

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

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November 20, 2014

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

Re: Sean Shaynak  
SCI Case #2014-5410

Dear Chancellor Fariña:

The office of the Special Commissioner of Investigation (“SCI”) has concluded an investigation into the hiring of 44-year-old Sean Shaynak, a teacher assigned to Brooklyn Technical High School (“Brooklyn Tech”), who is accused of committing various crimes against student victims.<sup>1</sup> Our findings are reported here.

On October 3, 2014, SCI self-initiated an investigation into the hiring of Shaynak by the Department of Education (“DOE”). Although Shaynak’s initial arrest was in August 2014, details about a re-arrest on upgraded criminal charges recently had been made public. Various media outlets questioned how Shaynak passed a background check and cited a matter from Maryland involving Shaynak and a neighbor described as an 11-year-old boy.

Chancellor’s regulation C-105 (“C-105”), “Background Investigations Of Pedagogical And Administrative Applicants And Procedures In Cases Of The Arrest Of Employees,” was followed by the DOE in assessing the propriety of hiring Shaynak.<sup>2</sup> In the case of an arrest, C-105 incorporates New York State Corrections Law Article 23-A relating to licensure and employment of persons who have been convicted. The public policy of New York State, as expressed in the law, encourages the licensure and employment of persons previously convicted of one or more criminal offenses. The law provides factors to be considered. Thus, employment cannot be denied automatically

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<sup>1</sup> Shaynak’s probationary service has been discontinued.

<sup>2</sup> Chancellor’s regulation C-105 relates to applicants with a criminal history as well as current employees who have been arrested. Between January and mid-November 2014, SCI received more than 1,600 notifications about the arrest of a DOE employee; very few lost or will lose their jobs.

because the applicant has a prior conviction. Notably, only convictions, not mere arrests, are considered.

SCI investigators met with DOE Director of Employee Relations Katherine Rodi and obtained Sean Shaynak's original background investigation file. Rodi was not working at the Office of Employee Relations or the DOE Office of Personnel Investigation ("OPI") when Shaynak's background check was conducted.

Shaynak began his DOE career in the "Teaching Fellows" program. A review of the file maintained at OPI showed that Shaynak filled out the required paperwork, was fingerprinted, and the DOE subsequently received the results of a New York State and a federal criminal records check. The federal response indicated that Shaynak had been arrested in Maryland on October 3, 2005, on the charge of Assault 2<sup>nd</sup> Degree. On the application to work for the DOE, Shaynak marked "No" in answering the question: "Have you ever been convicted or pled 'GUILTY' or pled 'NO CONTEST' to any offense in this state or elsewhere?"

The OPI investigator assigned to the Shaynak application, Patricia Hanks, sent a letter to Shaynak requesting the disposition of the criminal case. Shaynak responded by faxing court documents, including the disposition, and a statement of probable cause signed by the arresting officer for the criminal complaint. The court information named, but did not indicate the age or date of birth of, the victim. Shaynak also submitted a personal statement about the incident and a letter of recommendation from a Captain at Express Jet Airlines, doing business as Continental Express, who wrote that he knew Shaynak as both a pilot and an individual.

Shaynak explained that he was arrested on October 3, 2005, following a physical altercation with "a young teen male." Shaynak appeared in court before a judge and agreed to dispose of the case through Probation Before Judgment ("PBJ"). Shaynak wrote: "The conditions of my probation before judgment were that I pay for [the young male's] medical bills resulting from the incident, court costs associated with the hearing, and to perform 16 hours of community service." Shaynak also provided information from the relevant Maryland PBJ statute: "Discharge of a defendant under this section shall be without judgment of conviction and is not a conviction for the purpose of any disqualification or disability imposed by law or because of conviction of a crime."

