



## THE OFFICE OF THE CHILD ADVOCATE

### INVESTIGATIVE REPORT REGARDING COMPLIANCE OF HARTFORD PUBLIC SCHOOLS WITH STATE LAWS REGARDING MANDATED REPORTING OF CHILD ABUSE AND NEGLECT

#### PREFACE

In April, 2016, Hartford Mayor Luke Bronin requested that the Office of the Child Advocate begin an immediate review of the policy, procedures and practices of the Hartford Public School district (“HPS”) with regard to mandated reporting of suspected child abuse and neglect.<sup>1</sup> This request followed the arrest of a high-ranking HPS administrator, Eduardo (“Eddie”) Genao for felony Risk of Injury to a child, and after public concerns were reported regarding HPS’ executive/s possible knowledge of a prior reported concern about a “director” employed by HPS engaged in “inappropriate contact” with a child.

The OCA undertook a comprehensive review of HPS’ policies and practices with regard to not only mandated reporting of suspected abuse or neglect consistent with state law, but also the district’s policies and practices regarding compliance with federal Title IX obligations--<sup>2</sup>namely to prevent, identify and respond effectively to concerns of sexual discrimination, harassment or abuse within the school community. OCA’s review included extensive examination of district records as well as interviews with key personnel from the district and the Board of Education. OCA also undertook a broad review of research, data and federal guidance regarding mandated reporting and Title IX compliance.

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<sup>1</sup> The review also comes within the purview of OCA, in its independent oversight role, to: (i) “[r]eview complaints of persons concerning the actions of any state or municipal agency providing services to children . . . through funds provided by the state” (Conn. Gen. Stat. § 46a-13/(3)); (ii) “[e]valuate the delivery of services to children by state agencies and those entities that provide services to children through funds provided by the state” (Conn. Gen. Stat. § 46a-13/(1)) and (iii) “[t]ake all possible action including, but not limited to, conducting programs of public education, undertaking legislative advocacy and making proposals for systemic reform and formal legal action, in order to secure and ensure the legal, civil and special rights of children who reside in this state.” (Conn. Gen. Stat. § 46a-13/(7)). The purpose of such a review is to improve the delivery of state-funded services and protections for vulnerable children.

<sup>2</sup> Mr. Genao had previously been investigated in 2007 by DCF for alleged abuse/neglect of multiple female students. The alleged behaviors that were the subject of the investigation--personal electronic messaging with students, encouraging at least one student to use a “Web cam” during personal computer-based communication with him, engaging in suggestive dialogues with at least one female student during evening hours, allegedly making female students uncomfortable during one-on-one time with him while in school, allegedly touching female students by hugging, kissing them, or holding hands--are behaviors that implicate the school district’s Title IX obligations due to the allegations of sexual harassment and unwelcome contact with students within the meaning of federal law.

OCA deeply respects and appreciates the invitation to review the work of the school district with regard to mandated reporting of child abuse and neglect. The OCA is an independent watchdog agency and Hartford's request for an external review by this office is demonstrative of its commitment to improving practices and ensuring the health, safety and welfare of all children.

The OCA's investigation led to profound and urgent concerns regarding the school district's historical lack of compliance with state laws designed to ensure adequate protection and safety for children, including laws regarding mandated reporting of suspected child abuse and neglect, as well as laws requiring documentation and reporting of student injuries, particularly those that are incurred as the result of physical restraints or other encounters with school staff. Review of child welfare records pertaining to Hartford Public Schools gave rise to serious concerns regarding the treatment of certain students with disabilities or other specialized needs, the adequacy of resources to safely support children with specialized needs in the classroom, the lack of documentation and reporting regarding maltreatment of children with disabilities, and the lack of accountability and monitoring for certain school employees/contractors with a record or pattern child maltreatment allegations.

OCA also found that DCF has not yet complied with state laws that require it to investigate and track school districts' failures to report suspected abuse or neglect, and DCF could not produce reports regarding how often such failures occur within school districts or how often DCF has made a referral to the State's Attorney's Office for failure of a school employee/district to report suspected abuse or neglect. DCF has committed to addressing these deficiencies.

A draft of this report was submitted to the Hartford Public Schools on December 28, 2016 for review and comment.<sup>3</sup> In the ensuing days and weeks, HPS leadership and city officials met with OCA officials on multiple occasions to discuss the development of a district-wide Action Plan to remedy urgent concerns identified in this report. OCA was encouraged by the receptiveness of the district's acting Superintendent to the report's findings and recommendations, her appreciation for the urgent issues regarding children's safety and well-being, and the willingness of the district and city officials to discuss and construct a comprehensive action plan to ensure student safety. Preliminary discussions regarding the development of such a plan have been positive. OCA has emphasized the need for outside consultation and monitoring as part of a comprehensive action plan and the importance of a continuous quality improvement plan to ensure student safety. OCA looks forward to the finalization of the district's action plan, inclusive of a framework for independent monitoring, and a continued collaboration with city officials and other relevant state agencies to promote the safety and welfare of all students. All efforts with regard to the action plan must prioritize student safety, family engagement, community partnership, and transparency and accountability.

## **METHODOLOGY**

To conduct this review, OCA engaged in the following activities:

- Review of HPS records concerning policy, procedures and practices for mandatory reporting of abuse/neglect;

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<sup>3</sup> It is the standard practice of the OCA to provide draft findings and recommendations to the subject agency or organization for the purpose of ensuring accuracy and completeness of material facts and findings and to engage in preliminary discussions regarding corrective actions. The draft report was also provided to the Department of Children and Families and a final draft was provided to the State Department of Education.

- Review of Hartford Board of Education records relating to mandatory reporting policy and procedures;
- Review of Connecticut State Department of Education (“SDE”) records related to mandatory reporting communications provided to Connecticut school districts;
- Review of personnel records for Eduardo Genao, HPS internal investigation records, and Minutes of Board meetings relating to Genao’s employment with HPS;
- Review of DCF records regarding Eduardo Genao;
- Review of DCF records regarding allegations of abuse/neglect by HPS employees at eleven district schools between 2013 and 2016 (n=59);
- Review and analyses of relevant state and federal law applicable to mandated reporting and school district Title IX compliance;
- Review of literature, research/data, and federal guidance regarding mandated reporting and Title IX compliance in child-serving organizations. Such review included, but was not limited to, the following publications:
  1. United States Department of Education, *Educator Sexual Misconduct: A Synthesis of Existing Literature* (2004), prepared by Carol Shakeshaft, Hofstra University.
  2. United States Department of Education-Readiness and Emergency Management for Schools Technical Assistance Center: *Educator Sexual Misconduct, What School Staff Need to Know and Do*, Vol. 3 Issue 2 (2008).
  3. United States Center for Disease Control: *Preventing Child Sexual Abuse Within Youth-Serving Organizations—Getting Started on Policies and Procedures* (2007).
  4. United States Government Accountability Office, Report to the Ranking Member, Committee on Education and Workforce, House of Representatives—*Federal Agencies Can Better Support State Efforts to Prevent and Respond to Sexual Abuse by School Personnel* (Jan. 2014).
  5. United States Department of Education, Office for Civil Rights—*Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* (2001).
  6. United States Department of Education, Office for Civil Rights—*Dear Colleague Letters*.
  7. United States Department of Education, Office for Civil Rights—*Title IX Resource Guide* (April, 2015).
- Meetings and/or discussions with representatives from HPS, DCF and the Hartford Board of Education;
- Meetings and/or discussions with former HPS staff members and former Hartford Board of Education members;
- Meetings and/or discussions with individuals/professionals in the Hartford community knowledgeable about conditions for children in the Hartford Public Schools;
- Correspondence with representatives from SDE;
- Discussions with community members familiar with the circumstances leading to the arrest of Eduardo Genao.

## SUMMARY OF FINDINGS

In 2010, the Office of the Child Advocate and the Office of the Attorney General issued a joint investigative report after an extensive investigation into various school districts' compliance with state mandated reporting laws. The OCA/AG report contained the following key findings:

1. School districts did not regularly review and update their mandated reporting policies.
2. Training of mandated reporters was inadequate.
3. Mandated reporters sometimes failed to make reports concerning suspicion that school employees had neglected or abused a child.
4. DCF did not have a system in place to efficiently document, track and address either the failure to make mandated reports or delays in mandated reporting.
5. School employees who engaged in misconduct were not effectively held accountable.

***Despite the publication of the OCA-Attorney General Joint Report in 2010 and the subsequent passage of several new laws to improve mandated reporting, the OCA's current review contains many of the same findings.***

The OCA's review of the employment history of Eduardo Genao with the district (2005 through 2016) revealed significant deficiencies in HPS' historical and current compliance with mandated reporting obligations and federal Title IX requirements. HPS' mandated reporting policies for much of the last decade did not conform to state laws. At the start of OCA's review the HPS policies had not been updated since 2005. The policy was updated by the district in June of 2016, two months following Mr. Genao's arrest. The district could produce few records regarding its training and compliance efforts over the last decade, and there are no records confirming employee training prior to 2014. Since 2014, HPS has been working to improve its protocols for training and compliance, moving to an electronic training and documentation system.

A review of the district's Title IX anti-discrimination/harassment policies led to the discovery that HPS was not compliant with its own policies. For example, though HPS policy created a Central Harassment Prevention Team to address all complaints involving staff and students, no internal complaints were produced. After reviewing a draft of this Report, HPS produced a newly created document listing five complaints from the last three (3) school years but providing few details. HPS policy also requires building principals to send annual Title IX reports to the Superintendent (and the Central Harassment Prevention Team) with a log of any concerns, documentation regarding training and other school climate issues. HPS could not produce a single report for OCA to review after OCA requested all such reports from the last three (3) school years.

Hartford Board of Education by-laws provide that the Board is responsible for ensuring adequate and up-to-date policies for the district, including policies regarding mandated reporting of child abuse and neglect. However, OCA's review revealed a confusing allocation of responsibilities between district executive personnel and members of the Board of Education regarding the establishment and monitoring of such policies.

While OCA deeply appreciates the invitation by the city and HPS to conduct this review, OCA finds that the prolonged failure of the district to ensure its policies regarding mandated reporting of child abuse conformed to state law, and the district's lack of compliance with its own harassment policies creates a disturbing picture of historical non-compliance and haphazard attention to laws intended to protect the safety and welfare of children. OCA emphasizes that the willingness by the city's

administration to examine the school district's performance in this area is a critical first step towards improving the safety net for students. OCA is also encouraged by the more recent effort of the Office of Talent Management to tighten adherence to training requirements and compliance within the district. Yet additional investigative activities by OCA, outlined later in this summary, reveal persistent and contemporary problems with reporting suspected child abuse and neglect by district employees.

As for Mr. Genao, he was first investigated by the Connecticut Department of Children and Families ("DCF") in 2007 for allegedly inappropriate contact with one or more female students. Joint investigative interviews by HPS officials and DCF investigators included information that multiple female students were allegedly uncomfortable with Mr. Genao, then a school principal, and did not want to be alone with him; that Mr. Genao electronically messaged with one or more female students, that the contents of such messages were social, personal, familiar and suggestive; that Mr. Genao encouraged one or more females to utilize a web-cam on their personal computer while messaging with him; that Mr. Genao hugged and kissed female students; that Mr. Genao told a female student to keep their correspondence "a secret," and that Mr. Genao deleted programs and other information from his personal computer when DCF's investigation began. DCF specifically found that Mr. Genao engaged in "grooming" behavior with a student—behavior characterized by experts as conduct designed to prepare a child or youth for sexual molestation or otherwise inappropriate sexual contact. However, despite its finding that Mr. Genao engaged in grooming behavior with a student, DCF erroneously concluded that it could not legally substantiate Mr. Genao for emotional or physical neglect due to the female victim having turned 18 years of age prior to the state's investigation.<sup>4</sup>

HPS officials negotiated a disciplinary settlement with Mr. Genao wherein the district issued a written reprimand to Mr. Genao for poor judgment and unprofessional behavior. Genao accepted a lateral transfer to Executive Director of Adult Education at the close of the school year, and he requested that the district take an "aggressive approach" to any Freedom of Information Act request regarding the matter. A district note accompanying the letter of reprimand included a written caution that the matter must be kept "very confidential." Mr. Genao was not asked to seek counseling or re-training as part of the complaint resolution, and Mr. Genao was not subjected to ongoing surveillance or any formal monitoring during his tenure with the district.

Board of Education members were not fully informed as to DCF's findings from the 2007 investigation. At the conclusion of the DCF and HPS investigations, Board of Education members accepted then-Superintendent Stephen Adamowski's summary of the investigation by DCF and the Superintendent's decision to transfer Mr. Genao to the Adult Education position.

Mr. Genao was subsequently promoted (and transferred) to executive level positions within the district, with initial promotions and contracted positions recommended by the Superintendent and approved by the Board of Education. At the time of his resignation Mr. Genao was the Director of Compliance for Special Education, earning a salary of \$176,274.

OCA's review indicated that in 2007 several school employees knew that one or more girls was uncomfortable being alone with Mr. Genao and/or that Mr. Genao was electronically messaging with a student and that this contact made the student uncomfortable. None of the employees reported the conduct, though several advised one student to complain, tell her mother, take Genao "off her list," or tell someone in authority about her concern. Eventually an embedded DCF social worker in the

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<sup>4</sup> The alleged concerning conduct took place over a period of time prior to the student's 18<sup>th</sup> birthday.

school learned of the concern and convinced a school employee with knowledge of the matter to make a report to DCF. The social worker even reviewed the matter with a DCF attorney who agreed that the matter must be reported as soon as possible. In fact, the lawyer made the report herself only a few days later after she grew concerned as to whether to the school employee would follow up.

Review of investigation documents maintained by HPS and DCF lead OCA to conclude that district employees were not adequately trained, supported or empowered to prevent, identify or respond to concerns of sexual harassment or educator sexual misconduct within the school community. Without the presence of the embedded DCF social worker in the school no report may have ever issued to DCF.

HPS and DCF records do not indicate that there were any further complaints regarding Mr. Genao's conduct between 2005 and 2016. During an interview with a district employee, OCA was told that a female employee had complained to her supervisor, the Family Relations Advocate ("FRA"), only a short while prior to Mr. Genao's arrest, about Genao making the employee "feel uncomfortable." The FRA stated that she addressed the matter by re-routing the employee's activities so that she would not have to see Mr. Genao as part of her duties. No written complaint or concern was noted.

On March 22, 2016, after learning about suspected abuse or neglect of a child, a community-based educational advocate/religious minister, Dr. Aaron Lewis, alleged in writing to the Superintendent's Chief of Staff, Dr. Gislaine Ngounou, that an HPS "director" was engaged in "inappropriate contact with a child," and asked for her attention. The Chief of Staff exchanged short messages with Dr. Lewis attempting to connect on the same day, but no connection was made. Dr. Ngounou did not continue to follow up with Dr. Lewis over the next several days, and she did not contact the Superintendent, the Human Resources office, or the district's Security Office.

After sending his text message to Dr. Ngounou, Dr. Lewis reached out by email to the Board of Education Chairman, Attorney Richard Wareing, making him aware of the same concern about an HPS Director, and expressing his desire to address the matter internally with district officials prior to "going public." Mr. Wareing later stated that he "missed" Dr. Lewis' email.

On April 4, 2016, thirteen (13) days after first contacting Dr. Ngounou, Dr. Lewis, on the advice of a local community blogger, Kevin Brookman of *We The People*, contacted local law enforcement authorities. Dr. Lewis' call led to a criminal investigation and subsequent arrest of Mr. Genao and his resignation from Hartford Public Schools.

Dr. Lewis and the Chief of Staff are both mandated reporters as a matter of law and both did not timely address or report the concern of suspected abuse or neglect of a child, which requires that such reasonable suspicion be reported to DCF or law enforcement within 12 hours. State law does not specifically designate Board of Education members as mandated reporters.<sup>5</sup>

As part of its review, OCA sought to review any records maintained by DCF regarding concerns about HPS' employees' failure to report suspected child abuse or neglect. DCF is required under state law

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<sup>5</sup> OCA's report includes a recommendation that the legislature specifically add Board of Education members to the list of statutorily mandated reporters of suspected abuse or neglect of a child.

to investigate and address failure to report child abuse and neglect by school districts.<sup>6</sup> DCF responded to OCA and reported that it does not conduct such investigations. Rather, DCF reports such instances to the State's Attorney for investigating as a criminal matter. Though DCF produced some information regarding a preliminary effort to track instances of failure to report, DCF was not able to produce any reports regarding school districts' failures to report or how often it has made a referral to the State's Attorney's Office for a district employee's failure to report suspected child abuse or neglect.<sup>7</sup> OCA's ongoing discussions with DCF regarding these issues have been productive and DCF has committed to strengthening its process for tracking and responding to districts' failures to report.

OCA sought to learn whether such investigation records would reveal any trends regarding district employees' compliance with mandated reporting obligations. As OCA has immediate access to DCF child welfare records, OCA examined a sample of reports regarding suspected child abuse and neglect by district employees. OCA reviewed reports and subsequent DCF investigations from 2012 through 2016 arising from over a dozen Hartford Public schools.

OCA's initial review of 59 reports across 11 schools<sup>8</sup> raised significant concerns about the district's compliance with mandated reporting obligations, as almost half of the reports revealed a failure to report or a failure to timely report concerns of suspected child abuse or neglect to DCF. Reports depicted serious concerns regarding inadequate education and supervision for children with disabilities, abusive behavior towards young children with disabilities, lack of documentation and reporting regarding the use of physical restraint of children and associated injuries, and the capacity of the district to supervise and hold employees accountable for child maltreatment and other concerning behaviors. Records depicted significant violations of children's civil and educational rights, with some incidents presenting an alarming picture of unsafe and under-resourced classroom environments. Reports revealed multiple employees who have been the subject of more than one DCF

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<sup>6</sup> Conn. Gen. Stat. § 17a-101o, entitled, School employee failure or delay in reporting child abuse or neglect. Policy re delayed report by mandated reporters, provides that: "(a) If the Commissioner of Children and Families suspects or knows that a mandated reporter, as defined in section 17a-101, employed by a local or regional board of education, has failed to make a report that a child has been abused or neglected or placed in immediate risk of serious harm within the time period prescribed in sections 17a-101a to 17a-101d, inclusive, and section 17a-103, the commissioner shall make a record of such delay and develop and maintain a database of such records. The commissioner shall investigate such delayed reporting. Such investigation shall be conducted in accordance with the policy developed in subsection (b) of this section, and include the actions taken by the employing local or regional board of education or superintendent of schools for the district in response to such employee's failure to report. (b) The Department of Children and Families shall develop a policy for the investigation of delayed reports by mandated reporters. Such policy shall include, but not be limited to, when referrals to the appropriate law enforcement agency for delayed reporting are required and when the department shall require mandated reporters who have been found to have delayed making a report to participate in the educational and training program pursuant to subsection (b) of section 17a-101a. (c) For purposes of this section, "child" includes any victim described in subdivision (2) of subsection (a) of section 17a-101a." For discussion of the law, see next section, pg. 8.

