

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



April 30, 2013

The Honorable Kenyan McDuffie
Chairman
Committee on Government Operations
Council of the District of Columbia
1350 Pennsylvania Avenue, Suite 506
Washington, D.C. 20004

Dear Chairman McDuffie:

This responds to your correspondence of April 17, 2013, in which you question the thoroughness and the decision not to expand beyond the Noyes Education Campus (Noyes) the D.C. Office of the Inspector General's (D.C. OIG) joint investigation with the U.S. Department of Education, Office of the Inspector General (ED OIG), as reflected in this Office's report, into possible cheating on the D.C. CAS examinations, administered during the 2008-2009 and 2009-2010 school years, and request to review this Office's investigative file.

Your letter appears to rely on the allegations of Ms. Adell Cothorne; the January 30, 2009, memorandum of Sandy Sanford; and, the investigation conducted by the Georgia Bureau of Investigation into possible cheating within the Atlanta school system in questioning this Office's and the Department of Education's joint investigation. For the reasons articulated below, I respectfully find your assertions and characterizations concerning the joint investigation to be erroneous, unwarranted and misplaced, and must deny your request to view the investigative file of this Office.

With respect to Ms. Cothorne's allegations, as reflected in my correspondence to you of January 18, 2013 and the ED OIG report, both this Office and ED OIG found insufficient evidence to independently corroborate her allegations. As was noted in that correspondence, because Ms. Cothorne's lawsuit remained under seal, the D.C. OIG did not have access to the contents of her complaint initially, and thus, even though, ED OIG agents worked closely with D.C. OIG agents on the District of Columbia Public Schools (DCPS) test-cheating investigation, ED OIG agents could not disclose any information received from the *qui tam* litigation, and again as stated in that January 18 correspondence, despite attempts by this Office through Ms. Cothorne's attorney to interview Ms. Cothorne, neither Ms. Cothorne nor her attorney consented to such.

When the ED OIG agents were able to share the information from Ms. Cothorne, it was at that point that the D.C. OIG was able to investigate the same. Finally, in this regard, it should be noted that the joint investigation was well publicized and again as reflected in the January letter, Ms. Cothorne could have shared any additional information that she possessed with the federal authorities, with whom this Office had facilitated her contact, or with agents from the D.C. OIG. Similarly, members of the public,

including teachers, parents, administrators etc., likewise could have easily shared any relevant information with the ED OIG, this Office, as well as the agents thereof.

With respect to the memorandum from Mr. Sanford, as I testified, that document, which was part of the proceeding in the Cothorne *qui tam* matter and under seal for a period of time, had been acquired by and in the possession of the ED OIG, which was not able to share it immediately because it was under seal, on its face indicates that it was not intended to be conclusive or a definitive document and was not based on any sort of investigation. This fact again is clearly evident on the face of the memorandum, when the author, Mr. Sanford, states in the memorandum, "Much of what we think we know is based on what I consider to be incomplete information" or "I need more information from OSSE (CTB and AIR) in order to do more accurate analysis, come up with confident conclusions, and make cogent recommendations." The fact that the memorandum should not be used as some have tried to do, as a conclusive determination or finding of cheating, is further corroborated by the fact that the documentation reviewed by Mr. Sanford had been sent from the Office of the State Superintendent of Education (OSSE) to DCPS for the latter to investigate the high number of Wrong-to-Right (WTR) erasures on the 2008 DC CAS exams and when agents from this Office interviewed Mr. Sanford, after the seal was partially lifted and the ED OIG was able to share the memorandum.

In that interview, which was conducted shortly after this Office received the memorandum and was conducted to ascertain what, if any, direct information, among other things, Mr. Sanford possessed concerning the matter, he indicated that he had not conducted any investigation and that on or about January 28, 2009, he had been given by a DCPS representative a letter, dated November 21, 2008, from OSSE and told "read this and tell me what you think." The memorandum that he penned, dated two days later, January 30, 2009, is the result of his review of the letter. He was asked to provide his knowledge and insight into the methodology used by OSSE to come up with the data used in the erasure analysis. Mr. Sanford described his work regarding the OSSE letter as being hired to render an opinion, and not to conduct any sort of investigation into cheating on the DC CAS exams. Mr. Sanford advised the D.C. OIG that he produced the memorandum called a Project Brief Sheet, which outlined his analysis of the November 21, 2008, OSSE letter, and captioned, as Sensitive Information – Treat as Confidential, dated January 30, 2009. Further, in the interview, Mr. Sanford indicated that he did nothing else with respect to the matter. Hence, when the D.C. OIG reviewed the memorandum, the OIG accepted the document in the spirit for which it was meant for the reader after two days of review, a work in progress and nothing more. As stated, erasures by themselves mean nothing, there must be additional evidence of wrongdoing and the memorandum added nothing in that regard.

With respect to Atlanta, any comparison of the instant investigation with the Atlanta investigation is erroneous, unwarranted and clearly ill-advised. The course of any investigation is not dictated by the number of people interviewed or the number of documents reviewed but rather where the evidence leads regardless of the outcome. In Atlanta, based on news accounts and the report itself, among other things, it was clear that there was evidence of wide-spread cheating, if for no other reason, that numerous persons came forth indicating that officials high up in the school system were directing individuals not to cooperate with investigators. A review of that report makes it clear that the persons interviewed and documents reviewed were as a result of information received of attempts by individuals in the upper levels of the school system to hamper and/or impede the investigation, and not some sort of fishing expedition.

