



State of New Jersey

DEPARTMENT OF EDUCATION

PO Box 500

TRENTON, NJ 08625-0500

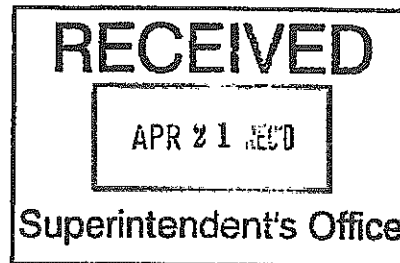
CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

DAVID C. HESPE
Acting Commissioner

April 14, 2014

Ms. Cami Anderson
State District Superintendent
Newark Public Schools
2 Cedar Street
Newark, NJ 07102-3015



Dear Ms. Anderson:

SUBJECT: Improper Conduct of Administrative Staff - OFAC Case #INV-061-13

The Office of Fiscal Accountability and Compliance (OFAC) completed an investigation into the improper actions of upper level administrative staff members at the Rafael Hernandez School.

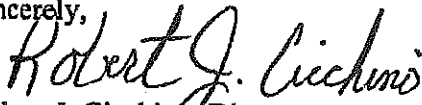
During the course of the OFAC's investigation of the 2010 New Jersey Assessment of Skills and Knowledge, the OFAC investigators retrieved emails indicating a pattern of failure to report incidents of violence, vandalism, harassment, intimidation, and bullying; an inappropriate personal relationship between a supervisor and subordinate during school hours; circumvention of the district's timekeeping system; inappropriate use of the district's email system; and use of the school's staff by the vice principal to assist with her son's on-line college requirements. The attached report will provide the detailed findings of the investigation.

Utilizing the process outlined in the attached "Procedures for LEA/Agency Response, Corrective Action Plan and Appeal Process," pursuant to N.J.A.C. 6A:23A-5.6, the Board of Education is required to publicly review and discuss the findings in this report at a public board meeting no later than 30 days after receipt of the report. Within 30 days of the public meeting, the board must adopt a resolution certifying that the findings were discussed in a public meeting and approving a corrective action plan which addresses the issues raised in the undisputed findings and/or submit an appeal of any findings in dispute. A copy of the resolution and the approved corrective action plan and/or appeal must be sent to this office within 10 days of adoption by the board. Direct your response to my attention. Also, pursuant to N.J.A.C. 6A:23A-5.6(c), you must post the findings of the report and the board's corrective action plan on your school district's website.

The findings of the attached report raises serious concerns regarding the actions of the Rafael Hernandez School leadership. Accordingly, upon receipt of this report, the District should take *immediate* action to ensure that the health and safety of the students at the Rafael Hernandez School are reasonably safeguarded.

Should you have any questions, please contact Mr. Thomas C. Martin, Manager, Investigations Unit,
at (609) 633-9615.

Sincerely,



Robert J. Cicchino, Director
Office of Fiscal Accountability and Compliance

RJCS:\tcm\Newark\INV-118-12 Rafael Hernandez\RH Report\Newark Cover.docx
Attachment

c: David Hesper
William Haldeman
David Corso
Michael Yapple
Patricia Morgan
Thomas C. Martin
Teresita Munkacsy
Jeffrey Gale
John DiLorenzo

STATE OF NEW JERSEY
DEPARTMENT OF EDUCATION
OFFICE OF FISCAL ACCOUNTABILITY AND COMPLIANCE
INVESTIGATIONS UNIT

NEWARK PUBLIC SCHOOL DISTRICT
RAFAEL HERNANDEZ ELEMENTARY SCHOOL
IMPROPER CONDUCT OF ADMINISTRATIVE STAFF
OFAC CASE #INV-061-13

INVESTIGATIVE REPORT

APRIL 2014

**INVESTIGATIVE REPORT – APRIL 2014
NEWARK PUBLIC SCHOOL DISTRICT
RAFAEL HERNANDEZ ELEMENTARY SCHOOL
IMPROPER CONDUCT OF ADMINISTRATIVE STAFF**

