is called cheating, interference, tampering, or any other name – is wrong and will not be tolerated. In fact, those who are caught cheating must face serious disciplinary action, including loss of employment.

Consistent with our view, Chancellor Levy took a strong stand on the cheating issue. Prior to the Citywide reading exam on April 12, 2000, we notified him that the problem of educator cheating still exists. His response was swift and to the point. The communication to all principals was clear: "Please let's focus on real achievement and send the message that cheating will not be tolerated." We have suggested to the Chancellor that this message be reinforced before the administration of future tests.

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

Sincerely,

EDWARD F. STANCIK
Special Commissioner
of Investigation for the
New York City School District

By: _____

Regina A. Loughran
Deputy Commissioner

EFS:RAL:ai

c: Peter Sherman, Esq.