<sup>7</sup> After receiving a draft of this Report, DCF did locate a log containing instances of delayed and failed reporting of suspected abuse and/or neglect for the past three (3) year period, which log was created in conjunction with the DCF Careline. However, the log contained few details about the instances themselves, did not reflect what follow-up may have occurred, and did not indicate whether cases were referred to the State's Attorney.

<sup>88</sup> OCA utilized this initial sample for statistical findings contained later in this report, but OCA subsequently looked at several additional reports that came to this office's attention during the continued fact-finding process.

investigation for suspected abuse and neglect of children. OCA finds that many children depicted in the reports were likely traumatized by district employee's alleged misconduct and maltreatment. OCA also finds that reports depicted many district employees who were caring and vigilant in their attention to student needs and who advocated for their safety and support.

OCA finds that HPS has a significant amount of work to do to address concerns raised by this investigation most importantly creating an action plan, informed by experts, for ensuring student safety. OCA strongly recommends that HPS improve all of its practices and protocols with regard to prevention, identification and response to cases of suspected child abuse and neglect (or other forms of maltreatment) by district employees, and that the district create a system for comprehensive and expert-driven monitoring, with a transparent framework for accountability, inclusive of regular public reporting. OCA has also recommended that HPS examine resource and programmatic deficiencies that place children at increased risk of restraint, seclusion, injury, abuse or neglect. A lack of adequate resources for children with specialized needs creates an environment that is unsafe for students and potentially unsafe for staff as well.

OCA is also recommending additional changes to state law to ensure greater protection for students with disabilities, monitoring from SDE, and action from DCF to comply with state law requiring it to have a system for identifying failures to report by school districts and protecting vulnerable students. OCA recommends additional actions to improve supports for children with disabilities, and monitoring and accountability for HPS' utilization of restraint and seclusion of students. HPS must have a continuous quality improvement plan for ensuring students' safety.

Finally OCA recommends additional training and implementation efforts to support HPS' compliance with federal Title IX requirements. HPS may need to be monitored by state officials and/or advocates for persons with disabilities to ensure development and implementation of a comprehensive action plan to support student safety.

**RELEVANT LAW:**  
**MANDATED REPORTING OF SUSPECTED CHILD**  
**ABUSE AND NEGLECT**

***“Reasonable Cause to Suspect” child abuse or neglect is the legal standard for mandated reporting.***

Federal and state law require mandated reporters—certain categories of individuals whose employment or role in the community involves being around children and families—who have “reasonable cause to suspect or believe” that a child has been abused or neglected to take steps to protect that child from further abuse by reporting his/her concerns to DCF or law enforcement.<sup>9</sup> Such reports must be made “as soon as practicable but not later than twelve hours after the mandated reporter has reasonable cause to suspect or believe that a child has been abused or neglected or placed in imminent risk of serious harm, by telephone or in person” to DCF or a law enforcement agency. Conn. Gen. Stat. § 17a-101b.

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<sup>9</sup> Conn. Gen. Stat. § 17a-90 *et. seq.*

***Mandated reporters are neither required nor expected to conduct his/her own investigation into suspected child abuse.***<sup>10</sup>

That long-standing principle has recently been codified in the child welfare statutes, “a mandated reporter’s suspicion or belief may be based on factors including, but not limited to, observations, allegations, facts or statements by a child, victim, as described in subdivision (2) of subsection (a) of this section, or third party. Such suspicion or belief does not require certainty or probable cause.”<sup>11</sup> Nor do the mandatory reporting laws contain any requirement that the abuser and/or victim be specifically identified *at the time the report is made by the reporter*.

***DCF is Obligated to Investigate School’s Failure to Report***

The failure of a mandated reporter “employed by a local or regional board of education” to promptly report such suspected abuse/neglect of a child triggers a mandatory investigation conducted by DCF in accordance with Conn. Gen. Stat. § 17a-101o. The failure to report by *any mandated reporter* can result in harsh penalties, including criminal penalties.<sup>12</sup>

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<sup>10</sup> “Nothing in the [child welfare] Statutes requires a mandated reporter to undertake such further investigation. [Conn. Gen. Stat. § 17a-101g(a)] provides that the investigation will be made by the agency receiving the report, not by the reporting [individual].” *Morales v. Kagel*, 58 Conn. App. 776, 781-82 (2000)(concluding that the reporter “did not owe a duty to the plaintiff to investigate the accusations against him prior to making a good faith report [to DCF]”); *see also Greene v. Town of Bloomfield, Et Al.*, Superior Court, judicial district of Hartford, Docket No. CV 075010745 (March 22, 2011, *Sheldon, J.*)(whether report made to DCF was made in good faith is not dependent on whether reporter conducted investigation prior to reporting when there is no such requirement to investigate); *Parisi v. Johnsky*, Superior Court, judicial district of New Haven, Docket No. CV 054009374 (February, 20, 2007, *Cosgrove, J.*) (acknowledging that there is no duty for mandated reporters to undertake investigations). As earlier cautioned by our Supreme Court and echoed more recently by Connecticut trial courts, imposing a duty to investigate upon mandated reporters “would necessarily run contrary to the state’s policy of encouraging the reporting and investigation of suspected child abuse, as expressed in § 17a-101.” *Zamstein v. Marvasti*, 240 Conn. 549, 561 (1997). Such a duty would “create the risk that reporters would simply conclude that no abuse had occurred out of fear of potential liability to suspected abusers.” *Greene v. Town of Bloomfield, Et Al., supra*.

<sup>11</sup> Conn. Gen. Stat. § 17a-101a(d). Subsection 17a-101a(d) was added in 2015.

<sup>12</sup> In January, 2016, a principal employed by the Stamford School district was terminated for failing to report suspected abuse of a student. The Stamford Board of Education cited “inefficiency,” “insubordination” to follow board rules, “moral misconduct” and other “due to other due insufficient cause.” The Principal and Vice-Principal were criminally charged with failing to alert authorities. *See Stamford School Board Votes Unanimously to Terminate Former High School Principal in Scandal*, NBC – CT Reporting, January 26, 2016. *See also* Conn. Gen. Stat. § 17a-101a(b) and (c). Section 17a-101a provides, in relevant part, that: “(b)(1) Any person required to report under the provisions of this section who fails to make such report or fails to make such report within the time period prescribed in sections 17a-101b to 17a-101d, inclusive, and section 17a-103 shall be guilty of a class A misdemeanor, except that such person shall be guilty of a class E felony if (A) such violation is a subsequent violation, (B) such violation was wilful or intentional or due to gross negligence, or (C) such person had actual knowledge that (i) a child was abused or neglected, as described in section 46b-120, or (ii) a person was a victim described in subdivision (2) of subsection (a) of this section. (2) Any person who intentionally and unreasonably interferes with or prevents the making of a report pursuant to this section, or attempts or conspires to do so, shall be guilty of a class D felony. The provisions of this subdivision shall not apply to any child under the age of eighteen years or any person who is being educated by the technical high school system or a local or regional board of education, other than as part of an adult education program. (3) Any person found guilty under the provisions of this subsection shall be required to participate in an educational and training program. The program may be provided by one or more private organizations approved by the commissioner, provided the entire cost of the program shall be paid from fees charged to the participants, the

DCF is required to investigate a school employee's failure to comply with mandated reporting obligations, make a record of the delay, and maintain a database of such records. The law also requires that DCF policy should identify when such failures to report requires a referral to an appropriate law enforcement agency and additional education and training for the employee or institution.<sup>13</sup>

**RELEVANT LAW:**  
**PREVENTION AND RESPONSE TO SEXUAL HARASSMENT,**  
**SEXUAL VIOLENCE AND DISCRIMINATION UNDER**  
**FEDERAL TITLE IX LAW AND STATE STATUTE**

***Title IX Prohibits Sexual Discrimination in Education Programs***

When a school accepts federal financial assistance, it takes on responsibilities to comply with Title IX of the Education Amendments of 1972 (Title IX), which prohibits discrimination based on sex in education programs and activities in federally funded schools at all levels.<sup>14</sup>

The Title IX regulations outline three key procedural requirements. Each school must:

- (1) Disseminate a notice of nondiscrimination;
- (2) designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX; and
- (3) adopt and publish grievance procedures providing for the prompt and equitable resolution of student and employee sex discrimination complaints.<sup>15</sup>

***A school has a responsibility to respond promptly and effectively to concerns of sexual discrimination/harassment or abuse.***

Once a school knows or reasonably should know of possible sexual violence or harassment, it must take immediate and appropriate action to investigate or otherwise determine what occurred. If sexual violence has occurred, a school must take prompt and effective steps to end the sexual violence, prevent its recurrence, and address its effects. A school has these responsibilities even if a student or his or her parent does not want to file a complaint or does not request that the school take any action on the student's behalf, if a school knows or reasonably should know about possible sexual harassment or sexual violence.<sup>16</sup> A school must take steps to protect the complainant as necessary, including interim steps taken prior to the final outcome of the investigation.

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amount of which shall be subject to the approval of the commissioner. (c) The Commissioner of Children and Families, or the commissioner's designee, shall promptly notify the Chief State's Attorney when there is reason to believe that any such person has failed to make a report in accordance with this section." Subsections (b) and (c) were amended several times after 2007.

<sup>13</sup> Conn. Gen. Stat. § 17a-101o, enacted in 2011 following the joint investigative report by the OCA and Attorney General's Office. See footnote No. 3.

<sup>14</sup> See U.S. Dep't of Edu., Office for Civil Rights, *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties* (January 19, 2001), <http://www.ed.gov/ocr/docs/shguide.html>. (available in PDF, <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>)

<sup>15</sup> See U.S. Dep't of Edu., Office for Civil Rights, *Questions and Answers on Title IX and Sexual Violence* (April 29, 2014), <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>.

<sup>16</sup> A criminal investigation into allegations of sexual harassment or sexual violence does not relieve the school of its duty under Title IX to resolve complaints promptly and equitably.

***Every school must have and distribute a policy against sex discrimination, stating that it does not discriminate on the basis of sex in its education programs and activities.***

The school's anti-discrimination policies must be widely distributed and available on an on-going basis. The policy must state that inquiries concerning Title IX may be referred to the school's Title IX coordinator or to the U.S. Department of Education Office for Civil Rights (OCR). Federal guidance provides that schools should take affirmative steps to prohibit inappropriate conduct by school personnel and have "procedures for identifying and responding to such conduct,"<sup>17</sup> including codes of conduct that specifically address "what is commonly known as grooming—a desensitization strategy common in adult educator sexual misconduct."<sup>18</sup> OCR guidance emphasizes prevention, clear protocols for response and intervention, and *preparing* personnel and students to "ensure that everyone understands what types of conduct are prohibited and knows *how to respond when problems arise*."<sup>19</sup>

***Every school must have a Title IX coordinator and a Grievance procedure.***

Schools must notify all students and employees of the name or title and contact information of the Title IX coordinator.<sup>20</sup> Every school must have and make known a grievance procedure for students to file complaints of sex discrimination, including complaints of sexual violence. Schools can use general disciplinary procedures to address complaints of sex discrimination, but all procedures must provide for prompt and equitable resolution of sex discrimination complaints. This includes the right to adequate, reliable, and impartial investigation of complaints. OCR guidance cautions that when using employee disciplinary procedures, the school must be "mindful of its obligation to provide interim measures to protect the complainant in the educational setting."<sup>21</sup>

**Schools must disclose to the complainant information about the sanction imposed on the perpetrator when the sanction directly relates to the harassed student.**

***State law requires that districts implement a sexual abuse and assault awareness and prevention program.***

In accordance with current state law, school district's sexual abuse and assault awareness and prevention program must include:

- (1) For teachers, instructional modules that may include, but not be limited to, (A) training regarding the prevention and identification of, and response to, child sexual abuse and assault, and (B) resources to further student, teacher and parental awareness regarding child sexual abuse and assault and the prevention of such abuse and assault;
- (2) For students, age-appropriate educational materials designed for children in grades kindergarten to twelve, inclusive, regarding child sexual abuse and assault awareness and prevention that may include, but not be limited to, (A) the skills to recognize (i) child sexual abuse and assault, (ii) boundary violations and unwanted forms of touching and contact, and

<sup>17</sup> <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>, at 4.

<sup>18</sup> Id.

<sup>19</sup> Id. at 5.

<sup>20</sup> The role of the Title IX coordinator is to oversee the school's response to Title IX reports and address "any patterns or systemic problems revealed by such reports and complaints." <http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf> at 10.

<sup>21</sup> See footnote No. 14 at page 14.

(iii) ways offenders groom or desensitize victims, and (B) strategies to (i) promote disclosure, (ii) reduce self-blame, and (iii) mobilize bystanders; and

(3) A uniform child sexual abuse and assault response policy and reporting procedure that may include, but not be limited to, (A) actions that child victims of sexual abuse and assault may take to obtain assistance, (B) intervention and counseling options for child victims of sexual abuse and assault, (C) access to educational resources to enable child victims of sexual abuse and assault to succeed in school, and (D) uniform procedures for reporting instances of child sexual abuse and assault to school staff members.<sup>22</sup>

## PART ONE

### **REVIEW OF EDUARDO GENAO'S EMPLOYMENT HISTORY WITH HARTFORD PUBLIC SCHOOLS REVEALS SIGNIFICANT CONCERNS REGARDING THE DISTRICT'S COMPLIANCE WITH MANDATED REPORTING AND ANTI-DISCRIMINATION LAWS**

1. **In April, 2016, HPS and BOE officials, as well as a community member/mandated reporter, did not timely report concerns that an HPS “director” was having “inappropriate” contact with a child.**

In April of 2016, the HPD was alerted by a community leader and educator, Dr. Aaron Lewis that Genao was engaging in suspected abuse/neglect of a child. Dr. Lewis is a minister and President of the Scribes Institute, Inc.—an organization that provides community-based educational support for children in Hartford.<sup>23</sup> Per Dr. Lewis' interview with the OCA, in his role as a community educational service provider and advocate, he interacted regularly with education officials, including BOE member Richard Wareing and (former) HPS Chief of Staff, Dr. Gislaine Ngounou.

On March 22, 2016, Lewis first became aware of Genao's allegedly inappropriate conduct with a thirteen (13) year old girl from New York. Lewis sent an immediate text message to Ngounou, which stated:

**Good morning. Let me know what time is a good time to talk. I need to bring a situation to your attention. I wanted to run it by your first before speaking with the superintendent. It's an urgent matter concerning one of your directors with regard to inappropriate child contact. Just wanted to give you a chance to respond before going public.**

(Emphasis added). There were text messages back and forth between Lewis and Ngounou trying to connect during the day, but that connection did not occur. There were no further communications between Lewis and Ngounou after March 22, 2016.<sup>24</sup> At no point, did Ngounou inquire about the seriousness of the allegation or ask who the director was that was involved in “inappropriate child

<sup>22</sup> Conn Gen. Stat. § 17a-101q.

<sup>23</sup> The Scribes Institute, Inc. is an exempt private foundation eligible to receive tax-deductible charitable contributions that is registered with the IRS as the “Scribes Institute Inc.”

<sup>24</sup> *Hartford Schools' Chief of Staff Stepping Down*, by Vanessa de la Torre, The Hartford Courant, July 7, 2016.

conduct.” Additionally Ngounou did not bring the matter to the Superintendent of Schools, the district’s Human Resources Department, the Labor relations manager, or the security manager for the district. A day after his initial text message to Ngounou, Lewis sent an e-mail to Hartford Board of Education Chairman Richard Wareing’s law firm address again making allegations of an HPS Director and inappropriate child contact.

**Good morning Rich. When you get a chance please give me a call. I sent this message to the Chief of Staff, Dr. Gislaine Ngounou on yesterday concerning one the directors with the intention of preventing a potential lawsuit against the BOE and to reduce risk of injury to minors. However, she hasn't taken my request seriously. The text I sent her was, ‘Good morning. Let me know what time is a good time to talk. I need to bring a situation to your attention. I wanted to run it by you first before speaking with the superintendent. It's an urgent matter concerning one of your directors with regard to inappropriate child contact. Just wanted to give you a chance to respond before going public. Thanks. Dr. Lewis.’**

**That was sent yesterday morning at 8:48 A.M.**

**While I did receive a message at 1:06 saying Will do. There wasn't any follow through. My concern is that I am always careful to follow protocols to ensure that matters of discipline are always carried out in a dignified manner. Despite following proper protocol as a parent and advocate my efforts are being ignored. I'm reaching out to you because I respect our friendship and on your shift I always want your leadership to be respected and represented in the best possible way. You can give me a call at [phone number]. Look forward to hearing from you and hope all is well.**

**Best,  
Dr. Aaron Lewis**

There was no response from Wareing who later reported having “missed” the e-mail.<sup>25</sup> In an interview with OCA, Lewis stated that he frequently exchanged e-mails with Wareing and had never before not received an almost immediate response from him. There were no internal or external actions taken by Ngounou or Wareing in response to the communications from Lewis. Lewis reached out to a local community blogger seeking advice about what he should do with the information, and he was instructed to immediately inform the Hartford Police Department (“HPD”), which he subsequently did on April 4, 2016. However, that report to the HPD happened almost two (2) weeks after Lewis first learned of the suspected abuse.

On April 4, 2016, after being notified of Genao’s suspected abuse/neglect involving a thirteen (13) year old girl, HPD began an immediate investigation.<sup>26</sup> On April 5, 2016, HPS’ Security Coordinator

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<sup>25</sup> *Hartford School Official Resigns, Police Probe Underway*, by Vanessa de la Torre, The Hartford Courant, April 6, 2016.