EXECUTIVE SUMMARY

During the course of the New Jersey Department of Education's (NJDOE) 2010 New Jersey Assessment of Skills and Knowledge (NJ ASK) erasure analysis security review at Rafael Hernandez School in the Newark Public Schools (the district), the OFAC investigators (the investigators) reviewed emails transmitted between employees within the district. These emails were transmitted via use of the email system provided, utilized, and maintained by the district. In addition to revealing information directly related to the alleged NJ ASK breaches being investigated relative to the aforementioned NJ ASK testing, numerous emails revealed incidents that took place at the school that did not relate to NJ ASK testing, but required additional investigation.

The issues requiring additional investigation included a pattern of administrative behavior resulting in a failure to adhere to mandates to properly report incidents of violence, vandalism, harassment, intimidation, and bullying that took place at the school during calendar years 2010-2013, an inappropriate personal relationship between the school principal and a subordinate conducted both in and out of the school building during school hours, circumvention of the district timekeeping system resulting in falsification of employee work hours, and inappropriate use of the district email system by school administrators and subordinates. Also requiring additional investigation was the use of school staff to assist the vice principal formulate answers to assignments and test questions required for her son to obtain a degree from Axia College on-line.

After reviewing numerous emails sent and received over the course of at least four separate school years, and after conducting numerous interviews of district employees and reviewing district maintained student and employee databases, it was determined that the matters not directly involving the NJ ASK investigation were significant and would be addressed in a separate report.

Mr. Juan Carlos Ruiz was assigned as Principal of the Rafael Hernandez School and Ms. Luanne Macri as the Vice Principal before the start of the 2008-09 school year, and currently remain in these assignments. The issues addressed in this report took place during this tenure. The investigators arranged an interview with Mr. Ruiz in order to address the numerous questions which arose during the course of this investigation. After making a brief statement, Mr. Ruiz refused to further cooperate with investigators, stating he would not answer any questions.

Although Ms. Macri consented to interviews to address some of the questions which arose during the course of this investigation, she failed to respond to a request for an additional interview to obtain her full knowledge regarding all of the matters covered in this report.

In accordance with the preponderance of evidence standard, and in light of evidence garnered during the course of this phase of the investigation, sufficient evidence was found to conclude that the Principal of the Rafael Hernandez School, Mr. Juan Carlos Ruiz, engaged in a pattern of behavior resulting in a failure to properly report incidents of violence, vandalism, harassment, intimidation, and bullying which took place at the school during calendar years 2010-2013, in accordance with guidelines mandated by the district and the NJDOE, as well as N.J.S.A. 18A:17-48. As a result of this practice, numerous incidents ranging from fights and assaults to weapons violations were not brought to the attention of the Newark Police Department (NPD), the district, the Division of Youth and Family Services (DYFS), and the NJDOE in accordance with guidelines.

The investigators reviewed emails, emailed incident reports, and the PowerSchool database (the student information database maintained by the district) for mention of reportable incidents and any resulting disciplinary actions. The Incident Report files maintained at the school and at the district security office were then checked in order to determine whether any incidents found in any of these locations were properly filed and/or forwarded. The result of this comparison revealed on numerous occasions the Incident Reports were not prepared or filed at the school, nor were they forwarded to the district security office. Specifically, from January 1, 2010, through December 31, 2013, approximately 180 incidents were memorialized in school emails, the school Incident Report file, or in PowerSchool entries made by school administrators. This number includes only incidents significant enough to require reporting beyond the school (e.g. fights, assaults, weapons offenses), and which were considered Level III or Level IV offenses per district policy. A review of the school Incident Report file maintained at the Rafael Hernandez School accounted for only 67 of these incidents. The remainder were found only in emails or in the PowerSchool database. Only eight of the approximately 180 incidents were reported to the district security office by the school. Only seven incidents originating from the school were reported to the NJDOE.