Investigator Hanks interviewed Shaynak in person. The OPI file contained one page of handwritten notes made by Hanks. Shaynak explained that he did not disclose the arrest because he was told it was not a conviction. Hanks noted an abbreviated version of the personal statement submitted by Shaynak. Hanks also noted that Shaynak said he left Express Jet Airlines because he did not want to continue to travel all the time; he resigned and left in good standing. On a "Summary Document," Hanks marked the "Approve" box and wrote:

Applicant was arrested for assault on 10/3/05. The case was closed after a prayer [*sic*] for [*sic*] judgment ended on 7/10/06. Applicant stated that the incident occurred after a teen threw an object and hit his house. When he attempted to escort the teen to speak with the parents there was an altercation where he and the teen were injured. Applicant submitted a recommendation from his last employer, Express Jet. There were no other incidents. Approval is recommended to allow applicant to remain in the Teaching Fellows Program.

Hanks signed the document which she dated "7/10/08." The OPI chief administrator at the time, Andrew Gordon, marked the "Approve Application" box and signed the summary document which he dated "7/18/08."

A search for information about the Maryland disposition PBJ revealed that it is a deferred adjudication by criminal procedure statute. The PBJ means being placed on probation before the judgment is entered and, therefore, the defendant is not found guilty of the crime. The law enables a judge to defer the entry of a judgment – in practice, delaying the entry of "guilty" – when the defendant pleads guilty or no contest in writing and when certain conditions – the probation – are met. Because the guilty judgment is not entered, a PBJ does not count as a conviction of a crime and the defendant does not have a criminal record. For the purpose of a job application, the former defendant can truthfully answer that he has not been convicted of a crime.

SCI investigators met with Clerical Associate Hanks, now assigned to Human Resources ("HR") Customer Service at the DOE, who had worked at OPI as an investigator; she was supervised by Aderemi Bello. Hanks reviewed the Shaynak file, but said she had no recollection of him. Hanks explained that she approved Shaynak's paperwork because he had no other arrests, and the 2005 Maryland arrest was disposed of when Shaynak paid the medical bills, paid court costs, and completed community service.

Hanks acknowledged that, based on the written statement supplied by Shaynak and her interview of him, Shaynak's altercation involved a teenager. Hanks asserted: "I assume a teenager is someone between the ages of 13 and 18," but she did not ask Shaynak about the specific age. Hanks performed an employment verification for Shaynak with his previous employer, but received only the dates of employment and his title. Shaynak provided a recommendation from a pilot who worked with him at Express Jet Airlines. At the completion of her investigation, Hanks handed in the OPI case folder to Aderemi Bello or to Andrew Gordon.

SCI investigators attempted to speak with Brooklyn Tech Principal Randy Asher, but he requested representation. However, Principal Asher turned over copies of Shaynak's personnel and payroll files. A review revealed previous employment at the Manhattan Village Academy, a new faculty information form including an entry of "R. Barclay" for "Recommendation," a teaching fellows school commitment form signed by

Assistant Principal David Fanning, a counseling memo from Assistant Principal Fanning – dated February 4, 2010 – regarding an attendance issue, a report concerning a substantiated investigation into a corporal punishment allegation – Shaynak was accused of verbal abuse for berating a student in public – including a letter dated June 27, 2012, from Brooklyn Tech Assistant Principal David Newman who “concluded that [Shaynak] did employ language that tends to belittle or subject a student to ridicule,” and extension of probation agreements from 2011, 2012, and 2013.

SCI investigators met with former DOE employee Andrew Gordon who worked for the DOE from 2005 through 2012, and was the executive deputy director and then the executive director of HR Connect and Human Relations. Gordon reviewed a copy of Shaynak’s OPI file and confirmed that he marked “Approve Application” on and signed the “Summary Document.” Gordon did not recall Shaynak, had never met Shaynak, and had no recollection of Shaynak’s OPI investigation. Gordon noted that the Shaynak document was one of many documents he reviewed and signed each year. Gordon said that “New York State Corrections Law prevents an employer from denying employment just on the basis of an arrest,” adding that there was nothing in Shaynak’s file which would provide a reason to deny employment.

The assigned SCI investigator spoke by telephone with HR Customer Service Manager Carmela Cuddy who was the chief administrator at OPI from April 1996 through September 2006. Cuddy said that, from September 2006 through November 2008, she was the deputy director of HR Connect and Judith Kay was the OPI chief administrator. Cuddy returned to OPI as the deputy director, from September 2008 through 2012, when she assumed her current position. Patricia Hanks currently worked for Cuddy at Customer Service. According to Cuddy, she knew nothing about Shaynak or the OPI investigation of him. Cuddy said that Kay, now deceased, was in charge of OPI during the period of the Shaynak investigation.