<sup>26</sup> On April 5, 2016, Officer Kevin O’Brien of HPD made a report to DCF of suspected sexual abuse of the Genao children by Genao. O’Brien made the report as a “safety precaution” based on the HPD’s investigation

conducted an administrative interview with Genao. During that administrative interview, Genao submitted his hand-written resignation to HPS. On April 13, 2016, HPD requested that a warrant for the arrest of Genao be issued, which was granted, and Genao was subsequently arrested and charged with risk of injury to a child.

Suspicious about possible sexual abuse of a minor child by Mr. Genao were not promptly reported to DCF or law enforcement by mandated reporters. As a minister, Lewis is a member of the clergy, and as such is a mandated reporter of suspected abuse or neglect to DCF or law enforcement within twelve hours of having “reasonable cause to suspect or believe that a child has been abused or neglected or placed in imminent risk of serious harm.”<sup>27</sup> Lewis delayed his report apparently to alert district officials and allow them an opportunity to review and respond prior to his making a report to outside agencies.

This instinctive desire for an internal vetting or investigation prior to reporting abuse/neglect to authorities is a common problem and was seen often during the course of OCA’s review of HPS’ mandatory reporting compliance.

As a school administrator, Ngounou was also a mandated reporter.<sup>28</sup> While Ngounou did not know the specifics of the suspected abuse/neglect, she arguably received enough information from a member of the community (Lewis) to suspect that a child was being abused and/or neglected by a HPS staff member to report the suspected abuse/neglect and let either DCF and/or HPD conduct an investigation, which investigation would have included speaking with Dr. Lewis and obtaining more direct information. Ngounou should have also encouraged Dr. Lewis to contact DCF or local law enforcement. During the interview, both OCA and Mr. Wareing acknowledged that state law does not specifically designate Board of Education members as mandated reporters.

Superintendent Schiavino-Narvaez told OCA that she did not believe there was enough information for Ngounou to have reported the suspected abuse/neglect to DCF and/or local authorities.<sup>29</sup> However mandated reporters are neither required nor expected to conduct his/her own investigation into suspected child abuse. Nor do the mandatory reporting laws contain any statutory requirement that the abuser and/or victim be specifically identified *at the time the report is made by the reporter*. Ngounou was informed by Lewis that an HPS “director” was engaged in “inappropriate child contact” and that a community member had more specific information about the child and the director. Ngounou should have reported this matter to DCF and district authorities regarding the concerns relayed by Dr. Lewis that a district administrator was allegedly abusing/neglecting a child.<sup>30</sup>

into allegations that Genao was exchanging inappropriate sexually explicit material with a thirteen (13) year old girl from New York. O’Brien was concerned about the safety of the Genao children. As part of its investigation, DCF met with the Genao family. The DCF Investigation Report concluded that the allegations of sexual abuse would not be substantiated.

<sup>27</sup> See Conn. Gen. Stat. § 17a-101(b)(18).

<sup>28</sup> See §§ 17a-101(b)(9) and 53a-65.

<sup>29</sup> Following the arrest of Genao, Ngounou agreed to make a public apology, and as a result the disciplinary action taken against her for failing to follow-up on the suspected abuse/neglect was a “verbal” reprimand from Superintendent Schiavino-Narvaez.

<sup>30</sup> OCA notes that there are occasions in which a victim of child abuse/neglect may not be identifiable. For example, a parent walking by a classroom who sees a staff member maltreating a student should not be precluded from reporting that abusive treatment merely because she cannot identify the student or the teacher. Reporting that information allows DCF to conduct the appropriate investigation into the reported

## 2. Eddie Genao's History with the HPS Reveals Gaps in Preventing, Identifying and Responding to Allegations of Abuse/Neglect and Educator Misconduct.

### 2007-DCF and HPS Conducted an Investigation into Allegations that Genao Abused/Neglected Female HPS Students

On October 29, 2007, DCF initiated an investigation concerning the suspected abuse/neglect of certain HPS female students by Genao after receiving a call from a school employee at HPS—who called DCF at the urging of a school-based DCF social worker. The allegations from the reporter included inappropriate physical contact initiated by Genao toward female HPS students and inappropriate electronic communications with two female students: Nina and Maria.<sup>31</sup>

During the investigation, there were additional reports made to DCF concerning Genao and suspected abuse/neglect of HPS students, including a November 6, 2007 report,<sup>33</sup> November 8, 2007 report<sup>34</sup> and December 9, 2007 report.<sup>35</sup> Collectively, reports alleged that Genao may have had improper conduct/crossed boundaries with multiple female students.

“According to a nationwide survey of 8<sup>th</sup> to 11<sup>th</sup> grade students asking about incidents of unwanted sexual attention at school, nearly 7%, or about 3.5 million students, report having physical sexual contact from an adult, most commonly a teacher or coach, in their school... These students describe unwanted touching on breasts, buttocks, and genitals; forced kissing and hugging; oral/genital contact; and vaginal and anal intercourse.”

*Know the Warning Signs of Educator Sexual Misconduct*, by Carol Shakeshaft, Professor of educational leadership at Virginia Commonwealth University, Richard, VA., Feb. 2013.<sup>32</sup>

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abuse/neglect. In this case, even with the information Dr. Ngounou received, DCF could have followed up directly with Dr. Lewis and district human resource professionals.

<sup>31</sup> Pseudonyms are used to protect the identity of the students.

<sup>32</sup> [http://www.sesamenet.org/images/docs/sexual\\_misconduct\\_warning\\_signs\\_shakeshaft.pdf](http://www.sesamenet.org/images/docs/sexual_misconduct_warning_signs_shakeshaft.pdf)

<sup>33</sup> The November 6, 2007 report was made by reporter Nella Whitmore, Staff Attorney for DCF, which was not accepted by DCF because it was duplicative of the October 29, 2007 matter involving Genao.

<sup>34</sup> The November 8, 2007 report was from an anonymous reporter, who made additional allegations concerning Genao that were not included in the October 29, 2007 matter. *See* Appendix C of this Report. Specifically, there are allegations that three (3) female students referenced by the reporter (ages 15 and 16) were overheard by HPS teacher AW talking about their concerns over Genao e-mailing them and that they allegedly spoke to DC, HPS Social Worker. The reporter stated that DC told the girls “not to say anything.” DCF recommended as “non-accept” because “similar allegation[s] are being investigated.” However, those allegations were provided to the DCF staff member working on the October 29, 2007 investigation and during that investigation students were identified as having similar concerns about Genao. Aside from the interviews of HPS staff, there does not appear to be any further follow-up by DCF on the additional allegations contained in the November 8, 2007 report. Former HPS students who were cited in the report were not interviewed by DCF.

<sup>35</sup> The December 9, 2007 report was noted by the DCF Intake worker as “[n]o new information.”

United States Government Accountability Office Report to Congress, 2014  
Regarding Educator Sexual Misconduct

“While child sexual abuse typically refers to the criminal act of forcing a child to engage in sexual activity with the perpetrator, other inappropriate behaviors with children may eventually lead to sexual abuse. For example, while not generally criminal, behaviors often referred to as ‘grooming’ may be carried out by the perpetrator with the aim of establishing trust to facilitate future sexual activity with the child. ...

Further the growing use of technology and social media as a new and convenient way for adults and students to interact may pose questions about what interactions between school personnel and students are considered appropriate. Early signs of inappropriate behavior with a child can be the key to identifying and preventing the criminal act of sexual abuse....

Sexual abuse of students by school personnel raises particular concerns because of the trust and responsibility placed with schools to ensure a safe and productive learning environment.

As research has shown, child sexual abuse often has significant detrimental consequences on children’s physical, psychological, academic, and behavioral development....”

District and child welfare agency investigators<sup>36</sup> found/documentated that Mr. Genao used his position to gain personal access to a student, and the child welfare agency found that Mr. Genao engaged in “grooming” behaviors, i.e. conduct designed to prepare a youth for a sexual relationship or molestation.

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<sup>36</sup> HPS’ human resources staff participated in DCF interviews with witnesses and alleged victim/s.

DCF wrote, in documents sent to the district, that the agency had credible evidence to support a substantiation of emotional neglect by Mr. Genao of the female student but that the “technicality” of the youth having turned eighteen years old prior to the DCF investigation legally prevented the agency from substantiating abuse or neglect. DCF’s investigation summary, received by the District,<sup>37</sup> states that investigators found the statements made by Maria during the joint HPS/DCF interviews to be credible.

Those statements include that Genao asked Maria for her e-mail address and started communicating with her on-line during the late evening hours when she was a student at Mr. Genao’s school. Conversations were personal and inappropriate. Maria told investigators that Genao made her uncomfortable with his physical contact and that when he was near her, he “had to be touching her”<sup>38</sup> and that she felt disgusting by their encounters. Mr. Genao admitted to investigators that he “hugged and kissed” more than one female student.<sup>39</sup>

Statements made by Maria that DCF found credible include that Genao asked Maria questions such as whether “she had a boyfriend” and “if she was talking to other people on the computer.” He also asked “where her parents were.” At one point, Genao asked her if she could use a “Webcam” or “MSN messenger” so that they could see each other.

Genao would use terms of affection and intimacy when talking to Maria on-line, such as “preciosa” (beautiful), telling her she was “linda” (beautiful/pretty) and “negra” (dark). Genao cautioned Maria she should keep their communication a secret, telling her that “it wouldn’t be good to tell anyone that we’re on the computer.”

Immediately upon learning of the DCF investigation, Genao deleted certain information and programs from his home computer. Included in HPS’s interview summaries were many of the same statements contained in the interview summaries recorded by DCF, including those statements made by Maria that DCF found credible.

DCF credited Maria’s statements made during HPS/DCF interviews about the “computer instant messaging communications with the Principal, the authority represented by the Principal, and related physical contact by the Principal.” **In his defense, Genao told DCF and HPS interviewers that “[Maria] never asked me to stop.”**

DCF investigators erred when they concluded that Mr. Genao could not be substantiated for abuse or neglect due to the age of the victim at the time the investigation commenced. Mr. Genao’s conduct was found to be ongoing and long-standing and state law permits an individual to be substantiated for prior conduct that was abusive/neglectful.

E-mail chains indicate several late night conversations between Maria and Genao, including a conversation that occurred on November 8, 2007 at 9:59 p.m., which included the following dialogue between Genao and Maria:

<sup>37</sup> The DCF’s statements and findings were submitted to the District addressed to the Superintendent of Schools.

<sup>38</sup> While DCF’s summaries of the interviews were not provided to HPS as part of the Investigation Report, HPS representative, Thomas Karpiechick, participated jointly in those DCF interviews and prepared typed summaries, which closely match those summaries contained in DCF’s Investigation Protocol.

<sup>39</sup> Mr. Genao contended that he hugged and kissed girls in a way that was non-sexual but typical for members of a family.

Maria: What's up?  
Genao: ummmmmmm  
Genao: guess  
Maria: hehehe I don't know  
Maria: you tell me  
Genao: hehehe, guess  
Maria: hmmm talking online  
Genao: with how many?  
Maria: who me  
Maria: ?  
Genao: si (yes)  
Maria: con mis amigos (with my friends)  
Genao: cuantos son? (how many are there)  
Maria: 2  
Genao: y conmigo 3. Lol (with me 3)  
Maria: hehehe  
Maria: eres un de ellos (you are one of them)  
Genao: si, right? (yes)  
Maria: aha  
Genao: si? (yes)

The exchange between Genao and Maria appears to contain inappropriate innuendos and illustrates the familiarity that Genao attempted to develop with Maria, including putting himself on the same level as her peers/friends and attempting to create a more personal connection. Genao concluded that conversation by telling Maria, "sweet dreams preciosa (beautiful)." Even Genao's multiple screennames created with various providers, [Nolocredo5a@aol.com](mailto:Nolocredo5a@aol.com), [Nolocredo5b@yahoo.com](mailto:Nolocredo5b@yahoo.com) and [Nolocredo5c@hotmail.com](mailto:Nolocredo5c@hotmail.com), which translate into "I don't believe it," are suggestive of a youthful persona and avoid any connection to his professional adult identity.

Genao was aware that Maria and her relative, Molly,<sup>40</sup> shared the same computer. In an e-mail chain with Molly about the ability to see one other, Genao asked:

**"do u have msn instant messenger," and when Molly said "no," Genao replied, "you should get it, it's free. Go to msn.com and download the instant messenger. If you had it, you would be able to see me via the webcam."**

That recorded conversation occurred at **12:20 at night**. Genao also reportedly encouraged Maria to utilize the webcam on her computer as well.

On December 17, 2007, while the HPS investigation was on-going, HPS Human Resource notes indicate that the district's Family Relations Advocate ("FRA") met with HPS administrators to discuss the allegations made against Genao. The FRA told HPS administrators about a conversation that she had with Molly regarding her concern for her family member, Maria. During the meeting with FRA, Molly reiterated the concerns she reported to HPS and DCF during interviews that Genao also made Molly uncomfortable while she was a student at HPS<sup>41</sup> and that he would **"hug and kiss her" when**

<sup>40</sup> Also a former HPS student whom Genao had interacted with.

<sup>41</sup> Molly had since graduated.

**other people were not around.** Molly told investigators that Mr. Genao also told her to keep their on-line communication a secret. Molly stated **“I wanted to leave school because he made me uncomfortable.”** When Molly was offered the opportunity to be moved within HPS, she refused and stated that: “I can’t leave my [family member]” and that she needed to be at HPS “so this stops.” Molly reported to the FRA that **“I wish I had told you earlier but I was embarrassed.”**<sup>42</sup>

Certain individuals, including HPS employees and a DCF staff attorney and social worker were interviewed by DCF as part of its investigation into the allegations made against Genao. Multiple school employees reported to DCF that they had been told by Maria that Genao was electronically emailing/messaging her at night and that the youth was concerned and uncomfortable. Maria was also a “student worker” for Genao. Other employees confirmed that they heard one or more female students were uncomfortable being alone with Genao when his secretary wasn’t present. One teacher stated she heard that students “were saying some things happened between them and Mr. Genao,” and others referenced “rumors” they heard about Genao and female students. Another employee knew about other girls who didn’t feel comfortable being alone with Genao and the employee had discussed with a colleague the way in which Genao touched a student’s hips in the cafeteria. Multiple employees stated that they advised Maria to tell her parents or other authority figures about the electronic messaging and her discomfort with the principal. One employee told Maria to “stop messaging with Genao and to take him off her list.” A teacher told DCF that Maria had reported being uncomfortable with Genao but that “[Maria] did not want to do anything about it.”

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<sup>42</sup> During an interview with OCA, the FRA was asked whether she ever heard any other complaints about Genao acting inappropriately with a female. Initially the FRA answered no, but then revealed that in 2016, she received a complaint from a staff member that the staff member, a woman, did want to deliver documents/information to Genao because he made her uncomfortable the way he looked at her. The complaint was not documented, and the FRA arranged for the staff member to avoid interaction with Genao as part of her employment duties. The FRA stated that she had never heard any other complaints about Genao.

U.S. Department of Education-Readiness and Emergency Management for Schools Technical Assistance Center: Educator Sexual Misconduct. What School Staff Need to Know and Do.  
Vol. 3 Issue 2, 2008.

“School personnel largely are not attuned to potential hazards their colleagues— or even they—inadvertently may pose in situations which could be defined as educator sexual misconduct....

Educator sexual misconduct is a term that describes a continuum of inappropriate behaviors, from sexual talk to intercourse, which an adult in the education system exhibits toward a student or former student under 18 years old. It includes actions at the level of criminal behavior and child abuse, such as molestation or rape, and other noncriminal yet inappropriate conduct—such as back rubs and hand-holding.

Grooming [behavior] includes:

- Offender sets up a public persona so that the accusations will not be believed, or they can explain away any questionable behavior...
- The offender will desensitize the student to inappropriate behaviors and make the student feel special through both nonsexual and sexual ways.
- Nonsexual warning signs include: Offender will try to move the relationship to a personal level; tell the student their personal problems; discourage the student from talking with other school employees; ask the student to run personal errands. These nonsexual activities are ways to determine the degree to which the exploiter can influence the student.
- Sexual warning signs may include: the offender scheduling appointments with the student in the evenings; taking pleasure in talking about the student’s sexual matters or romantic relationships; engaging in seductive behaviors; recommending drugs or alcohol as a means of relaxing; or initiating physical contact or suggesting a sexual relationship.

A child who has been harassed or otherwise maltreated by an adult authority figure may not always be able to vocalize the exact nature of the concern, especially when the adult’s behavior involves grooming. As summarized by the U.S. Department of Justice, “[Grooming] usually begins with subtle behavior that may not initially appear to be inappropriate, such as paying a lot of attention to the child or being very affectionate. Many victims of grooming and sexual abuse do not recognize they are being manipulated.”<sup>43</sup>

Obstacles to the victim recognizing and reporting concerns about grooming are compounded where the child is a student and the abuser is a person of authority who is ultimately in charge of that student (principal) and also in charge of the staff who are responsible for protecting that student. Despite Maria’s repeated efforts to expose Genao’s behavior, no HPS employee took steps to timely report Maria’s concerns to the chain of command, DCF or the District’s Title IX Coordinator. HPS

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<sup>43</sup> U.S. Department of Justice, Office of Justice Programs, SMART Office, <https://www.nsopw.gov/en-US/Education/CommonQuestions>

employees in whom Maria confided, or who overheard or saw other concerns, did not appear to have knowledge, training or support to recognize and respond to signs of sexual harassment, sexual misconduct, adult boundary-crossing or “grooming” behaviors by a district employee. Employees did not seem to be aware of how such concerns fit in to their obligations as mandated reporters, or whether such concerns were reportable (and to whom) consistent with the district’s obligations under Title IX—namely, protecting students from sexual harassment/discrimination within the school setting. District documents do not provide any indication that the conduct by Genao was considered a Title IX violation or that other educators/staff were counseled or trained following the incident regarding how they could have handled their own concerns, observations or Maria’s confidences more effectively.

A school can receive notice of harassment in many different ways. A student may have filed a grievance with the Title IX coordinator or complained to a teacher or other responsible employee about fellow students harassing him or her. A student, parent, or other individual may have contacted other appropriate personnel, such as a principal, campus security, bus driver, teacher, affirmative action officer, or staff in the office of student affairs.

U.S. Department of Education, Office for Civil Rights “Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties: Title IX” (2001).