It should be noted that, due to the nature of many of the incidents, administrators at the school were required to report them to the NPD for further investigation. The OFAC investigation found a similar pattern of non-reporting to law enforcement concerning matters requiring notification to NPD. Preceding the receipt of the 67 incidents held by Mr. Ruiz in the school files, investigators made an inquiry of the NPD and were informed the agency had been notified of only 15 of the approximately 110 incidents which took place at the school during this same four year period. A similar check of the remaining 67 incidents remains pending. Whereas documented descriptions of incidents were often lacking in specificity, it is unclear exactly how many investigations should have been reported to law enforcement. What is known is that incidents involving assaults, physical confrontations between students employing pencils, scissors or other items as weapons, altercations resulting in injuries, attacks on staff, and possession of knives, loaded bb/pellet guns, or alcohol in the school went unreported to police.

One particular incident which was not reported to NPD in April of 2010, involved a sexual encounter which took place in the school involving a male and a female student. One of these students was 12 years of age at the time of the incident and the other was 13. The circumstances of the encounter required notification be made to NPD for criminal investigation, as well as to DYFS.

An email account of this incident was first memorialized by the vice principal, Ms. Macri. It was directed to Mr. Ruiz, Vice Principal Maria Ortiz, school social worker Roberto DelRios, school nurse Dr. Denise Long, and teacher Rebecca Borg. In the email, Ms. Macri indicated she was informed by a teacher that a female student had been telling others she was pregnant. Ms. Macri met with the two students at which time the female claimed the male had “. . . forced her to Have protected sex in the back of the auditorium . . .” Ms. Macri’s email revealed that, at this point she informed the students she would have to charge the male with rape, at which time the female stated she was not raped.

Dr. Long replied to all, requesting to be notified if there was anything she could do to assist. Ms. Macri replied to all, directing Dr. Long to: “Get her a preg test and std test set up... call mom.”

Mr. Ruiz did not respond until the following day. The nature of his response indicates that issues of non-reporting to the district, the NJDOE, and to police were not unintentional. Specifically, Mr. Ruiz directed the following reply to his vice principals, Ms. Macri and Ms. Ortiz:

“When situations occur like this the key word here is **CONTAINMENT**. I *do not* want this going outside. The last thing we need is one isolated incident to leave a black eye on our school. Also, we do not share unnecessarily to staff we do not trust.

Mac, write an incident report on the issue, at this point (now that teachers and the nurse know) now I have to send it to the region.”

(All emphasis above was inserted by Mr. Ruiz. In addition to what appears above, “**CONTAINMENT**” was typed in red and highlighted in yellow. “I *do not*” was likewise highlighted in yellow.)

No incident report was ever located in any of the aforementioned locations regarding this incident. Inquiries of the NPD and DYFS made by investigators revealed the school did not report this incident to either.

Similar to the email mentioning containment, an email relating to fighting in a classroom six days after that incident was reviewed. In this email, Mr. Ruiz directed Ms. Macri to look into the matter ending with the statement “We don’t need more negative publicity from our school.”

When reviewing the PowerSchool database, it was noted that incidents which were in reality fights or assaults among students were not always entered as such. Rather than selecting the drop-downs for these categories, entries were placed under drop-downs such as “Disruptive Behavior” or “Continually Disruptive Behavior.” This improper categorization of incidents resulted in a misrepresentation of events requiring reporting to the Superintendent of Schools via the district security office, and also to the NJDOE, under a category that would not require such reporting. This review of the database also revealed that suspensions meted out by the school principal were not always entered into PowerSchool, thus resulting in inaccurate disciplinary records for some students. Specifically, arising from the approximately 180 incidents previously mentioned, more

than 25 references were found in emails and incident reports indicating students were suspended for their actions, yet those suspensions were not entered into the PowerSchool database.