Here, our investigation found no evidence of wide-spread test cheating similar to what occurred in Atlanta. Another distinction is that, besides this Office and the ED OIG, four other entities including Caveon, Alvarez & Marsal, and the U.S. Department of Justice investigated the DCPS test-cheating

Chairman McDuffie

April 30, 2013

Page 3 of 4

allegations, and in effect reached the same conclusion, of there being insufficient evidence of wide-spread cheating having occurred within the DCPS system. Another major distinction, as already noted above, from the news reports, is that it appears that the Atlanta school test-cheating originated at the very top of the school system; that is, at the Superintendent level, and permeated downward throughout the school system. No such evidence existed within the District of Columbia. Here, in the District of Columbia, when it came to the attention of the DCPS Chancellor about reports of cheating, the Chancellor immediately requested a review by outside entities. Once again, there is no comparison between what occurred in Atlanta and what occurred in the District of Columbia. While the mere fact others concurred in this Office's conclusions related to evidence of wide-spread cheating, in and of itself, does not or should not be determinative, the independent nature of the inquiries and their relationships cannot be ignored and must carry weight. In any event, for the reasons expressed herein, this Office stands by its report.

With respect to the expansion beyond Noyes, as articulated in my previous testimony and the report, the conclusions and findings reached are based on the totality of evidence derived in the course of the joint investigation, not bits and pieces as some seem to suggest. Specifically, again as reflected in the report, the conclusions and findings, among other things, are based on interviews with administrators, teachers, students, parents and others, as well as reviews of relevant documents, and not as some would suggest because someone told an investigator that cheating had not occurred. The individuals interviewed as reflected in the report and in my prior testimony, included persons who had worked at Noyes during the period of time reviewed. Further, again as reflected in the report, the persons interviewed included former personnel such as teachers, a principal, a guidance counselor, instructional and literary coaches, custodians, DCPS general counsels and OSSE and DCPS personnel who served as monitors.

Just as this Office relied upon a wide array of individuals in reaching its conclusion of insufficient evidence of wide-spread cheating, investigators also reviewed a number of documents including the report previously issued by Caveon, the CTB/McGraw Hill Test Chairperson's Manual (McGraw Manual) issued in 2008, 2009, and 2010, as well as the OSSE State Test Security Guidelines (OSSE Guidelines), issued in February 2010. Investigators also reviewed DCPS documentation of reported instances of possible test security violations and the corresponding investigative reports of those instances for the 2008-2009, 2009-2010, and 2010-2011 school years. Finally, investigators reviewed OSSE's 2011 DC CAS Test Integrity Investigation results, which were released in June 2012.

As previously noted in my testimony, the report itself, as well as my January 18, 2013 response to you, the mere disparity with respect to erasures, in and of itself, without more (such as specific evidence of an impropriety) is not indicative of cheating or a sufficient basis upon which to conclude that the erasures resulted from cheating. Similarly, the mere fact that security lapses may or may not have existed cannot, without more, constitute evidence of cheating.

In summary, as I have previously testified and stated, and as reflected in the report, to reiterate, this Office did not rely upon any one investigative activity to formulate its conclusion, but the totality of evidence ascertained through the joint independent investigation of this Office and the ED OIG. All viable leads were pursued by investigators and this Office stands by the conclusions and findings reached through this joint investigation. Accordingly, I find that the assertions made in your letter concerning the statistical significance of the erasures, investigative leads from Caveon, the limited number of witnesses, security lapses and the overall investigation to be unfounded and without merit.

Chairman McDuffie

April 30, 2013

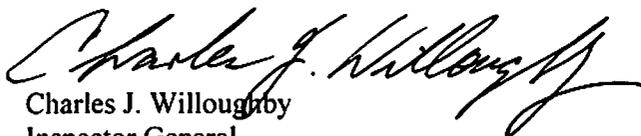
Page 4 of 4

Finally, because of the independent nature of Office of the Inspector General, I respectfully cannot permit the Committee to review investigative file OIG File No 2011-0318. The OIG is mandated by statute to execute its duties independently. D.C. Code, 2001 Ed. § 1-301.115a (a) (3) (A) states that “the Inspector General shall [c]onduct *independent* (emphasis added) fiscal and management audits of District government operations” In addition, § 1-301.115a (a)(3)(D) states that “the Inspector General shall [*i*]ndependently (emphasis added) conduct audits, inspections, assignments, and investigations as the Mayor shall request, and any other audits, inspections and investigations that are necessary or desirable in the Inspector General’s judgment” Simply put, the OIG is charged with telling its stakeholders and others what they need to know rather than what they would like to hear. To do otherwise, I believe, would be a dereliction of my responsibilities as Inspector General.

In closing, I hope this letter answers your concerns about our DCPS investigation and puts to rest any misconceptions, and I look forward to working with you in the future.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Charles J. Willoughby
Inspector General

CJW/zgh

cc:

The Honorable Muriel Bowser, Committee on Government Operations, Council of the District of Columbia

The Honorable David Catania, Committee on Government Operations, Council of the District of Columbia

The Honorable Mary Cheh, Committee on Government Operations, Council of the District of Columbia

The Honorable Vincent Orange, Committee on Government Operations, Council of the District of Columbia