#### Staff Members Not Well Prepared to Identify and Respond to Concerns About Genao

The decision by staff members not to report Genao’s alleged/suspected conduct to either DCF or district administration/leadership leads to an examination of what obstacles may have contributed to this decision-making. Staff may have felt that the allegations were too vague, that they didn’t spell out how the youth/s was abused or neglected or mistreated, that Mr. Genao’s alleged conduct was inappropriate, concerning even, but maybe not clearly *abusive or neglectful or sexual*. As stated above, one staff member noted that Maria did not want to “do anything about” her concerns, and even Genao stated that “Maria never told me to stop” touching her. Title IX law also requires that such harassment be reported and addressed. Federal guidance notes that typically when there is a powerful differential between an adult and a minor, such as a teacher-student relationship, officials may presumptively conclude that the conduct and contact was “unwelcome.”

United States Office of Civil Rights 2008 Guidance Regarding Sexual Harassment and Title IX Compliance in Schools, pg. 5.

“A high school athletic coach hugs a student who makes a goal. This by itself is not considered sexual conduct. However, a coach’s hugging of a student could be considered sexual conduct if it is unwelcome and occurs under inappropriate circumstances.... A student’s submission to the conduct or failure to complain does not always mean that the conduct was welcome.”

Children will seldom report to an adult his or her concerns using legally operative terms like “abuse” or “neglect” or “sexual harassment.” A girl (or boy) who is a victim of adult manipulation and

grooming behavior may not even know what she is a victim of or for what purpose the adult is continuing to approach her. A youth is most likely to use the approaches described in this Report and that were employed by Maria, i.e. telling an adult she sees every day that another adult is making her uncomfortable, is coming too close or putting hands on them in a way that makes the youth feel nervous. Grooming behavior is an activity directed toward *establishing* a sexual relationship and may constitute exactly what Maria was describing, sending intimate letters, engaging in intimate dialogue in person or via the Internet; making suggestive comments, finding ways to be alone with the student.

**That so many employees seemed to know that Mr. Genao, at a minimum, appeared to make multiple girls uncomfortable so much so that girls did not want to be alone with him, and yet no one reported this, raises significant concerns. Staff were not prepared or trained to appreciate how or when children are at risk for abuse or harassment in the school environment, understand why boundary crossing between adults and students is indicative of more serious concerns, or empowered and supported to report their concerns within the district chain of command (regarding harassment/hostile environment concerns) or to DCF.**

Though HPS policy requires each school principal/department head to issue an annual report to the Superintendent regarding how harassment (Title IX) issues are being addressed in the school, including a record of trainings provided and any complaints received, upon OCA's request for such information, district officials *could not produce any such reports.*

In addition to not understanding the requirements of mandatory reporting laws or Title IX reporting requirements, at least one HPS staff member also expressed fear of retribution and reprisal for reporting the suspected abuse/neglect, another important barrier to reporting suspected child abuse or neglect. As Principal, Genao was the chief instructional leader and administrative head of the Sports and Medical Sciences Academy. Genao's position of authority over the HPS student population allowed him unfettered access to certain students, including as his own personal student workers.

Concerns expressed by HPS staff of retribution may have been justified. During interviews with DCF and HPS, Genao publically accused specific HPS staff members, including the staff member who reported the suspected abuse/neglect to DCF, of purposefully trying to harm his reputation and made the statement that "I wonder how much coaching has Maria and her [family member] had by these people."

Other barriers to reporting include staff's concern that *they might be wrong*, and therefore they worry that a false allegation ruins the life of an innocent teacher. These concerns are understandable, but should not be a barrier to reporting suspicion or even rumor of a possible inappropriate relationship/contact between a staff member and a student. Because most sexual contact will occur while participants (or perpetrator/victim) are in private, employees must know how to respond to rumors of educator sexual misconduct. Concurrently it is the responsibility of both the district and investigating state/local agencies to ensure due process and confidentiality—where required—for the alleged perpetrator and victim.

HPS Follows Investigation with Minor Discipline for Genao: HPS issued a Written Reprimand and Laterally Transferred Him from Principal to Executive Director of Adult Education

In the wake of DCF's investigation, Mr. Genao faced internal disciplinary action in the form of a reprimand letter. Through his union representative, Mr. Genao requested that the district take an "aggressive approach" to any Freedom of Information Act request regarding the matter. A district note accompanying the letter of reprimand included a written caution that the matter must be kept "very confidential."<sup>44</sup> The disciplinary letter which referred to Genao's "poor judgment," but *not* to DCF's characterization of his behavior as "grooming," was negotiated by Genao and his union representative during a meeting in January, 2008, who together indicated the Union would demand "a full hearing prior to issuance of anything more than a verbal reprimand." The disciplinary letter ultimately settled on by the parties referred to Genao's "**inappropriate and unacceptable**" engagement in electronic social interactions with a student and reflected Genao's promise to "**cease and desist from social exchanges with students, electronically and otherwise.**" Any non-compliance would subject Genao to discipline and possible termination from employment.

The district does not have a written policy regarding electronic communications/interaction by staff with students.

Disconcertingly, the District's reprimand indicated that "there was no finding of inappropriate physical conduct," despite both Maria and her female relative (the former student) having reported that Mr. Genao *had* engaged in inappropriate physical contact, with Maria stating that Genao "always had to be touching her," and Molly stating that Genao would hug or kiss her when other people were not around.

Guidance regarding sexual harassment/misconduct in schools issued by the U.S. Office for Civil Rights in 2008 cautions that any physical contact, such as hugging, can constitute "sexual conduct" by a school employee towards a student if "it is unwelcome and occurs under inappropriate circumstances."<sup>45</sup>

District documents also contained no mention of efforts, as required by Title IX, to follow up with the student victim, address her concerns and remedy harms inflicted by the inappropriate conduct of her principal. District documents do not contain any framing of the concerning behavior from a Title IX perspective, and therefore there was no documented discussion or action plan regarding training (or re-training) employees (including those Maria confided in) regarding district Title IX reporting protocols. District documents also contain no information that the student victim was clearly separated and protected from Mr. Genao during the investigation and discipline process, as potentially required by Title IX, and Mr. Genao was never placed on administrative leave. Genao was not removed from the school until the following academic year (almost 9 months after DCF's investigation began) at which time he was transferred from his principal position to Executive Director of Adult Education, a lateral move.

Current and former district officials gave different accounts for why Genao was laterally transferred from his principal position to the position of Executive Director of Adult Education. The former Superintendent responsible for Mr. Genao's discipline stated that Mr. Genao needed to be removed

<sup>44</sup> Genao's request for the district to take an "aggressive approach" to Freedom of Information requests presumably meant that he wanted the District not to disclose anything about Genao's discipline in response to requests for that information.

<sup>45</sup> United States Department of Education, Office for Civil Rights "Sexual Harassment, It's *Not* Academic," (Sept., 2008) found on the web at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrshpam.pdf>, pg. 4.

from the site of his “unprofessional behavior”— behavior widely known to his subordinates in the school. In an interview with OCA, the labor relations manager indicated that the transfer helped to remove Genao from access to children but then emphasized that the primary reason for transferring Genao was to remove him from the school where the concerning behavior occurred.

OCA notes that the move from a principal position to Executive Director of Adult Education suggests that district administrators may have seen the forced transfer from Genao’s principal position as a prophylactic measure. No explanation was provided in district records for why, absent a concern that Mr. Genao posed a risk to minor students, he was being moved away from the school and into the arena of Adult Education. Despite the district’s characterization of Genao’s conduct as an exercise of poor judgment, the negotiated requirement that Genao lose his status as principal of a successful and publicly praised program appears more consistent with the District’s *unstated* concern that Mr. Genao posed a potential risk to minor students. Despite these un-stated concerns (and DCF’s finding that Mr. Genao engaged in “grooming behavior” with a minor), no effort was made to surveil Mr. Genao or otherwise monitor his interactions with female students moving forward and no requirement was insisted on that Mr. Genao submit to any counseling to advise him regarding appropriate boundaries and interactions with students. There is no indication in the discipline documents that Mr. Genao was forced to undergo any specific re-training with regard to appropriate interactions with students or his obligations consistent with the district’s Title IX requirements.

District administrators interviewed as part of OCA’s review indicated that, with regard to maintaining Genao’s employment, they felt their hands were tied by the lack of a DCF substantiation for child abuse or neglect. Even if they had wished to, they stated, they could not have terminated Mr. Genao, forced his resignation, or otherwise removed him, even temporarily, from his educational duties, without risking a lengthy and from their perspective, unwinnable legal battle. As noted in the 2010 OCA/AG Report, however, there are mechanisms to support the termination of a staff member for misconduct, regardless of whether there is a DCF substantiation of abuse or neglect. As a school administrator, Genao was subject to the requirements contained in the Connecticut Code of Professional Responsibility for School Administrators, which requirements are set forth in Regulations of Conn. State Agencies § 10-145d-400b. Included in that Code is the responsibility to “[e]nsure that all students are provided educational opportunities in environments safe from sexual, physical, and emotional abuse” and “[m]aintain the highest standards of professional conduct, realizing that one’s behavior reflects directly upon the status and substance of the profession.” In addition, several of Mr. Genao’s contracts of employment were pursuant to contracts with the Hartford Board of Education, which contracts each contained a termination clause. The termination clauses included the right to discharge Mr. Genao for: “inefficiency or incompetence;” “insubordination against reasonable rules of the Board;” “moral misconduct;” “disability as shown by competent medical evidence;” or “other due and sufficient cause.” Arguably, the state child welfare agency’s finding that Mr. Genao engaged in “grooming behavior” with at least one female student was a grave concern that could have led to an employment termination effort.

In addition to the possibility of termination, HPS arguably had grounds for requesting that Genao’s certification be revoked in accordance with Regulations of Conn. State Agencies §§ 10-145d-612(a)(3) and (5) due to Genao’s “grooming” behavior, which was an indicator that he was “professionally unfit to perform the duties for which certification was granted” and/or “[o]ther due and sufficient cause.” Such a request could have come from the “board of education, by a superintendent of schools, or by any person with a legitimate interest, hereinafter called ‘the requesting party.’” Regulations of Conn. State Agencies § 10-145d-612(b).

During interviews conducted by OCA, the issue of risk assessment and response was discussed and district officials acknowledged that perhaps more could be done to assist with evaluating the degree of “offending” risk that an employee who engaged in grooming conduct with a student posed. Officials acknowledged that they did not consult with any experts in risk assessment or educator sexual misconduct when they disciplined Genao and retained and/or promoted him within the district. OCA notes, however, that the child welfare agency had already characterized Genao’s behavior as “grooming” and indicated that such a finding was worthy of a substantiation for emotional neglect of a student. By 2008 there was guidance from the federal government that such conduct was grossly inappropriate and often a sign of behaviors linked to future sexual abuse.

Following his lateral transfer to Executive Director of Adult Education, Genao was promoted/transferred to several high-ranking executive level positions within HPS,<sup>46</sup> without a record of any individualized or targeted counseling, training or supervision to surveil Mr. Genao’s interaction with students.<sup>47</sup> Genao’s final position with HPS, *Executive Director of Compliance [for special education]*, was effectuated pursuant to a contract with the HBOE signed in October, 2013 and which offered Genao a starting salary of \$169,494, to increase to \$176,274 in July, 2015.<sup>48</sup> Executive level positions must be recommended by the Superintendent and approved by the HBOE. Genao’s promotion was recommended to the Board by then Superintendent Christina Kishimoto.<sup>49</sup> Genao served in multiple positions that required HBOE approval. Genao’s final position as Director of Compliance was considered a demotion from the Superintendent’s cabinet and was facilitated by the most recent Superintendent of Schools, Beth Schiavino-Narvaez.<sup>50</sup>

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<sup>46</sup> June, 2008 Genao was transferred to Executive Director of Adult Education, salary of \$129,659. The offer letter stated “Congratulations! You have been selected as Executive Director, Adult Education with the Hartford School System.” This position was approved by the Board of Education during a May 29, 2008 meeting. Executive level positions must be submitted by recommendation from the Superintendent and approved by the Board of Education. On January 20, 2010 Genao was offered the position of Director of the Regional School Choice Office, at a salary of \$129,875. This was a lateral transfer and did not require HBOE approval. On September 28, 2011, Genao was offered School Quality Office position at a salary of \$135,000. The HBOE approved then Superintendent Christina Kishimoto’s recommendation to appoint Genao at a meeting on September 20, 2011. July 12, 2012, Genao was promoted to the position of Assistant Superintendent for Early Literacy and Parent Engagement pursuant to a contract with the HBOE at a salary of \$159,000. Genao’s salary was to increase to \$162,975 on July 1, 2013, an increase of almost \$30,000 a year in salary in less than two years. On July 1, 2013, Genao remained in the same position but signed a new contract with the HBOE to begin July 1, 2013 at a salary of \$162,975 and to increase to \$176,274 on July 1, 2015. The HBOE approved Superintendent Kishimoto’s recommendation to appoint Genao at its June 25, 2012 meeting.

<sup>47</sup> Guidance regarding compliance with federal civil rights law (Title IX) requires that when harassment is conducted by a school employee, and “[d]epending on the nature and severity of the harassment, counseling” may be necessary. OCR guidance, 2008 at 13.

<sup>48</sup> Director of Compliance was a position newly created by the Superintendent “to ensure that the district fulfills its state and federal Special Education requirements.” HartfordBusiness.com, December 3, 2014, *Hartford schools’ Central Office realigned*, [www.hartfordbusiness.com/article/20141203/NEWS01/141209966/hartford-schools-central-office-realigned](http://www.hartfordbusiness.com/article/20141203/NEWS01/141209966/hartford-schools-central-office-realigned) (accessed September 20, 2016)

<sup>49</sup> Lateral transfers and demotions do not have to be approved by the Board.

<sup>50</sup> When Schiavino-Narvaez was newly hired as superintendent at HPS, she reviewed the files of all of the HPS administrators who were in the superintendent’s “cabinet,” which included Genao. In conjunction with that cabinet file review, Schiavino-Narvaez looked at Genao’s cabinet file, which contained his performance evaluations and made the decision to move him out of her cabinet to another position, Executive Director of Compliance, a position that she created, where she felt he could be more effective. Schiavino-Narvaez did not

Then-Superintendent of HPS and the HPS Board of Education were not clearly informed of the full extent of the District and DCF's 2007-08 investigative findings<sup>51</sup> regarding Genao's behavior.

As part of its review/investigation, OCA met with former HPS administrators and former/current Board of Education members, including former HPS superintendent, Steven Adamowski, who held that position from 2005 through 2011.<sup>52</sup>

According to Adamowski, he never reviewed the DCF or HPS investigative reports regarding Genao's "grooming" behavior, or the DCF summaries or narratives, which included DCF's letter dated December 13, 2007 that was specifically addressed to Adamowski and included DCF's concerns about Genao's conduct. Superintendent Adamowski stated that he relied on his direct reports<sup>53</sup> to handle the details concerning those investigations and recommend appropriate disciplinary measures. His recollection was that he was informed internally (and only verbally) by subordinates that DCF did not substantiate the 2007 allegations made against Genao because of the age of the child and because there was nothing "sexual" about their encounters. Adamowski stated that his limited knowledge of the allegations against Genao included the exchanging of a few e-mails that were "friendly" and "playful" between friends. Adamowski stated he was unaware of any of the other concerns expressed by DCF in writing, including that Genao was engaged in "grooming" behaviors or that the only reason the allegations were not substantiated was because of what DCF termed a "technicality." Mr. Adamowski stated that he was not made aware of the contents of another former student's concerns about Mr. Genao's behavior, as relayed to Human Resources and the Family Relation's Advocate.

**During the interview with OCA, Superintendent Adamowski appeared to learn of concerning details of DCF/HPS investigation of Genao for the first time**, including that Genao encouraged a female student to utilize a webcam during private electronic messaging, that he deleted materials on his home computer during DCF's investigation, that he encouraged the student/s to keep their communications a "secret," that multiple female students were alleged to be uncomfortable being alone with Genao, and that multiple females allegedly complained of unwanted physical attention from Genao, including hugging and kissing, and that he "always" had to have his hands on one student when they were alone. OCA interviewers read portions of DCF's findings to Superintendent Adamowski during the meeting.

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review Genao's personnel file, and she stated to OCA that she was unaware of his prior DCF investigation and internal reprimand at the time she decided to demote him.

<sup>51</sup> The District's Human Resources staff participated in the DCF investigation and observed all DCF investigative interviews regarding Mr. Genao's conduct. HR documents are consistent with DCF's findings.

<sup>52</sup> Adamowski is currently the Superintendent of the Norwalk Public School District.

<sup>53</sup> An Assistant Superintendent, Penny McCormick, and the district's labor relations manager, Jill Cutler Hodgeman.

Adamowski reported to OCA that the written reprimand was the only appropriate disciplinary action HPS could take against Genao based on the information he had at the time, and the fact that DCF did not substantiate the allegations against him. When the Executive Director of Adult Education position became available, it was Adamowski who made the decision to transfer Genao to that position in June of 2008.

During a December 18, 2007 Board Meeting, Superintendent Adamowski had “recognized Eddie Genao, Principal of the Sport and Medical Sciences Academy, and staff for the school’s recognition as one of the most successful high schools in the U.S. News and World Reports Magazine.”

At a January 9, 2008 special meeting of the Hartford Board of Education, Adamowski informed members of the report made against Genao, the subsequent investigations by DCF and HPS and the disciplinary action taken, but unfortunately the Superintendent was only able to share the limited information he knew. According to Adamowski, the limited information he did have was not shared with the Board until after the DCF and HPS investigations had *concluded* and disciplinary action *had already been decided*. It was at the January meeting that Adamowski informed the Board that Genao was being transferred to another position within HPS, which prompted Adamowski to tell Board members for the first time about the allegations made against Genao.<sup>54</sup>

Based on the information provided by HPS, there are no indicators that there were any written communications between HPS and the full Hartford Board of Education regarding the DCF and/or HPS investigations into Genao’s conduct.<sup>55</sup>

There also did not appear to be any discussion of “grooming behavior,” what such behavior was, whether any district policies or protocols needed to be updated to address interactions between staff and students, and whether any employees needed to be retrained regarding Title IX or mandated reporting provisions. Board members interviewed by OCA confirmed that the Board did not have the authority to disapprove any particular disciplinary action. However, Board members stated that had the Board been fully informed of the results of the 2007 DCF and HPS investigations, including that DCF found that Genao displayed “grooming” behavior, it could have used its influence to pressure HPS to impose a harsher penalty.<sup>56</sup>

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<sup>54</sup> Statements from OCA interview of Superintendent Adamowski on September 27, 2016.