In accordance with the preponderance of evidence standard, and in light of evidence garnered during the course of this phase of the investigation, sufficient evidence was also found to conclude that the Principal of the Rafael Hernandez School, Mr. Juan Carlos Ruiz, engaged in a personal relationship with a subordinate and that this relationship was conducted, at least in part, during school hours. Emails between the two parties were reviewed which contained numerous lewd remarks, and sexual references and innuendo. These emails were transmitted during school hours, and emails obtained indicate some exchanges took place during instructional time, and on at least one occasion when the subordinate was present with students.

On May 13, 2010, Mr. Ruiz exchanged 26 emails with the subordinate between 10:22 am and 1:26 pm of the nature described. During the course of this exchange, Mr. Ruiz sent an email at 1:21 pm stating, "Groans, legs, arms everywhere! Now I can't stand up from my desk and I have to go back to meeting my round table! Damn I hate when that happens!" In response, the subordinate at 1:22 pm replied, "HAAAAA!!! I just busted out laughing. Ms. Cangre and students looked at me like I am crazy...smh...yes that is a problem for guys...lol...hmm..wish I was in meeting..."

Sufficient evidence also exists to conclude that the principal and the subordinate arranged to meet at the subordinate's home during school hours in order to further their relationship. This encounter was encouraged by Mr. Ruiz and was prearranged via school email during working hours. Specifically, Mr. Ruiz encouraged the subordinate to leave the building early in order to meet at her home, adding, "The office will distribute the kids amongst your colleagues." He also informed the subordinate, "...I will excuse you and give you a comp day, no worries." A review of the Kronos database, the district's electronic timekeeping system used to account for employee hours, indicates the system was manually accessed and "Administrator's Discretion – Excused" was entered to account for the employee's time on the date of this liaison. Emails obtained also made reference to inappropriate physical interactions which took place between the two parties in Mr. Ruiz's office during school hours. It should be noted, Mr. Ruiz prepared the formal evaluation for the time period coinciding with this relationship for this subordinate.

In addition to the inappropriate use of the email system in the context of the personal relationship referenced above, additional emails from Mr. Ruiz to subordinates were reviewed in which he made unprofessional references to others in the school. The following are two examples of such emails:

In May of 2010, Mr. Ruiz received an email from a teacher regarding a school matter which he felt should not have been broadcast by the sender to other teachers. Mr. Ruiz informed this teacher this was "inappropriate." Mr. Ruiz and Ms. Macri continued this email chain between themselves during which Mr. Ruiz expressed to Ms. Macri, "Homie don't play that! He's gonna make me take out my "nigga be cool stick"!

In June of 2010, Mr. Ruiz and a teacher exchanged emails regarding a disruptive student who was to be excluded from a class trip. Within the exchange the subordinate commented she was

disappointed that a softball game arranged for the day had been cancelled writing, "Darn it!! I was really looking forward to cracking that bat, rain or shine!" Mr. Ruiz replied, "Are you picturing the face of (Student's name inserted) on the ball?!?" The subordinate replied, "Keep your eyes on the teeth" and Mr. Ruiz closed with, "LMAO! I wanna grab him by those rabbit teeth!"

Sufficient evidence was similarly found to conclude that Ms. Macri likewise failed to properly report incidents which took place at the school during calendar years 2010-2013 in accordance with guidelines mandated by the district and the NJDOE. Among the incidents which did not follow the reporting guidelines included students in possession of weapons and alcohol in the school. Despite failing to report incidents such as these, both Mr. Ruiz and Ms. Macri did follow proper reporting procedures in separate incidents where each had personally been physically threatened. In both of these cases incident reports were prepared and NPD was properly notified. This reporting was consistent with staff statements that incidents personally involving the administrators were generally the incidents that were taken seriously.

Evidence was gathered from emails and interviews sufficient to indicate Ms. Macri, during school hours and utilizing the aid of school employees, computers, and internet access, assisted her son with the completion of coursework required in order for him to obtain an associate's degree from Axia College. Specifically, course material relating to at least three mathematics courses (Mat 116, MAT 157, and Mat 117) and one geology course was found to have been sent by Ms. Macri to at least five teachers at the school. Axia Transcripts for Ms. Macri's son indicate he completed and received passing grades for each of these courses during this time.