SCI investigators met with retired OPI Chief Investigator Aderemi Bello who worked under Andrew Gordon. Bello reviewed a copy of the Shaynak OPI file and responded: “I don’t remember this case.” Bello added: “This was like an ACD [New York State disposition – Adjournment in Contemplation of Dismissal] and there was no reason to deny [Shaynak].”

SCI investigators interviewed Principal Randy Asher in the presence of his union representative. Asher, a 19-year veteran of the DOE, had been the principal at Brooklyn Tech since March 2006. Asher said that assistant principals usually conducted the interviews of teachers seeking employment at Brooklyn Tech. Asher did not recall ever interviewing Shaynak, but added that David Fanning, now the principal at A. Philip Randolph High School (“Randolph”) in Manhattan, had been the assistant principal at Brooklyn Tech who dealt with all HR issues, including hiring. Asher explained that Shaynak was hired to teach “engineering course work.” Asher believed that retired

Assistant Principal John Randell Barclay, responsible for Engineering and Physics, interviewed Shaynak. Asher added that Barclay supervised Shaynak after he was hired.

SCI investigators met with Randolph Principal David Fanning who was an assistant principal at Brooklyn Tech from September 2006 until December 2011. Fanning had no specific recollection of hiring Shaynak. Fanning said that, when there was a vacancy, it was posted, and upon choosing a candidate to be hired – usually decided by the assistant principal of the department – he became involved. Fanning explained that he placed the candidate in Galaxy which triggered a vetting by HR and OPI. Fanning added that, unless information came back that the candidate was not to be hired, then he was hired. Fanning said that it also was his duty to handle attendance issues, which was why he gave Shaynak the counseling memo.

SCI investigators participated in a conference call with John Randell Barclay with his union representative on the line; Barclay lives out of State. Barclay was the assistant principal in charge of Physics and Engineering at Brooklyn Tech from 2007 until his retirement in 2012. Barclay said that Principal Asher gave him “a bunch of résumés to review” and it was his job to screen the résumés. Barclay added that, once he found a suitable candidate in his field of expertise, he provided that information to Assistant Principal Fanning.

Barclay did not recall Shaynak very well, but explained that Brooklyn Tech was looking to reactivate the Aerospace program. This fell into Barclay’s area of expertise because he was a licensed pilot. Barclay recalled that Shaynak was a Teaching Fellow who also was a licensed pilot and instructor; thus, he seemed a good candidate for the position. Barclay said that he did not know Shaynak before interviewing him, but found him to be an acceptable candidate, and recommended that Shaynak be hired.<sup>3</sup>

Barclay did not recall whether he contacted anyone at the school where Shaynak was a Teaching Fellow, but added that, during the interview process, he “had no concerns about [Shaynak].” Barclay confirmed that, after Shaynak was hired, he supervised Shaynak. According to Barclay, he never received a complaint about Shaynak from any student or staff member.

SCI investigators met with DOE Executive Director of Teacher Recruitment and Quality Amy Way concerning Shaynak’s Teaching Fellow file; Way had provided a copy by e-mail. Way now provided a hard copy and reviewed it with the investigators. Way

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<sup>3</sup> A local newspaper reporter contacted SCI about a confidential source from Brooklyn Tech who wanted to speak with SCI about Shaynak. The source subsequently contacted the assigned investigator and claimed to have information about how Shaynak was hired. The source was not available to meet with SCI. The source subsequently called the assigned investigator and continued to refuse an in person meeting. The source alleged that Shaynak and the person who hired him, Barclay, had a prior relationship. Asked to expound, the source admitted having no first hand knowledge of or actual facts; the allegation was based on rumors. The source added that no one else at Brooklyn Tech had first hand knowledge of facts to prove the allegation.

said that, on December 1, 2007, DOE Teacher Shawn Persaud interviewed Shaynak in person. Way added that Persaud received per session pay to evaluate candidates for Teaching Fellow positions.