<sup>55</sup> In 2007, the Board was comprised of the following members: Mayor Eddie A. Perez; Andrea Comer (Board member through 2009); Ada M. Miranda (Board member through 2011); David M. MacDonald (Board member through 2011); Pamela M. Richmond (Board member through 2011); Israel Flores (Board member through 2011); Sharon Patterson-Stallings (Board member through 2011); Elizabeth Brad Noel (Board member through 2013) and Luis Rodriguez-Davila (Board member through 2013). Current Board members include: Robert Cotto, Jr. (joined the Board in 2011); Richard Wareing (joined the Board in 2012); Matthew Poland (joined the Board in 2012); Beth Taylor (joined the Board in 2014); Craig Stallings (joined the Board in 2014); Michael Brescia (joined the Board in 2014); Tiffany Glanville (joined the Board in 2016) and Karen Taylor (joined the Board in 2016).

<sup>56</sup> OCA notes that Boards of Education perform a careful balancing act when they receive and respond to information regarding educator misconduct as they also later may act as an arbiter of discipline for an employee subjected to a termination proceeding. Due process entitles an employee to an impartial hearing process, but Boards of Education are endowed with responsibilities to ensure student safety.

Following the arrest of Genao, current Board Chair, Richard Wareing, spoke to the news media and stated that at the time the Board was voting on Genao's 2012 promotion to Assistant Superintendent for Early Literacy and Parent Engagement at a starting salary of \$159,000,<sup>57</sup> Wareing was unaware of the 2007 allegations made against Genao or the resulting disciplinary action, stating that: "I wouldn't have voted for it had I known what was alleged to have happened . . . . Do I feel blindsided? Yes."<sup>58</sup>

**OCA interviews revealed that Board members typically do not examine or ask about prior personnel matters of candidates that the Superintendent is recommending for promotion.**

Superintendent Adamowski, in response to questions from OCA, stated that he had not faced the issue of how or when to share such information with the Board as he would never have sought to promote someone with a professional reprimand in his or her file.<sup>59</sup> At least one other Board member stated that even a prior reprimand such as Genao's may not prevent her from approving the candidate for promotion, considering the history and whether time had elapsed without further complaint. This Board member verbalized concern that all applicants for promotion must be treated fairly and with "due process," and that one's past cannot be held against them forever.

Though the Board of Education is required to approve executive level appointments and contracts, according to interviews conducted by OCA with current and former Board of Education members, appointments that come before the Board are made on the recommendation of the superintendent and are generally accepted. The only information provided to Board members is the candidate's resume and perhaps a summary of qualifications. Lateral moves, demotions and those positions below principal do not require Board approval.

**3. Between 2005 and 2016 the District did not have clear protocols and practices to identify, prevent or respond to child sexual abuse with the school community and mandated reporting policies were not consistent with state law.**

Between 2005 and June, 2016, the district did not take adequate steps to ensure its policies regarding mandatory reporting of abuse and neglect to DCF were consistent with state law. The District did not have consistent and reliable mechanisms to train employees in their obligations as mandatory reporters and did not keep adequate records. Connecticut's mandatory reporting laws were considerably strengthened in 2011 in response to a joint investigative report by the OCA and the Connecticut Attorney General exposing critical gaps in mandatory reporting practices and compliance by several school districts. The district did not update its policies in response to either the OCA-AG report or the technical guidance provided by the State Department of Education regarding changes in the law. Internal documents shared by the District with OCA indicate that it received technical assistance from

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<sup>57</sup> With respect to the *School Quality Officer* position held by Genao from November 1, 2011 through June 2012 (at a salary of \$135,000) and subsequent position of *Assistant Superintendent for Early Literacy and Parent Engagement* held by Genao from July 1, 2012 through December 2, 2014 (at a starting salary of \$159,000), HPS responded that "[n]o documents exist" responsive to OCA's request for information about job responsibilities. OCA was able to independently determine some of the overall responsibilities associated with the School Quality Officer position, but it is unclear exactly what job functions were included in both of those high-ranking senior administrative promotions that were given to Genao, and it is concerning that no such documents exist to detail such duties and justify the creation and maintenance of those positions.

<sup>58</sup> *Mother Suing Hartford, City Schools Over Alleged Negligence In Genao Case*, The Hartford Courant, June 23, 2016.

<sup>59</sup> Superintendent Kishimoto, who was responsible for promoting Genao during her tenure, is no longer with the District and was not available for interview by OCA.

SDE but did not effectively respond. Specific deficiencies during this eleven-year period of time include:

- The 2005-16 HPS Policy contained only a limited definition of who was considered a mandated reporter. For example, it did not include the superintendent, substitute teachers, food service workers, custodians, contract employees or “any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in (i) a public elementary, middle or high school, pursuant to a contract with the local or regional board of education . . . .” *See* Conn. Gen. Stat. §§ 53a-65 and 17a-101(b).<sup>60</sup>
- The 2005-16 HPS policy did not contain a training component, which became statutorily required in July of 2011.<sup>61</sup> Prior to 2014, mandatory reporting training at HPS was not centralized and training was conducted “at the individual building level and HPS reported to OCA that it “does not maintain copies of all of those materials.” In fact, no materials related to mandatory reported training prior to 2011 were provided to OCA. The 2011-2014 materials forwarded to OCA included a series of emails and memos referencing distribution of mandated reporting information. Emails typically were addressed to Principals from the district’s Prevention Coordinator.<sup>62</sup>
- The 2005-16 HPS Policy did not contain: (i) any operational definitions of child abuse and neglect or (ii) indicators of child abuse and neglect. While those components are not statutorily required, they do provide a more comprehensive understanding of child welfare laws and the requirements of mandatory reporting.

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<sup>60</sup> Conn. Gen. Stat. § 53a-65 was amended in 2009 to further include “any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in (i) a public elementary, middle or high school, pursuant to a contract with the local or regional board of education, or (ii) a private elementary, middle or high school, pursuant to a contract with the supervisory agent of such private school.” HPS’ policy was not updated in 2009.

<sup>61</sup> HPS policy was not updated in 2011.

<sup>62</sup> As stated above, HPS did provide OCA with copies of internal memos and emails, mostly dated from 2011 and 2012 that address distribution of mandated reporting obligations to principals. The memos and emails also asked that principals identify members of their prevention team and the names of their Title IX Coordinators. A memo dated August 15, 2011 and authored by the District’s Director for Prevention/Intervention Services, correctly advises that mandated reporters “immediately phone a report of abuse to the Department of Children and Families,” and complete and submit DCF forms within forty-eight hours. A November, 2012 email includes information that “All HPS employees are mandated reporters of suspected child abuse.” Emails from 2013 addressed to DCF requested additional training for administrators of Hartford Public Schools. OCA is aware that these email requests for additional training in 2013 came in the wake of a significant crisis of pervasive and persistent non-reporting of child abuse/neglect occurring at Naylor Elementary School, which will be further discussed in this letter.

- The 2005-16 HPS Policy did not contain a provision detailing the distribution of the Policy to HPS employees. Additional documents did not clarify how policies were specifically disseminated and reinforced with staff.
- The 2005-16 HPS Policy did not contain a provision requiring all records concerning abuse/neglect of a student by a staff member, including records detailing allegations, investigations and reports be housed in a central location as required by Conn. Gen. Stat. § 10-220(f) beginning in 2011.

**The failure to update and maintain an effective policy for mandated reporting is glaring.**

The 2010 OCA/AG Report identified several key areas of concern regarding districts' compliance with mandated reporting, including: (i) gaps in background checks of prospective school district employees; (ii) gaps in mandated reporting of suspected child abuse and/or neglect and (iii) inadequate investigations and not holding school employees who engage in abuse and/or neglect of children accountable.

The 2010 OCA/AG Report included many recommendations for reform, including statutory and policy changes. Soon thereafter legislative reforms were made to the child welfare statutes, including mandatory reporting provisions in response to the 2010 Report.

- Public Act 09-242 – expanding definition of “school employee.”
- Public Act 11-93 – broadening the response of school districts and departments of Education and Children and Families to reports of child abuse and neglect and the identification of foster children in a school district.
  - Public Act 13-53 – prohibiting employers from retaliating against employees for complying with mandated reporting laws.
  - Public Act 14-186 – expanding definition of “school employee” and notification requirement following an investigation by DCF.
  - Public Act 15-205 – expanding the reporting requirement for school employees and imposing tougher penalties for failure to report suspected abuse/neglect.

Those legislative reforms were communicated to all Connecticut school districts by the Connecticut State Department of Education (“SDE”) through the issuance of Circular Letters.<sup>63</sup>

In response to OCA’s request for “all documents received from State Department of Education concerning mandatory reporting requirements, including any legislative changes/updates from 2007 to the present,” HPS initially replied that “[n]o documents have been located at this time.” Later in response to OCA’s additional requests for information, HPS provided responsive documents that

<sup>63</sup> In the SDE’s Circular Letters, which it routinely sends to all Superintendents of Connecticut schools, including Circular Letters 2009-10, C-3 (Public Act 09-242); 2011-12, C-2 (Public Act 11-93); 2013-14, C-2 (Public Act 13-53); 2014-15, C-2 (Public Act 14-186) and 2015-16, C-1 (Public Act 15-205), school districts were advised of legislative changes, including changes made to the child welfare statutes with respect to mandated reporting.

included a copy of a memo from the then Commissioner of Education, Mark McQuillan to Superintendent of Schools, dated July, 2010, that addressed findings and recommendations from the OCA/AG. Along with this document, HPS provided a document summarizing changes made to Connecticut state law in 2011 following the joint report. No other documentation from the State Department of Education was provided.

As recommended in the 2010 OCA/AG Report, DCF subsequently issued a Model Policy for the Reporting of Child Abuse and Neglect in collaboration with the State Department of Education in 2011. The Model Policy closely follows the child welfare statutory requirements for mandatory reporting and contains: (i) a training component; (ii) operational definitions of child abuse and neglect and (iii) indicators of child abuse and neglect.

Despite the publication of the 2010 OCA/AG Report, the SDE Circular Letter summaries, the subsequent publication of DCF's Model Policy and generally available guidance published on what the mandatory reporting laws require, *the 2005-2016 HPS Policy did not reflect any of those relevant legislative reforms.*

The documents (emails and memos) received by OCA from the district indicate that there was some effort by certain individuals within the district, particularly the former director of Prevention/Intervention, to make principals aware of employees' obligations regarding mandated reporting. However, the dearth of general documentation on this topic, the lack of data regarding training and compliance, and the failure to ensure the district's policies were updated consistent with state law, create a general and concerning impression of non-compliance. Further investigation of this issue by OCA, detailed in this report, substantiates these impressions and concerns and reveals a contemporary problem of inconsistent compliance with mandated reporting obligations by district employees.

**4. The Board of Education did not assist the District with maintaining up-to-date and effective mandatory reporting policies despite organizational by-laws that placed responsibility for policy-making with the Board of Education.**

In accordance with its Bylaws, the Hartford Board of Education has the responsibility to "formulate and adopt general policies for the operation and improvement of the schools which shall be written into a school code," and to "direct the superintendent to recall all policy manuals during the months of July and August in even numbered years for purposes of administrative updating and board review."<sup>64</sup> In-line with that responsibility, the Board's Policy Committee is responsible for "the biannual review of all policies and recommendations of revisions for Board of Education

Notably State law does not specifically designate Board of Education Members as mandated reporters of suspected child abuse or neglect.

This is a gap in the law that should be rectified.

<sup>64</sup> Bylaws of the Hartford Board of Education adopted June 15, 1999, Section 9000.

policies.<sup>65</sup> In addition, this committee addresses matters pertaining to the development and recommendations of policies for the Board and its bylaws.”<sup>66</sup>

At its November 10, 2015 meeting, the Policy Committee met to discuss certain policies, including “Policy 4118.21 Reporting Abuse and Neglect.” OCA does not know whether revisions were discussed at that time or in subsequent meetings. On June 21, 2016, two months after the resignation and arrest of Eduardo Genao, the Board adopted a revised policy regarding mandated reporting.

There was no indication in the records provided to OCA that the Hartford Board of Education’s Policy Committee conducted the required “biannual review of all policies and recommendations of revisions for Board of Education policies.” Certainly, this biannual review did not occur with respect to HPS’s mandatory reporting policies as those **policies remained legally deficient for several years** before finally being revised in June of 2016.

**5. HPS/Board, subsequent to the resignation and arrest of Mr. Genao, completed an update of its mandated reporting policies in June 2016, with identified areas for continued improvement.**

HPS/Board has now significantly revised and improved its written protocols for training employees on their mandated reporting obligations.

**The revised HPS Mandatory Reporting Policy was adopted at the Hartford Board of Education’s June 21, 2016 meeting.** The revised Policy is a comprehensive policy that closely mirrors DCF’s Model Policy for the Reporting of Child Abuse and Neglect. It provides a more complete definition of mandated reporter and includes: (i) a training component; (ii) operational definitions of child abuse and neglect and (iii) indicators of child abuse and neglect.

**However, there are some remaining gaps contained within that revised Policy**, which are currently being addressed, in part, by HPS’ newly appointed Assistant Superintendent for Talent Management, Peter Dart, who is responsible for ensuring that all mandatory reporting training, compliance and monitoring at HPS meets legal requirements. Mr. Dart indicated a willingness to work with OCA to make sure that goal is achieved.

- A critical element missing from the HPS 2016 revised Policy is that it **does not include any reference to how maltreatment of students between the ages of 18 and 21** should be handled by employees.<sup>67</sup>

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<sup>65</sup> HPS enlists certain staff members to act as liaisons to the Board, who work with the Board’s Policy Committee to make sure that all HPS policies are up to date and align with state and any federal laws. The Board relies on that HPS staff support to provide SDE updates and other communications regarding state and federal laws concerning education.

<sup>66</sup> In 2007, the Board’s subcommittee was known as the “Government Relation and Policy Committee.” By 2015, that Committee became known as the “Policy Committee.”

<sup>67</sup> Note that state law is ambiguous regarding mandated reporting and investigation of suspected abuse and neglect of students who have attained the age of 18. Appendix to this letter addresses this area of the law and makes recommendations to address gaps in the safety net, particularly for students with disabilities who are the most likely individuals to remain in school beyond age 18.

- The policy has a section devoted to “Reporting Procedures for Employees Other Than Statutory Mandated Reporters” but does not specifically define the HPS employees who would come under that category, which could lead to some confusion among those HPS employees who receive the Policy.<sup>68</sup>
- There are also deficiencies in the way in which HPS is conducting its notification and training programming with respect to mandatory reporting. In 2014, HPS began providing its mandatory reporting training through a computer-based software program called Protraxx. The system provides login credentials to HPS employees to take required training courses, which include mandatory reporting. HPS employees can access the program at any time.
  - Currently, all HPS employees are provided notification of mandatory reporting training and the use of Protraxx during his/her “new employee orientation.” It is unclear whether temporary and/or contract employees (i.e., substitute teachers, student teachers, etc.) are given a “new employee orientation.” If not, then those categories of employees are not being given access to the only training source available for mandatory reporting.
  - HPS sends out an internal announcement to its principals, entitled “Focus on Leadership,” which details compliance training, including mandatory reporting training, and provides instructions on accessing the Protraxx training modular. The Focus on Leadership announcement states that only the following categories of employees will receive access to Protraxx: “administrators, certified teachers, behavior techs, paraprofessionals, CDAs<sup>69</sup> and School Nurses.” There are several categories of HPS staff that are not included in that listing, including, but not limited to, psychologists, social workers, substitute teachers, contract employees, custodians, cafeteria workers, tutors or “any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in (i) a public elementary, middle or high school, pursuant to a contract with the local or regional board of education . . . .” Conn. Gen. Stat. § 53a-65.
  - An internal “Compliance Training” memo is provided to new HPS employees upon hire and lists the compliance training that is required by employees, including mandatory reporting. However, the memo states that it is only applicable to the following category of employees: “Administrators, Behavior Technicians, CDAs, Paraprofessionals, School-based Executive Assistants, School Nurses, School Safety Officer, and Teachers.” There are several categories of HPS staff that are not included in that listing, including, but not limited to, psychologists, social workers, substitute teachers, contract employees, custodians, cafeteria workers, tutors or “any other person who, in the

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<sup>68</sup> In discussions with HPS, administrators could only identify a narrow group of employees who would not be considered mandated reporters, which could be specifically stated in the Policy to avoid any potential confusion among HPS staff. OCA is recommending that state law be amended to require that all school employees or individuals providing services within the school who have some contact with students be deemed mandated reporters of suspected child abuse or neglect. OCA anticipates that this change will help districts by addressing confusing distinctions between mandated reporters and non-mandated reporters.

<sup>69</sup> CDA is the acronym for “child development associate.”

performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in (i) a public elementary, middle or high school, pursuant to a contract with the local or regional board of education . . . .” Conn. Gen. Stat. § 53a-65.

- Certain HPS employees are not receiving mandatory reporting training due to the lack of access to computers to view the DCF training video, including but not limited to, food service workers, contractual employees and certain part-time workers. Mr. Dart has indicated that HPS is aware of this critical gap with training and is currently working on possible solutions, including installing a computer in a designated area so that all such employees have access to the training video.
- Experts agree that training should be interactive, scenario-based, and *repeated* for employees to have adequate knowledge and preparedness to identify and respond to concerns of child abuse, neglect or educator sexual misconduct.

**Mr. Dart stated that compliance reports from 2015-16 show that HPS employees are eighty (80) percent compliant with mandatory reporting training and the goal for 2016-2017 is one hundred (100) percent.** As reported by Dart, non-compliance reports are now run weekly and compliance is monitored closely by his office and followed-up with individual principals at the local building level. Dart acknowledged that prior to his involvement, no one “owned” the process, but described a comprehensive and progressive plan to OCA detailing how mandatory reporting compliance would be better monitored going forward. HPS now has a central office for monitoring compliance, which should provide a more effective and comprehensive method of tracking compliance.

In response to OCA’s request for documentation regarding any disciplinary action taken against any HPS employee for failure to comply its mandatory reporting policy since 2007, HPS responded that it “has not located any records of any such disciplinary action.” Presumably, no such actions were taken.

As part of its concerted effort to improve mandatory reporting training and compliance, Dart has indicated that discussions are currently taking place regarding consequences for employees who fail to participate in mandatory reporting training.

It remains unclear whether certain HPS employees, including, but not limited to, substitute teachers and contract employees are included in the mandatory reporting program and would appear on that non-compliance report.