Ms. Macri sent numerous emails which included attachments to these subordinates. The documents consisted of questions relating to the courses mentioned, and which required answers to be formulated by the student. At least 12 different requests for subordinates to complete work were located, which had been sent by Ms. Macri. When making requests, Ms. Macri referred to the work she asked to have completed using terms such as: math final, lab, math assignment, math quiz, math tests, and homework. Ms. Macri included references to due dates, the score which resulted from work completed by a subordinate, and thanks for assistance received.

Ms. Macri sent mathematics coursework to three subordinates on January 25, 2010, with the comment, "This is due Friday can someone please help me and by that I mean do this" When informed by a subordinate the work was being completed, Ms. Macri thanked the teacher adding "IOU big time. What can I offer? An electric pencil sharpener" Upon receiving handwritten completed work from this subordinate Ms. Macri sent an email to same revealing "thanks, I got it and you got me 100%!"

Ms. Macri solicited assistance with coursework in geology. On March 19, 2010, at 2:44 pm, Ms. Macri forwarded an email to a subordinate with "geology" listed as the subject. On March 20, 2010, at 10:49 am, this subordinate responded, "Will have ALL of your test answers by tonight!!!!" At 10:40 pm, the subordinate returned an email to Ms. Macri including responses to numbered questions.

On June 5, 2010, Ms. Macri sent an email to a subordinate stating, "See me...you can do all the tests they are now online. There are 2 tests and three hw assignments..^j^ you are a doll. I will set you upstairs and it will be all OVER!!!! Yay."

Interviews revealed Ms. Macri used a school computer to log in to her son's college account at which time a subordinate completed the requested assignments and tests. In all, Ms. Macri passed on to subordinates at least 12 or more different assignments for completion.

Ms. Macri was asked about the assistance she obtained on behalf of her son she stated, "I am a math teacher myself and so if I'm checking homework or looking at somebody's work we collaborate all the time. Did I say 'Help me with this one?' , maybe. Did it have anything to do with a certification or a test that he was in? , no it wasn't, it was class-work that I found it interesting because I'm a math teacher." She denied helping her son with tests. She referred to her involvement as "support in homework."

CONCLUSION

Based upon the preponderance of evidence garnered during the course of this investigation, including documentation obtained from files, email accounts and databases maintained by and obtained from the district, as well upon witness statements, the investigation resulted in the following conclusions:

Principal Ruiz failed to act in accordance with guidelines mandated by the district, the NJDOE, and N.J.S.A 18A:17-48 regarding reporting of incidents of violence, vandalism, harassment, intimidation, and bullying which took place in his school during calendar years 2010-2013, resulting in repeated instances where significant incidents taking place in the school were not reported to district supervisors, NJ DOE officials, and local law enforcement for further action.

Principal Ruiz engaged in a personal relationship with a subordinate conducted, at least in part, during school hours while both parties were working. The relationship was facilitated via use of the district email system, contained numerous lewd remarks, and sexual references and innuendo, and were exchanged on at least one occasion in the presence of students. Mr. Ruiz arranged to meet the subordinate at her home during work hours, ensuring he would grant her a "comp day."

Vice Principal Macri also failed to act in accordance with guidelines mandated by the district, the NJDOE, and N.J.S.A 18A:17-48 regarding reporting of incidents of violence, vandalism, harassment, intimidation, and bullying which took place in his school during calendar years 2010-2013. During Mr. Ruiz's absences from the school, several incidents requiring notification to NPD were not reported by Ms. Macri.