Way explained that Teacher Recruitment and Quality used vendor TNTP – The New Teacher Project – to conduct pre-screening; the Teaching Fellow application and documentation was all online. Way noted that, on October 23, 2008, a TNTP employee who also was a DOE Teacher, Chris Casarez, made an entry in the electronic Teaching Fellow system which indicated that both Shaynak and Shaynak’s Regional Teacher Reserve (“RTR”) principal – not identified – called to complain about a personality conflict between Shaynak and an assistant principal – not identified – at Shaynak’s assigned school – not identified. Casarez commented that he advised the principal to have Shaynak moved to a different site. Way explained that members of the RTR performed substitute work when there were no job openings in the candidate’s specialty.

SCI investigators spoke with Shawn Persaud, currently assigned to the DOE Office of Teacher Effectiveness, but previously assigned to the DOE Office of Teacher Recruitment and Quality for the Teaching Fellow program. Persaud explained that the Teaching Fellow program was designed to assist individuals, coming from different career fields, who expressed a desire to be educators. Persaud said that he initially worked as a Fellow Advisor, but then became a Teaching Fellow Selector. In that position, Persaud conducted in person interviews with candidates for the Teaching Fellow program.

Persaud did not recall Shaynak. Persaud reviewed Shaynak’s Teaching Fellow file and responded that Shaynak was an average candidate and nothing about him or his credentials stood out or made Shaynak memorable. Persaud explained that interview sessions took place over four to five hours with four to six candidates at a time. Persaud added that most of the session was spent evaluating the candidates as a group, with only 15 to 20 minutes spent meeting with the candidates individually.

The assigned SCI investigator spoke by telephone with Christopher Casarez who was on vacation out of State until the first week of November 2014. Casarez confirmed that he worked for the DOE and for the Teaching Fellows. Casarez agreed to contact SCI upon his return to New York. Casarez complied with that agreement, but advised that he had no records or independent recollection of the comments he wrote in the Teaching Fellows electronic file relating to Shaynak.

Way and Rodi separately contacted the assigned SCI investigator and reported that Shaynak’s first assignment was at Landmark High School (“Landmark”) in Manhattan.

SCI investigators spoke with Landmark Principal Caron Pinkus who did not recognize Shaynak's name, but added that she had been the principal for only two years. Pinkus explained that the prior principal, Trevor Naidoo, no longer worked for the DOE and lived in South Africa.

SCI received a complaint from a "Concerned Staff Member" who claimed that a Brooklyn Tech teacher had information about Shaynak's inappropriate interaction with students during costume parties held by the school.<sup>4</sup> SCI investigators met with the named teacher who acknowledged that he had chaperoned several of the Brooklyn Tech annual Halloween masquerade balls which were held on *The Queen of Hearts*, a boat docked off Houston Street, and attended by staff members and students. The teacher recalled Shaynak's costumes only after seeing photos in the newspaper. The teacher asserted that he did not see the inappropriate behavior alleged in the complaint.

SCI investigators did not attempt to speak with Sean Shaynak.

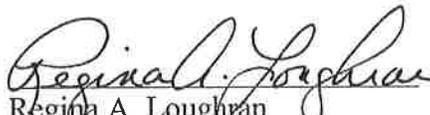
We refer our findings for your information and attention.

We are forwarding a copy of this letter to the Office of General Counsel. Should you have any inquiries regarding the above, please contact First Deputy Commissioner Regina Loughran, the attorney assigned to the case. She can be reached at (212) 510-1426. Please notify First Deputy Commissioner Loughran within 30 days of receipt of this letter of what, if any, action has been taken or is contemplated regarding this investigation. Thank you for your attention to this matter.

Sincerely,

RICHARD J. CONDON  
Special Commissioner  
of Investigation for the  
New York City School District

By:

  
Regina A. Loughran  
First Deputy Commissioner

RJC:RAL:ss

c: Courtenaye Jackson-Chase, Esq.  
Katherine Rodi, Esq.

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<sup>4</sup> A media report indicated that, one year, Shaynak was dressed as a French maid and, another year, as Brittany Spears in a schoolgirl outfit.