## **6. HPS Title IX Compliance Framework Is Significantly Deficient**

As outlined earlier in this report, a review of the previous incident/s involving Eduardo Genao reveal concerns regarding the district’s compliance with Federal Title IX requirements. As part of this review OCA sought and reviewed information regarding the district’s current framework for compliance with Federal Title IX obligations to prevent, identify and respond effectively to concerns of sexual

discrimination in the school community. The district’s policies supporting Title IX compliance are contained in both the Personnel and the Student sections of the HPS Handbook of Policies.

HPS’ policy handbook—student section--defines harassment as “unwelcome, discriminatory behavior toward an individual or individuals on the basis of race, gender, color, religious creed, national origin, age, sex, sexual orientation, disability, marital status, present or past history of mental disorder, learning disability or physical disability, or genetic information” in which “submission to such conduct is made either explicitly or implicitly a term of condition of school accommodations. Submission to or rejection of such conduct is used as a basis for education affecting the individual. Such conduct has the purpose of unreasonably interfering with an individual’s school or creating an intimidating, hostile, or offensive school.”<sup>70</sup>

The forms of harassment in both the Student and Personnel sections of the Policy include: “spoken and/or written remarks, symbols, caricatures, physical contact, gestures and innuendo, the display of posters, book covers, T-shirts or other items that contain images or words that can be interpreted as harassing.”

#### Central Harassment Prevention Team

As stated in both the Personnel and Student sections, the District is required to have a Central Harassment Prevention Team (“Central Team”) consisting of the following individuals: director of human resources and his/her designee; Title IX Coordinator, assistant superintendent for support services and his/her designee, at least one school principal and at least one school guidance counselor or social worker.” The Central Team has “primary responsibility for initially addressing reports of harassment in violation of this policy and making recommendations to the appropriate school principal for remedial action in the case of student violators, or to the superintendent in the case of staff and other non-student violators, including vendors and visitors.” (Emphasis added).

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<sup>70</sup> The Personnel section of the harassment policy – Section 4218.3 slightly modifies that definition to include “unwelcome, discriminatory behavior toward an individual or individuals on the basis of race, ancestry, color, religious creed, national origin, age, sex, sexual orientation, gender identity or expression, disability, marital status, present or past history of mental disorder, intellectual disability, learning disability or physical disability, or genetic information.”

School Site Harassment Prevention Team

Every HPS individual school is also required to have a School Site Harassment Prevention Team (“School Site Team”). The School Site Team is responsible for reporting complaints involving students to the Central Team for addition action, and “logging the complaint.”

Each HPS principal/department head is required to issue an annual report to the superintendent and the Central Harassment Prevention Team in June. Such report provides a summary of the training that has taken place and future training objective and addresses how harassment issues are being addressed in the curriculum. The report also provides a “summation of the number of complaints received and the actions taken for resolution (mediation, disciplinary action, etc.).”

Harassment Complaint Procedure

In terms of the complaint procedure for harassment of students by staff, the director of human resources conducts an investigation into any alleged violations of the Policy involving staff/student and staff/staff. At the conclusion of the investigation, the factual findings are provided to the Central Team for review and to consider making recommendations for remedial action. The superintendent “or” school principal will review the report and any recommendations from the Central Team and take “appropriate action.” Violators who are subject to remedial action may appeal to the superintendent.

Training

Training is to be provided to the Board of Education, central office; school administrators, and staff and every member of the Central Team and School Site Teams. School Site Team training is provided annually. Students also receive training, which is included in the curriculum. A “separate handbook” is provided to students in grades 7-12 and their parents and elementary school students.

Sexual Harassment

Sexual harassment appears to be treated differently than “harassment.” Sexual harassment is defined in the Student section as “unwelcome conduct of a sexual nature, whether verbal or physical including, but not limited to: insulting or degrading sexual remarks or conduct; threats or suggestions that a student’s submission to or rejection of unwelcome conduct could in any way influence a decision regarding that student; or conduct of a sexual nature which substantially interferes with the student’s learning, or creates an intimidating, hostile or offensive learning environment, such as display in the education setting of sexually suggestive objects or pictures.” Sexual harassment can occur in several ways, included, but not limited to: “touching” and “creating an intimidating, hostile, or offensive educational environment.” The Personnel section describes harassment somewhat differently and focuses on the employment relationship.

Sexual Harassment Complaint Procedure

With respect to students, the victim of sexual harassment is advised to “inform the harasser that his/her behavior is unwelcome, offensive, in poor taste, unprofessional, or highly inappropriate.”<sup>71</sup> A written complaint should be made to the “appropriate school personnel, or the principal.”<sup>72</sup> If the

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<sup>71</sup> Adult victims are not advised to “inform the harasser that his/her behavior is unwelcome, offensive, in poor taste, unprofessional, or highly inappropriate,” and claims of sexual harassment are reported to the superintendent or his/her designee.

<sup>72</sup> OCA notes that federal guidance regarding sexual harassment/abuse of students provides that such contact may be presumed to be unwelcome given the power differentials between youth and adults in a school setting,

principal is the subject of the complaint, the complaint should be forwarded to the superintendent. A copy is also sent to the Title IX Coordinator. The Title IX Coordinator for the Hartford Board of Education is the Assistant Superintendent for Student Support Services. With personnel, the harassment is reported directly to the “superintendent or his/her designees.”

Gaps in Policy: Central and School Site Teams

There is no mention of the Central Team and/or School Site Team in the section of the HPS Policy that addresses sexual harassment – in either the Student or Personnel sexual harassment section. It is unclear whether those entities are included in the complaint and enforcement procedures by virtue of the harassment section. Training, reporting and logs are also not referenced in the Sexual Harassment section.

Gaps in Policy: Complaint Procedure

There is nothing in either the Student or Personnel sexual harassment section that provides information about reporting the harassment to the Department of Children and Families and/or local law enforcement when it involves staff/student. Also missing is guidance regarding when sexual harassment constitutes sexual misconduct, abuse or neglect.

***HPS was Not Able To Produce Information Consistent with Its Title IX Policy***

To determine how effectively the district policies are adhered to, i.e. how meaningful is the Title IX compliance framework, OCA requested specific information regarding the log of complaints made to the School Site Harassment Prevention Teams regarding *students* being harassed (sexually or otherwise) by a staff member; complaints made to the Central Harassment Prevention team; the Central Team log of reports and information during the last three years; the School Site Team logs of all reports and information received during the last three years and reports from principals as outlined in the harassment policies. OCA also asked for handbook information and the names of all identified Title IX coordinators.

HPS provided OCA with a handbook that outlined the district’s Title IX policies. However HPS was not able to readily produce the following:

1. School Site Team logs of all reports and information regarding Title IX complaints and compliance efforts in the last three years;
2. Reports from Principals to the Superintendent’s office and Central Harassment Prevention Team as called for in the district’s Title IX policy.

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and OCA is concerned that this policy, as written, which directs (but does not explicitly require) students to confront their harassers/abusers, is unrealistic and potentially inconsistent with federal guidance. See e.g., United States Office of Civil Rights 2008 Guidance Regarding Sexual Harassment and Title IX Compliance in Schools, pg. 5.

In response to OCA's request that the district provide a log of any complaints made to the Central Harassment team regarding treatment of a student by a staff person in the last three years, HPS was able to produce one reported complaint, which had originated from outside the district by a child's legal counsel. HPS did not initially produce any examples of a complaint brought by a student or by a teacher/staff person on behalf of a student. HPS indicated that it could not find any reports from principals to the Superintendent's office as required by its Title IX Policies.

After a Draft of this Report was shared with HPS, HPS submitted to OCA various Title IX training materials and a spreadsheet that referenced five (5) Title IX complaints occurring from May of 2012 through March of 2015.<sup>73</sup>

Prevalence data regarding issues of sexual harassment/maltreatment/discrimination promulgated by national experts and the federal government reveals that between 7 and 10 percent of students in grades 8 to 11 have experienced "unwanted sexual attention at school" from an adult, "most commonly a teacher or coach."<sup>74</sup> While more data regarding the frequency of educator sexual misconduct is still needed, in 2014 the United States Government Accountability Office cited federal statistics that nearly 9.6% of students are "victims of sexual abuse by school personnel—such as teachers, principals, coaches, and school bus drivers—sometime during their school career."<sup>75</sup> The GAO report cautions that true prevalence of sexual abuse/maltreatment by school personnel "remains unknown," because many cases are *unreported*.<sup>76</sup>

Given the prevalence data cited by federal authorities, i.e. that 9.6% of students have been recipients of unwanted sexual contact by a school employee, OCA concludes that there is an extremely high probability that incidents of educator sexual misconduct or harassment likely occur within the district but *are not reported* to HPS Central Office or are not processed as Title IX concerns, and that HPS *does not have* an effective system to identify and respond to concerns of sexual misconduct, harassment or discrimination by staff towards students.

### ***HPS Has Not Yet Fully Implemented a Statutorily Required Sexual Abuse and Assault Awareness and Prevention Program***

In August of 2016, OCA requested that HPS provide all documents related to its sexual abuse and assault awareness and prevention program, which program is statutorily required to be developed or identified by DCF and SDE (with the assistance of Connecticut Sexual Assault Crisis Services or a similar entity) and implemented by all local and regional boards of education "not later than October

<sup>73</sup> The spreadsheet document was date-stamped as created January 6, 2017.

<sup>74</sup> *Know the Warning Signs of Educator Sexual Misconduct*, by Carol Shakeshaft, Professor of educational leadership at Virginia Commonwealth University, Richard, VA., Feb. 2013, found on the web at [http://www.sesamenet.org/images/docs/sexual\\_misconduct\\_warning\\_signs\\_shakeshaft.pdf](http://www.sesamenet.org/images/docs/sexual_misconduct_warning_signs_shakeshaft.pdf) (citing data from a national survey that showed over 7% of students in grades 8 through 11 experienced unwanted sexual attention from an adult.

<sup>75</sup> GAO Report, *supra*.

<sup>76</sup> *Id.*

1, 2016.”<sup>77</sup> In response to that request, HPS stated that “the implementation date for C.G.S. 17a-101q is October 1, 2016, and therefore, this statute is not currently applicable to the District.”

OCA repeated its request in order to better determine whether HPS was in fact prepared to implement a sexual abuse and assault awareness program by the deadline to do so by October 1, 2016. In response to OCA’s second request, HPS then provided a single document entitled, *A Statewide K-12 Sexual Assault & Abuse Prevention & Awareness Program*,” put forth by DCF, SDE and the Connecticut Alliance to End Sexual Violence, which provides an “overview of sexual violence, recommendations for: delivering effective professional development, identifying developmentally-and age-appropriate-appropriate awareness and prevention education materials for students, policy guidance and suggested resources.”

After receiving a draft of this Report, HPS submitted additional documents, including a child abuse and neglect prevention curriculum used by a Maryland school district. The additional documents provided to OCA also included a summary of some of the requirements of the program and available curriculum that was presumably sent to HPS principals and letters to parents of HPS students about the program, which documents were all created on January 6, 2017. A coloring book detailing “Okay and Not Okay Touch” was also provided. In totality, those documents and others submitted by HPS indicate a positive move *toward implementation*, but do not appear to meet the statutory requirements that the district have implemented a program by October 1, 2016.

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<sup>77</sup> See Conn. Gen. Stat. § 17a-101q.

## PART TWO

### OCA REVIEW REVEALS CONTEMPORARY AND PERSISTENT PROBLEMS OF FAILURE TO REPORT ABUSE AND NEGLECT BY HPS EMPLOYEES, AND SERIOUS ASSOCIATED CONCERNS

#### ***DCF Is Not Maintaining a Database of Records of Instances in Which Mandated Reporters Employed By a Local or Regional Board Of Education Fail To Report Suspected Abuse/Neglect of a Child***

To further test the efficacy of the district's mandated reporting protocols and practices, the OCA sought information regarding reports to DCF of alleged abuse or neglect of a child by an HPS employee during the last three years. OCA wanted to review the frequency and nature of such reports, and determine whether there are any identified or discernable trends regarding compliance with mandated reporting laws. OCA learned that DCF has not maintained a database regarding districts' failure to comply with state mandated reporting obligations in accordance with Conn. Gen. Stat. § 17a-101o.<sup>78</sup> Such a database would have enabled DCF (and OCA) to better determine whether there is a pattern of non-reporting in any particular school district in Connecticut and take appropriate measures to address such patterns.<sup>79</sup>

OCA met with the DCF legal director during the course of this review and discussed various barriers, both practical and legal, to mandatory reporting compliance by school districts. DCF acknowledged that gaps remain and the legal director expressed a strong commitment to continuing to work on these important issues with stakeholders. DCF acknowledged the lack of compliance with the 2011 statutory reforms and stated that it is will work to create a database of records. OCA inquired as to whether DCF and SDE have been conducting annual statutorily required quality assurance reviews of "reports and investigations that a child has been abused or neglected by a school employee" for the purpose of assessing the "quality and conduct of such investigation."<sup>80</sup> In conjunction with that quality assurance review, DCF is also required by statute to review on an annual basis "all records and information relating to reports and investigations that a child has been abused and neglected by a school employee" for the purpose of addressing and correcting "any omissions or other problems in the records and information-sharing process of the departments" with the SDE.<sup>81</sup> While the SDE indicated that there are conversations and meetings that have taken place between the two agencies regarding "information and record-sharing," DCF responded that it was not clear that an annual *quality assurance review* was taking place, but that it was going to be addressed moving forward.

OCA is currently requesting additional information from SDE concerning school employees highlighted in Part Two of this Report to determine whether it consistently receives notifications and

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<sup>78</sup>The statutory requirement for such a database followed release of the Joint OCA/AG report in 2010 which found that DCF did not have a system in place to document and address either the failure to make mandated reports or delays in mandated reporting by school districts.

<sup>79</sup> While DCF has individual reports of abuse/neglect by school district employees organized in its database by individual school and some reports make mention of concerns with mandated reporting, information regarding frequency of non-reporting or other trends, recourse or redress regarding an individual or school's failure to report, cannot be easily culled from this database. The data is embedded in DCF's regular case management system, similar to how such information was stored at the time of the 2010 OCA/AG Report.

<sup>80</sup> Conn. Gen. Stat. § 17a-103e.

<sup>81</sup> Id.

results of child abuse/neglect investigations and what actions it has taken with regard to employees who were found to engage in concerning conduct with a child. OCA is also specifically inquiring as to whether SDE receives information from school superintendents regarding DCF “program concerns” or findings of concern about the behavior of a school employee towards a child.

***OCA Conducts an Independent Review of Reports to DCF Regarding Alleged Abuse/Neglect of Students by HPS Staff***

Despite the lack of aggregated reports from DCF on districts’ mandated reporting compliance, OCA determined it was essential to review previous reports to DCF alleging abuse or neglect by an HPS Employee. The efficacy of HPS’ mandated reporting policies can only be reviewed via an examination of its practices. OCA retrieved a sample cohort of reports to DCF to further review the issue and identify discernable trends and areas for improvement. OCA’s findings are further outlined below.

The documents received by OCA from HPS regarding its compliance with mandated reporting between 2005 and 2016 indicate that there was effort by certain individuals within the district, particularly the former director of Prevention/Intervention to make principals aware of employees’ obligations regarding mandated reporting, with documents authored by such individual generally dated between 2011 and 2013. However, the dearth of general documentation on this topic, the lack of data regarding training and compliance, and the failure to ensure the district’s policies were updated consistent with state law creates a general and concerning impression of non-compliance.

Further investigation of this issue substantiated OCA’s impressions and reveals a contemporary problem of inconsistent compliance with mandated reporting laws when the alleged abuse or neglect is perpetrated by a school employee. OCA’s investigation raises multiple serious concerns.

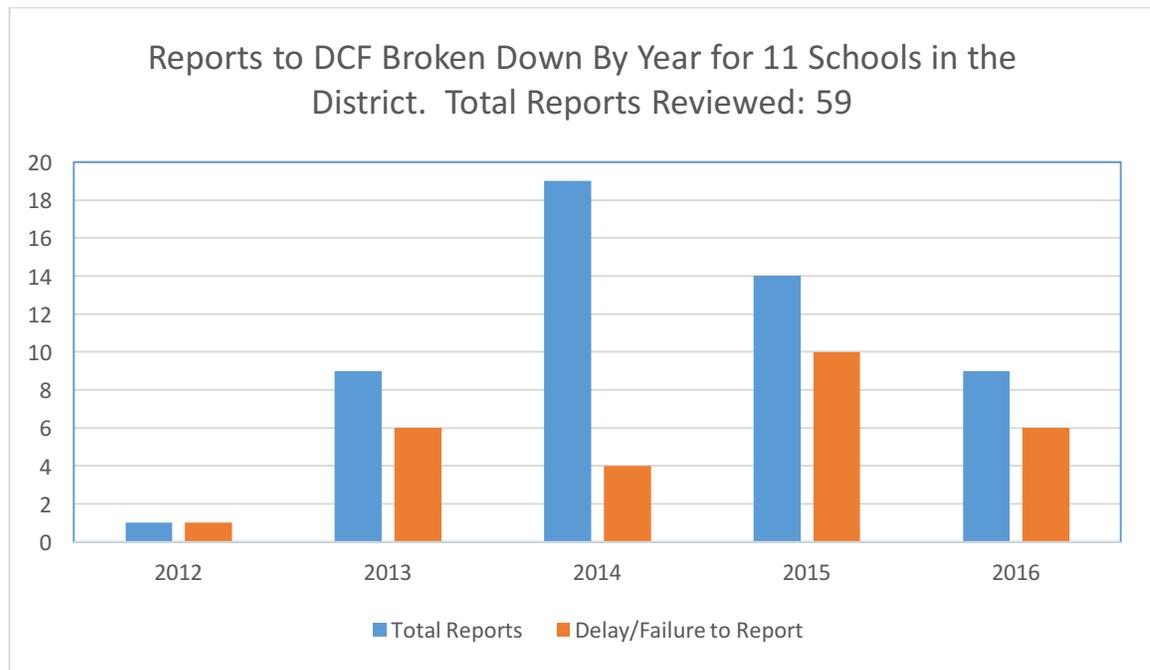
**METHODOLOGY**

OCA initially reviewed 58 reports from 2013 to 2016 and 1 report from 2012, with reports having been made to the DCF Careline alleging abuse or neglect of a student in one of 11 Hartford Public Schools.<sup>82</sup> HPS has a total of 49 schools. OCA picked schools located throughout the district, both neighborhood schools and magnet programs. OCA reviewed the initial reports made to the DCF Careline and also reviewed investigation documents, findings and program concerns associated with such reports. OCA sought to learn 1) who made the report to DCF; 2) what conduct was alleged to have occurred; 3) whether the concerning conduct was *known to school employees/officials*; and 4) whether the concerning conduct was promptly reported to DCF by mandated reporters. OCA broke down reports by the nature of the allegation, and noted whether the alleged victim/student had an identified disability, and whether the alleged perpetrator/employee had been the subject of any previous discipline, reports or concerns.