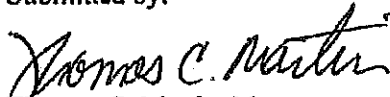
Vice Principal Macri, during working hours, forwarded emails to subordinates soliciting assistance in completing a variety of coursework including tests, quizzes, and homework assignments which her son was assigned in order to complete college courses he was taking online. Subordinates

provided answers to questions as requested by Ms. Macri, and it was learned Ms. Macri logged in to her son's account using the school computer and internet access before turning the computer over to a subordinate to complete this work.

REFERRAL

This investigative report will be referred to the State Board of Examiners for further review and whatever action it deems appropriate.

Submitted by:



Thomas C. Martin, Manager
Investigations Unit

Approved by:



Robert J. Cicchitto, Director
Office of Fiscal Accountability and Compliance

Investigators:

Jeffrey Gale
John DiLorenzo

State of New Jersey
Department of Education
Office of Fiscal Accountability and Compliance

PROCEDURES FOR AUDIT RESPONSE
CORRECTIVE ACTION PLAN AND APPEAL PROCESS
STATE-OPERATED SCHOOL DISTRICTS

Resolution:

Pursuant to N.J.A.C. 6A:23A-5.6, within 30 days of receipt of the report, the board of education must discuss the findings of the report at a public meeting of the board. Within 30 days of the public meeting, the board must adopt a resolution certifying that the findings were discussed in a public board meeting and approving a corrective action plan to address issues raised in the undisputed findings and/or appeal of any findings in dispute. Within 10 days of adoption of the resolution by the board, such resolution together with the approved corrective action plan and/or appeal must be submitted to the Office of Fiscal Accountability and Compliance. The findings of the Office of Fiscal Accountability and Compliance's report and the board of education's corrective action plan must be posted on the district's website.

Corrective Action Plan:

The corrective action plan is to be used when the state-operated school district is in agreement with any of the findings. To contest a finding the appeal process must be used. After the appeal is settled a corrective action plan must be filed for any finding upheld during the appeal process.

The corrective action plan must be prepared by completing the attached form. The following information must be submitted by the state-operated school district:

- Recommendation number
- Corrective action (approved by the administration)
- Method of implementation
- Person responsible for implementation
- Completion date of implementation

If the corrective action plan is acceptable, a letter will be sent to the state-operated school district indicating that it has been accepted.

If the corrective action plan is not acceptable, a letter will be sent to the state-operated school district indicating whether further clarification is required or further action is necessary.

Appeal Process:

The appeal process is used to contest findings.

Within 10 days of the board's adoption of the resolution approving an appeal of the findings of the report, a written request by the state-operated school district to review the "aggrieved" findings, recommendations or questioned costs must be submitted to the director, Office of Fiscal Accountability and Compliance. The notice of appeal must indicate the findings to be appealed.

The appeal itself may be written or a hearing may be scheduled so that the state-operated school district can present its case. In either instance, documentation must be presented supporting the appeal. The director, Office of Fiscal Accountability and Compliance will issue a written decision.

If the decision is unsatisfactory to the state-operated school district, the district may, within 10 calendar days, file a notice of appeal to the Chief of Staff.

If the final determination made by the Chief of Staff, is still unsatisfactory to the state-operated school district, the state-operated school district may access the formal appeal process described in N.J.A.C. 6A:3-1.3.

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Attachment

NEW JERSEY DEPARTMENT OF EDUCATION
OFFICE OF FISCAL ACCOUNTABILITY AND COMPLIANCE
CORRECTIVE ACTION PLAN

NAME OF SCHOOL _____ COUNTY _____

TYPE OF AUDIT _____

DATE OF BOARD MEETING _____

CONTACT PERSON _____

TELEPHONE NUMBER _____

RECOMMENDATION NUMBER _____	CORRECTIVE ACTION APPROVED BY THE BOARD	METHOD OF IMPLEMENTATION	PERSON RESPONSIBLE FOR IMPLEMENTATION	COMPLETION DATE OF IMPLEMENTATION
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CHIEF SCHOOL ADMINISTRATOR _____	DATE _____	SCHOOL BUSINESS OFFICIAL _____	DATE _____
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