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<sup>82</sup> OCA subsequently looked at several additional reports for reasons dictated by our investigation. The contents of two such reports are described in this section but are not included in the data sample. Records were reviewed from the following schools: Rawson School, Bellizzi-Asian Studies Academy, Martin Luther King Jr. Elementary School, Frank T. Simpson Waverly School, Mary Hooker School, Burns Latino Studies Academy, R.J. Kinsella Magnet School, Alfred E. Burr Elementary School, Maria Sanchez Elementary School, E.B. Kennelly School, S.A.N.D. School, Betances Early Reading Lab, Pathways School of Technology, Thurman Milner School, Breakthrough Magnet School.

- a. OCA found numerous examples of failure to report or failure to timely report (26/59) suspected abuse or neglect.<sup>83</sup> In 11/26 cases school personnel conducted their own investigation prior to or in lieu of calling DCF.<sup>84</sup> At least one school had a memo that all such allegations (of alleged child maltreatment by a school employee) had to be reviewed and vetted by school administration *to determine* if further action was warranted, including whether to contact the Superintendent or the child’s parents—discussed further below.
- b. OCA found that the majority of allegations/reports to DCF involved children with specialized needs (36/59). More than 15 percent of reports, 10/59, involved allegations of abuse/neglect of children diagnosed with Autism.
- c. OCA found that 11/59 reports involved allegations of physical neglect in that children were witnesses to or participants in inappropriate child-to-child sexual activity.
- d. Patterns of non-reporting appeared to be school-specific. Certain schools OCA reviewed had no examples of non-compliance with mandated reporting laws. Other schools had several examples of failure to timely report, and/or other related concerns about staff treatment of children with disabilities.



<sup>83</sup> 12/26 reports were called in by school personnel days, weeks, and in one case months after the concerns were first raised or observed. 14/26 reports were called in by a community member/child’s family/clinical professional.

<sup>84</sup> Investigations included reviewing video tapes, taking statements from teachers and students and interviewing witnesses.

***2013 Investigation by DCF/HPS of Multiple Staff at HPS Elementary School Revealed Egregious Pattern of Failure to Prevent, Report and Respond to Child Abuse and Neglect***

In 2013, a call to DCF by a young boy's foster mother triggered an extensive investigation by DCF of child abuse and neglect and revealed an alarming pattern of school personnel's failure to comply with state mandated reporting laws. OCA reviewed documents associated with this investigation as part of the current review.

Internal HPS records from the boy's school at the time included an October 2011 memo created by the principal and distributed to all school staff outlining employee obligations to report abuse or neglect *to the principal and a school crisis team*. The memo addressed what the principal considered to be

The school's memo regarding mandated reporting conflicted with state law and allowed abuse/neglect to go unreported.

School files revealed a number of incidents of alleged child abuse or neglect that were known to administrators but that were not reported to outside authorities.

staff's "misunderstandings" regarding the process for reporting suspected child abuse or neglect to DCF. The memo identified a school "Crisis Team" that would convene to "review all information and evidence connected with [a staff member's internal] report to *determine if a call to DCF is warranted.*" *Only if warranted* would the mandated reporter/employee then phone in a report of suspected abuse to DCF. In cases where the alleged perpetrator of abuse/neglect was a school staff member, the memo directed concerned employees to "notify the building principal," and the principal will then "conduct an investigation." **Only if "enough evidence suggests possible abuse," would the principal contact the Superintendent and notify the parent.**

In 2013, an allegation arose that a young boy in the school was repeatedly abused and neglected by multiple school staff, including his classroom teacher, a behavior technician and a paraprofessional. The child's foster mother, seeing bruises and scratches on the boy's body, called the child's DCF social worker with concerns about the child's treatment at school. DCF's subsequent investigation led to the discovery of a number of documented concerns/allegations regarding child abuse. DCF found the incidents in school personnel and administrator files.

- The child's teacher was allegedly witnessed slapping the child in the face.
- An adult passing through the school told a security guard and the assistant principal that she saw the young boy's teacher "kick" him in the hallway after the child had a behavior incident.
- A statement from an older child in the school reported an incident wherein the little boy had a behavior incident and aggressed with the teacher, and the teacher "grabbed [the child], slapped him in the face and pushed him on the floor and said 'how does it feel.'" The same statement alleged that another employee, when the child was upset and dysregulated, came in and "started punching [the child] in the ribs and yes intentionally."

- A school administrator was informed by a staff member of a separate incident where another school employee was observed “pushing and slapping” the young child “in the face when he was in the cafeteria.”
- A school administrator learned of other incidents where the child was allegedly hurt while being “intervened” with or restrained by staff.
- Another professional, not directly employed by the school, reported that she saw the young boy with his teacher, and after the teacher made a joke and the child asked the teacher what was funny, the teacher asked the boy “you don’t ask me what I’m laughing at... excuse me... who do you think you’re talking to... boy, I am a grown woman, you better stay in your seat... you better stop before I slap you out of that chair, and I don’t care if [another professional is in here], I’ll do it right in front of them, boy please.” The teacher then allegedly stated to another young child, in ear-shot of the adult, “do you know what’s wrong with him? Don’t be like him, okay? Don’t turn out like [young boy].” The professional reported the incident to her community supervisor and to school administration.
- All copies of these incidents were maintained by school administration and were not reported to DCF.
- The child, then in first grade, told a staff member that he “wanted to kill himself.” Administrators later acknowledged that this was not the first time the child said he wanted to hurt or kill himself. School staff asked his community-based clinician, with whom the child had a warm relationship, to come to school and assist him.

**OCA/AG Report 2010, pg. 22**

“More than one district indicated that the school district conducts an internal investigation before reporting allegations regarding school employees to DCF.

In some instances, such ‘internal investigations’ result in a decision not to file a report with DCF. For example, in one case ... a parent reported physical abuse by a school principal to the principal’s supervisor.

While the allegations clearly presented reasonable suspicion of abuse, the supervisor did not file a report with DCF, choosing instead to conduct an ‘internal investigation’ after which the supervisor took no action.”

The investigation by DCF led to multiple substantiations of school employees (all reversed on administrative appeal despite the documentary evidence, witness statements, and DCF investigators’ fact-finding and conclusions). The district unsuccessfully tried to terminate at least two employees, including the teacher and a school administrator, as a result of the pattern of non-reporting and lack of protection for this young child.<sup>85</sup> DCF, in its role as the child’s guardian, removed the child from the school and ensured he was placed in a safer environment. DCF administrators subsequently

<sup>85</sup> Both adults are still working in the district.

met with HPS officials to discuss the disturbing pattern of child abuse and failure to report.<sup>86</sup>

As a result of DCF's investigation, District leadership, under then-Superintendent Kishimoto, asked DCF to help train principals and the Superintendent's cabinet on mandated reporting laws. OCA was provided several emails exchanged by DCF personnel and HPS referring to the training provided by DCF to lead administrators in late 2013. During OCA interviews conducted as part of this review, the incidents outlined above—already known to the Child Advocate--were referenced by multiple district representatives. The employees described the incidents at the school as seminal events in the evolution of the district's mandated reporting compliance, described the training DCF provided, and the increased attention paid to these principles in the wake of the internal scandal. District representatives also described the difficulty that they encountered when trying to hold employees accountable for child maltreatment, pointing to the unsuccessful effort to terminate the school employees in the wake of the repeated and unreported allegations of abuse and neglect of this young boy. District officials emphasized their contention that their hands are tied when DCF ultimately does not maintain the substantiation of abuse/neglect by district employees.

Yet despite previous reporting from the OCA and the Attorney General's Office, the shocking events at the school in 2013 and DCF's subsequent training of HPS leadership, OCA's contemporary review of reports to DCF between 2013 and 2016 reveal that the concerns of non-compliance with state reporting obligations remained persistent with the district. Further, review of reports gives rise to a number of concerns regarding the treatment of children with special needs, training and supervision and resources for staff working with children with disabilities, the lack of documentation and reporting regarding utilization of restraint and seclusion and occurrence of student injuries as required by state law, and the ability of district officials to hold employees accountable for concerning behavior.

**DCF Investigation date: March, 2016**

**Alleged Victim: 5 year old child, diagnosed with Autism, non-verbal**

**Reporter: mother**

Child's mother called DCF alleging that her 5 year old son was being injured in school. She reported that three weeks earlier her son came home from school and she saw that he had bruises and scratches on his ear. The child's father took him to school the next day and asked what happened, but was told that no one knew anything. The child's mother later met with the school principal and the child's teacher, who stated she had seen the scratches on his ear but did not send him to the nurse. Mother later noticed another scratch on the child's other ear, also unexplained. She returned to the school and spoke with the principal again, who agreed to arrange a school meeting to discuss. According to DCF investigation documents mother was upset because she did not think the school was doing anything about her son's injuries and she did not know what to do. The school acknowledged that they knew about the injuries but could provide no explanation as to what happened. DCF did not substantiate due to the fact that the child has difficult behaviors, and DCF could not determine how the injuries were caused. OCA notes that bruising on the ear for a child is

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<sup>86</sup> The child's lawyer at the time, Sarah Eagan—now serving as the State's Child Advocate--also wrote to District leadership asking for protection for the child, accountability for the abuse of the child and employees' failure to report, and asking for all information regarding systemic remedies to improve the district's compliance with mandated reporting responsibilities. The letter, addressed to then Superintendent Christina Kishimoto, received no direct response. Attorney Eagan learned from DCF officials at the time that they had met with the HPS leadership to address concerns about this boy's treatment and the school's failure to report abuse allegations to DCF.

suspicious for inflicted injury and is extremely unlikely to have been caused by a child's tantrum behavior.<sup>87</sup>

**Repeated injuries to a young child in school should have been timely reported to DCF. The mother's concern was that the child received inflicted injuries.**

**DCF Investigation date: September, 2015**

**Alleged Victim: 6 year old student, diagnosed with Autism, non-verbal**

**Reporter: school employee**

A school employee called DCF to report an incident that occurred over three weeks earlier.<sup>88</sup> A young child, non-verbal and diagnosed with Autism, left the school and could not be found. He was eventually found by someone in the community blocks away and returned to the school.<sup>89</sup> DCF investigation revealed that the child was supposed to have one-to-one support due to his disability. The school stated that it was short-staffed<sup>90</sup> and therefore the child was not being supervised as required. DCF did not substantiate the report for physical neglect, but DCF spoke to staff about ensuring they comply with mandated reporting obligations and the investigator documented concerns regarding the lack of supervision and poor staffing for the children's classrooms—sending the concern to the Superintendent.

**Case reflects a failure to timely report a serious concern regarding child safety and lack of supervision.**

**DCF Investigation date: May, 2015**

**Alleged Victim, 5 year old student, diagnosed with Autism, non-verbal**

**Reporter: school employee**

School employee called DCF to say that she noticed scratches on a child the day before that were acquired during the school day. The child had scratches on both sides of her face, and arm, and the marks were "red and swollen and some were bleeding." The child also had "what appeared to be pinch mark on her arm." She was brought to the nurse for ointment. No staff could explain how the child was harmed and there were no incident reports written that could account for the injuries. The caller told DCF that this was not the first time that the child had marks on her and that no one had an explanation

<sup>87</sup> DCF LINK reports reviewed by OCA raised questions regarding the reliability and consistency of DCF or HPS' assessment as to whether unexplained injuries to a child are more likely intentionally inflicted versus accidentally incurred. In two different reports reviewed by OCA, a young child with special needs presented with bruises on the ear. In one of the cases, DCF recommended that the child be taken to the Connecticut Children's Medical Center ("CCMC") for evaluation by a board-certified child abuse pediatrician. CCMC professionals then concluded the bruises were highly suspicious for inflicted injury. In the other case, the child was not taken for such an evaluation and investigators questioned whether the child possibly self-inflicted the injury given his difficult behaviors. In a third report a young child with autism and limited communication skills presented with several raised marks, bruises on his body, including marks on his chest. Investigation records do not indicate that the child's injuries were evaluated by an expert, either clinically or forensically, and no conclusion was drawn about the likelihood of the injuries being self-inflicted or accidentally incurred.

<sup>88</sup> Note that this is the same date as another report made to DCF regarding a child in the same school.

<sup>89</sup> Statements to DCF varied as to how far away the child may have gotten and who found him. Initial reports to DCF alleged the child was found by a community member.

<sup>90</sup> Investigation documents include information that there were 7 children assigned to the ABA classroom and that 6 were recommended for 1:1 paraprofessionals at that time.

for what happened. Caller stated that there had been several incidents at the school and that children were not adequately safe. She stated there were “several complaints made to the board and no one seems to take this information seriously.” During the DCF investigation the child’s mother told the investigator about previous injuries, arm bruising and others, that her child has experienced at school, with no incident reports coming home. She showed DCF a school document from the previous fall which noted mother’s concerns about the child’s “injuries at school.” Mother reported her concerns to HPS central office staff, including a family relations advocate and the special education director for the district and was told they would “investigate.”

The principal acknowledged mother’s concern and stated to DCF that if a child showed up at school with unexplained injuries then the school would call DCF. He stated that he directed a school employee to call DCF regarding the child’s present injuries. DCF did not substantiate as it could not determine how the injuries occurred or who caused them. DCF documented it would write a letter of program concerns that would be sent to the school and superintendent.

**Case reflects ongoing concern regarding child safety and inflicted injuries that were not timely reported to DCF. Case also reflects practice of district officials *internally investigating* complaints that should be reported to DCF.**

**DCF Investigation date: October, 2015**

**Alleged Victim: 7 year old boy, G. *Special ed student – diagnosis of autism***

**Reporter: (MH Professional – G’s therapist outside of school)**

G’s community therapist called DCF and reported that child disclosed during therapy that day that a school employee had pinched him, leaving marks on his chest. She noted that she could see the marks. One was faded, which G said was from the previous Friday. During the investigation, it was learned that G’s mother had first spoken with the school about G having marks on him on a week prior. The school scheduled a meeting and agreed to remove the employee from G’s classroom. No report was made to DCF about the allegations brought forth by G’s mother. The school nurse also noted that G had been brought to her office escorted by his parents and a translator. She noted two bruises on G, as well as several raised marks on his body. His mother alleged that he had received the marks in school. Nurse did not report any concerns to DCF. DCF did not substantiate abuse as it could not determine how child sustained bruises. No documentation of consult with a child abuse pediatrician.

**Case reflects failure to timely report allegations of inflicted injuries to a child.**

**DCF Investigation date: October, 2013**

**Alleged Victim: several students, ages 7 and 8**

**Reporter: DCF social worker**

Child’s mother contacted DCF with a concern that her son J was being injured by other students in school and by his teacher (J came home multiple times with bruises and marks on his body) and she was not being contacted about it. Mother reported that she had had multiple meetings with school officials about her concerns. Each time, she was told that any marks were from staff restraining J.

There had been three previous investigations by DCF regarding alleged abuse and neglect by the same staff person. All three reports came in 2013 and alleged lack of supervision in the classroom, as well as staff person hurting students by restraining them inappropriately. One student alleged that staff

person hit him in the face in the timeout room.<sup>91</sup> School Principal reported that J's mother came to her multiple times to show her marks on child and said that staff person inflicted them. No reports were made to DCF. Another teacher told DCF investigator that she witnessed that staff person being extremely aggressive with other students on numerous occasions. She alleged that he has been physically and emotionally abusive towards students and she has asked him to stop. The investigator advised the teacher to report these issues to DCF in the future if she should witness anything of concern to her. The same teacher also stated that she has had students complain to her about staff person 10-15 times over the course of this school year alone. She alleged that she has seen him be aggressive with another student with special needs on numerous occasions.

DCF found that there was limited (or no) documentation of injuries, restraints, timeouts, and seclusions by multiple teachers, including staff person/subject of investigation. There was also a lack of follow-through by teachers and staff to call parents when children are injured in school. DCF did not substantiate but recommended that staff person be reassigned to a classroom that is more appropriate for his teaching style. The initial report to DCF alleged that previously mother had received a "secret" call from a school staff person regarding her son being injured in school.

**Case reflects failure to timely report allegations of inflicted injuries to DCF or other concerns about alleged staff mistreatment of child/ren. Lack of documentation and incident reports by school employees very concerning.**

**DCF Investigation date: November, 2015**

**Alleged Victim: 10 year old student, specialized needs**

**Reporter: Doctor and Mother**

Doctor from children's hospital called DCF regarding a 10 year old boy who presented with several marks, bruises and abrasions allegedly inflicted by a behavior technician at his school. The boy's mother said she had been called into the school by the office staff because her son was having a "bad day." When she arrived she saw that her son had a large mark on his arm. She showed the mark to the school principal who later stated to DCF that she was aware of the incident but she was collecting information to do her own investigation. The next day, mother brought the principal a photo of her child's injuries. The principal then called DCF as well about the incident, but it had already been reported by the hospital.

**Case reflects failure to timely report injuries to a child to DCF by school official and use of "internal investigation" in lieu of mandatory report.**

**DCF Investigation date: October, 2014**

**Alleged Victim: 7 year old student (D) *Special ed student – diagnosis of autism***

**Reporter: Maternal Grandmother (MG)**

MG called DCF because she and D's parents were concerned that seven year-old D was not receiving appropriate supervision in the school. She reported that he has a diagnosis of autism and is required to have one-to-one supervision, but has had five incident reports/injuries in a matter of weeks. D's parents are concerned that he is not safe in the school. D's IEP<sup>92</sup> calls for 1:1 support, but family alleged he has

<sup>91</sup> Note that "time-out" when used as a space in which a youth is involuntarily confined is really "seclusion" as a matter of law and should be documented and reported as required by state law.

<sup>92</sup> Individualized Education Program.

not had this. School administrator told DCF investigator<sup>93</sup> that he had told father that school “can’t guarantee that [D] won’t get scratched or have something thrown at him.” Teacher expressed concerns to DCF regarding staffing and supervision for children. She stated that she had brought these concerns to school administration and the special education department to explain that the classroom she worked in was out of compliance (with federal/state special education laws) due to lack of staffing for one-to-one support. She said that the response to her emails was “to be patient.” An aide in the class told DCF that “she never got any documentation or training regarding how to work with these students,” and that she has no training to be in an ABA classroom, and that she doesn’t think HPS offers such training.<sup>94</sup> DCF unsubstantiated the report of abuse, but stated that “a letter of program concerns will be sent to Principal and HPS superintendent to document these concerns [regarding staffing and training of the staff members in classroom.]”

**Case reflects concern regarding failure to report pattern of injuries to a child, some resulting in injuries, lack of supervision for vulnerable children.**

**DCF Investigation date: February, 2016**

**Alleged Victim: 9 year old child**

**Reporter: Nurse Practitioner**

On 2/18/16, 9 year-old Y was brought to the local children’s hospital due to injuries he sustained at school. He had rug burns and scrapes on his neck and upper arms, bruising and pain in his ribs. He reported that his Principal as well as the school security guard used excessive force with him, restrained him and left marks. Y ended up on the floor and sustained multiple minor injuries. He did not tell anyone else at school and principal did not send him to the nurse to see his injuries.<sup>95</sup> Injuries were visible with the child’s clothing on. Y’s mother noticed them when leaving the school and asked Y to pull up his shirt. She was very upset and spoke with principal who, according to the caller, told her that the more force Y uses, the more force they need to use. Principal told DCF that he was covering the in-school suspension room that day and had not been trained in proper restraint for many years.<sup>96</sup> Several other students in the room reportedly witnessed the altercation and alleged that Principal was using excessive force with Y. DCF unsubstantiated the report, but did send a letter to the Superintendent of Hartford Public Schools regarding concerns about the Principal.

**Case reflects concern regarding lack of reporting and documentation regarding injuries to a child. Districts are also required to report such injuries to the State Department of Education.**

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<sup>93</sup> Per DCF investigation record.

<sup>94</sup> Note, an investigation from March 2015 regarding the same school and a child with autism includes interview with paraprofessional who states that she has had special training “by Creative Interventions” to work in the ABA classroom.

<sup>95</sup> The law provides that children may not be restrained except for emergency situations where the child poses a risk of injury to himself or others, that all such incidents must be documented, and that children must be assessed for emotional or physical injury during and after the intervention.

<sup>96</sup> Per DCF investigation records.

OCA/AG Report 2010, pg. 28

“In some districts, [internal] investigations went beyond what would be necessary to determine whether a reasonable suspicion of abuse or neglect existed... School personnel are not trained to conduct investigations... and there is no system in place to assess the quality of such investigations... Premature knowledge of the complaint, especially by the alleged perpetrator, can impede the investigator’s ability to obtain complete and truthful information... Mandated reporters are neither required to nor should they attempt to determine the truth of the allegations prior to making a report.”

The reports above give rise to significant concerns about the failure to timely report suspected abuse or neglect of a child to DCF. A number of reports include information that school administrators sought to investigate such incidents independent of, prior to, or in lieu of contacting DCF. While school officials have an obligation to investigate allegations of staff misconduct, such investigations should not be used for the purpose of determining whether an incident “warrants” a report to DCF. Internal investigation is helpful only to the extent that it helps the administrator determine whether there is a reasonable suspicion of abuse or neglect; the process should not be used to *investigate* whether abuse or neglect occurred—this practice was the subject of the 2011 memo in the HPS elementary school that resulted in numerous allegations of abuse and neglect *not being reported at all* to DCF.

OCA/AG 2010 Report, pg. 21

“During the course of this investigation ... we found numerous examples of practices in school districts that have the effect of strongly discouraging reporting to the DCF Hotline....From our interviews of numerous school district personnel in several school districts it is clear that the reluctance of mandated reporters to actually make the legally required reports to DCF is pervasive. Numerous school employees ... expressed a reluctance to file reports due to strong fear of retaliation.”

OCA’s review indicates that the practice of internal investigations remains a problem. In some cases, school administrators were taking statements from students, interviewing witnesses and reviewing video tapes. In one case an administrator enlisted the help of a child’s former preschool teacher to interview the child, diagnosed with Autism and possessing limited communication skills, regarding whether he was physically abused by a school staff. These practices may not only delay or prevent a report to DCF but they can also interfere with DCF’s subsequent investigation.

Though HPS submitted various training materials to the OCA regarding restraint and seclusion, the lack of reliable documentation regarding physical restraint of students, injuries to students and notification to parents, deficiencies documented by DCF, creates a very troubling picture of non-compliance with state law and lack of care and attention towards the safety of students and the rights of their parents.

Finally, given the number of reports in OCA’s sample that involve children with special needs, one of OCA’s most urgent concerns is how the circumstances of the reports reflect on prevailing practices regarding education/treatment for children with disabilities. These concerns, along with findings regarding the failure to report restraint and seclusion of students are addressed in a separate section of this Report and will require ongoing monitoring of district practices (See Section IV).

***Review of Reports Regarding Staff with Histories of Alleged Mistreatment of Students Led to Questions Regarding Mandated Reporting Compliance as Well as District’s Capacity to Hold Staff Accountable for Mistreatment***

**DCF Investigation date: January, 2015**  
**Alleged Victims: Multiple 12 and 13 year old students.**  
**Reporter: School administration**

In December, 2014, a school administrator contacted DCF alleging emotional abuse of a 13-year-old boy by his teacher. The teacher reportedly pulled the boy, who has Tourette's syndrome, out of class, screamed in his face "for 11 minutes" while the child was crying. Another student later told DCF that the teacher was furious with the boy for "blurting things out," while they were working on a poem, and the teacher screamed at the boy, "even though he couldn't help it." The student witness told DCF that the other teacher (special education) in the class looked "Scared" when the boy was getting yelled at for such a long period of time. When the boy returned to the classroom he was still crying and another adult heard the teacher tell the boy to "sit up, stop crying, and go home and cry later." But the boy could not stop crying and was still crying when the students went to their next class. In the next class the teacher, who was described by a student witness as "a really nice teacher," helped the boy. The "really nice teacher" told the boy that it was alright and "he was going to talk to people about it and [what happened] was not acceptable."

During the investigation, DCF was made aware of a separate incident that was being investigated internally by the Hartford Public Schools Labor Relations Department, regarding an issue between the same teacher and another student, *but that had not been reported to DCF*. In January, 2015, another report was filed while the DCF investigation was ongoing regarding the alleged emotional abuse of another 12 year old student. In all three situations, the teacher was allegedly screaming at students, physically intimidating them, and removing them from class in ways that alarmed other adults in the school.

Investigation by DCF revealed that over the previous decade there had been multiple reports to DCF about this teacher. But DCF investigations over the years revealed other *unreported* concerns about the teacher's conduct with students—such complaints were handled *internally* by the district. None of the allegations between 2004 and 2014 were substantiated as abuse/neglect by DCF, but DCF reported back to the district with concerns regarding the teacher's anger and possible need for counseling.

DCF's 2005 investigation was not substantiated but resulted in DCF identifying "program concerns due to [teacher's] ongoing pattern of behavior as being borderline for emotional abuse and neglect."

DCF's 2015 investigations revealed that the teacher appeared to mistreat children who were receiving special education services, and at least one student told DCF that the teacher only mistreats students who are not white. All of the students named as victims in the two 2015 DCF investigations are African-American.

Throughout the most recent investigations, every teacher interviewed by DCF expressed concerns regarding the teacher's behavior, and multiple students stated that the teacher tended to bully children with disabilities.

- A teacher told DCF that he had previously witnessed an incident where the teacher cornered a child, "taunted" him, and "attacked the student verbally" while the child cried. The music teacher said he was new to teaching but that he didn't think this was how teachers should treat children. He said that another teacher also witnessed the incident.
- The special education teacher reported that she witnessed part of one of the incidents later reported to DCF, but that she tended to "tune things out." She said that the boy (who was diagnosed with Tourette's) was "hysterical" and another student told him "not to cry as he was going to get them in trouble." She stated that there had been previous incidents involving the teacher "where she had to step in." One day she was two classes away and heard the door slam, and thinking it was a student she walked into the classroom where she saw the children "Crying and [she] had to calm the students

down.” She told the teacher to “take a walk,” and when he came back “he was calm but the students were still afraid of him.” She did not report any incidents to DCF.

- The principal told the DCF investigator that he has witnessed the teacher be aggressive and inappropriate with students in the past. He has reprimanded the teacher and talked about appropriate contact with students. The principal reported that he has had numerous complaints from parents about the teacher – many of whom call the teacher a bully. He stated that when he learned of a particular recent incident with a student he did not call DCF because he did not witness the incident himself and he knew that the other teachers who did were all mandated reporters as well.

Ultimately, DCF substantiated emotional abuse and neglect by the teacher. DCF recommended that the teacher be placed on the Central Registry and noted significant concerns regarding his ability to appropriately teach children.

The case example above reveals numerous concerns about how an educator, entrusted with a profound caretaking obligation for young children, could remain in an entrusted caregiver role for students for so many years with that many professionals concerned about his aggressive, intimidating conduct and his treatment of children. DCF investigation documents do indicate that administrators were concerned about the teacher’s behavior and the impact on students and that efforts were made to counsel the teacher about appropriate behavior and some incidents were reported to DCF over the years. But investigation revealed a clear pattern of concerned educators and staff who *often did not report* and were unsure of whether such matters should be addressed internally through the chain of command or needed to be reported to an outside authority such as DCF. Many reports reveal this tension between handling matters internally versus reporting to outside authorities.

OCA reviewed reports where personnel such as a bus driver, a bus monitor, a paraprofessional, a school security officer, or even teachers witnessed or learned of reportable incidents. Such incidents were then reported “up the chain” to school administration but were not always reported to DCF. OCA is cognizant of the organizational hierarchy within school districts and the hesitation a non-administrative or non-high ranking professional may have reporting a concern to outside authorities. This is why mandated reporting training must directly address such obstacles to reporting and support all adults within the school community in their roles as mandated reporters of suspected child abuse and neglect. Training must also affirm that employees will not be subject to retaliation for reporting to DCF.

OCA/AG 2010 Report: pg. 37.

“The failure of school districts... to enforce the teacher and administrator codes of conduct through proper human resources investigations, disciplinary action for meritorious concerns, or requests for revocation of certification is alarming. ... While not every complaint is valid, school districts have a responsibility to conduct independent investigations to determine whether teachers and administrators have adhered to the applicable code of conduct. Further, school districts must set high expectations for all staff regarding their relationships with students. When school employee conduct falls below these expectations, districts should take immediate action to remedy the problem or remove the employee.”

**DCF Investigation date: May, 2013**  
**Alleged victim: 8 year old student (third grade)**  
**Reporter: Assistant Principal**

In May, 2013, administrator called DCF to report that on Tuesday, she received an email from a third grade parent regarding staff person's treatment of the class he was substitute teaching. The substitute was reportedly calling the children names and being verbally abusive. The Administrator stated that she conducted an investigation on Tuesday (the day prior) by having the children write down what happened. The administrator learned that the substitute called students "fat," "stupid," and "pathetic," "losers," and "dumb." One boy told his mother "why go to school if I'm not any good?" The administrator called DCF the following day to report. When the substitute was calling children names, one child reported that he felt "sad" and so he went and "hid behind an easel in the classroom." Another child reported that she felt "bad" because she is not stupid and she doesn't know why an adult would say that to them. Another student reported that the substitute called one girl "boy" and "a dog."

It was discovered that the substitute had been asked to never return to another Hartford Public School after an incident in 2010 that resulted in an Unusual Incident Report being filed against him internally when he was substitute teaching --he had reportedly scratched a child and grabbed him on the wrist and verbally assaulted him—the incident was not reported to DCF despite the child having a visible injury and swelling of his wrist.

DCF did not substantiate abuse or neglect, finding that although the substitute "made inappropriate comments" and "students indicated feeling uncomfortable... [students] did not report any adverse impact, emotional or otherwise, as a result of such comments," and other adults in the classroom could not corroborate the multiple statements from the students. However DCF found that there was a pattern of "concerning behavior" by the substitute and previous "similar" allegations, and DCF recommended that HPS conducts its own review to determine if the individual could continue to be a substitute teacher.

**Case reflects a history of failure to report injuries and possible verbal abuse of a child, and the practice of internally investigating such concerns. Case also reflects concern of failure to monitor and surveil teacher despite history of concerning behavior.**

**DCF Investigation date: April, 2014**  
**Alleged Victims: several 12 and 13 year old students**  
**Reporter: Dean of Students**

On Sunday, 4/27/14, Dean of Students called DCF to report concerns of physical and emotional abuse by a teacher. Dean reported that he first became aware of issues with teacher a few days earlier when another staff person approached him about a litany of concerns, dating back to the fall of 2013—concerns involved how teacher verbally abused children, called them names, like "thugs." According to the new concern, the teacher allegedly told her students that her husband had a hand gun. She showed them pictures of his firearm on the "smart board," and said that if they are not good, her husband would come to the school with the gun.

The Dean reported the allegations to the Principal, who already having been informed of concerns, was in the process of collecting student and teacher allegations regarding the teacher, reportedly

collecting “over 60 statements.”<sup>97</sup> Principal had become aware of issues with teacher several days earlier when students approached him saying that teacher was threatening to hit them with a belt. Another educator also witnessed teacher saying this. She also told the Principal what occurred. (Neither called DCF when they first learned/heard the concern).

During the school’s investigation, students reported that teacher threatened that her husband would come to school and shoot them, and that teacher had assaulted one of the boys in class, choking him against a wall until he cried and another student had to physically intervene to separate the boy from the teacher.

Dean later told DCF that, as part of the school’s internal investigation, he had a meeting with teacher and her husband because there were complaints that the husband was coming to the school and saying inappropriate things to the students, including threatening them with physical violence if they speak to his wife a certain way. An educator in the school stated that she did not intervene previously with teacher (regarding the name-calling of students) because she does not hold authority over her. Students reported to DCF that teacher called them names (“faggot,” “lesbian,” “retarded,” “worthless,”) that she cursed in class, called their parents’ names (bitch, loser), and told them they would never amount to anything. The children reported that they were scared to do anything. Teacher once locked the door and told them if they told their parents they would get “whopped.” One student told DCF investigator that she was scared if she said anything teacher would bring a gun to school and shoot them. Students reported that teacher’s treatment of them made them feel “scared” and “mad.” School administrators reported they thought a previous allegation of child abuse had been made against the same teacher several years ago and they expressed ongoing concerns about her ability to teach and manage the students. DCF substantiated the report and placed teacher on the Central Registry.<sup>98</sup>

**Case reflects concerns regarding lack of timely reporting to DCF of verbal and physical abuse of students; lack of monitoring of such teacher’s access to and treatment of students despite history of concerning behavior.**

**DCF Investigation date: March 11, 2015**

**Reporter: School Social Worker**

**Alleged victims: multiple eighth grade students<sup>99</sup>**

Caller contacted DCF to report that multiple children reported feeling “sexually harassed, intimidated and ridiculed” by their teacher. Children reported that teacher talked about “twenty girls naked doing yoga,” that he has talked about “doing girls every morning and at night,” talked about “crack pipes, weed and girls,” and that he behaves inappropriately towards a female teacher. Caller said in response to prior concerns about teacher’s interaction with students that the principal placed a long term substitute in the classroom with him. Other students later reported that he searches for “weird things” on the school computer, calls them names, and once showed students a picture of his girlfriend naked

<sup>97</sup> Per DCF investigation documents.

<sup>98</sup> OCA’s review of DCF’s electronic case records in this matter indicate that both findings were appealed by the teacher, but that the status of the appeal was “withdrawn.” The investigation results still read as substantiated, but OCA is attempting to confirm the status of the teacher’s substantiation and central registry finding at this time given that the SDE reported to OCA that it has no record of a certification revocation action with regard to this teacher. The teacher, per HPS, resigned shortly after the DCF investigation in this matter.

<sup>99</sup> Report was reviewed after research sample developed and is not included in the 59 reports cited within this section.

on his cell phone. Another student reported that she heard him call a girl a “dumb black bitch.” She reported that he also called her a “stupid dumb bitch,” and that she “Felt frustrated because she is not stupid.” Another student reported to DCF that the teacher tells her “you are horrible, you are never going to get anywhere in your life,” and that she feels sad when he says things like this.

She said one time he called her a “black ass bitch.” She said she “stayed quiet” after he said this and the teacher “did not say anything else.” A student stated that she had complained to security and multiple school employees about the teacher, and then she told her mom that she was not going to go to his class anymore. A security officer told DCF that multiple students complained to him about the teacher’s behavior and that he instructed them to write written complaints and that he believed several of them did. DCF did not substantiate abuse or neglect, but stated that the “information gathered was extremely concerning due to the number of students reporting multiple concerns regarding [the teacher] making inappropriate comments related to sex and drugs as well as making some derogatory comments about students.” DCF noted that investigators documented all concerns for the superintendent and school principal.

DCF records show that a previous report was made to DCF wherein children reported feeling uncomfortable with the teacher, and that he allegedly talked about drinking, feeling suicidal, wanting a “Beautiful maid to come and clean the class up,” asked students if they had “older sisters around his age.” A student reported that she had seen the teacher giving girls rides home in his truck. The teacher allegedly told the children that he wanted to “get at the Chinese girls,” and “Chinese girls are hot.” He allegedly stated that he “does not care if he gets fired because they are still going to pay him.” The school principal told DCF that he has had previous concerns about the teacher, and that students reported they did not feel safe when the teacher left the class for extended periods of time. School administrators said they had addressed some previous concerns with the teacher through the “Evaluative” process but had not issued any written reprimands.<sup>100</sup>

**Case reflects concerns regarding lack of appropriate handling of concerns regarding teacher; lack of documentation of Title IX violations; possible failure to timely and consistently report concerns to DCF about safety of students with teacher and teacher abandoning the class for periods of time.**

Documentation produced by HPS in conjunction with this review led to discovery of another incident of failure to report:<sup>101</sup>

On 12/9/15 DCF received a report alleging physical abuse of a student by a behavior technician. The child was on a school owned computer and was listening to music. The staff attempted to take the computer away and was frustrated by the child not listening to directions. The child’s parent later reminded school administrators that the child is partially deaf and needs to be supported to respond with a tap to the shoulder. Instead, when the employee became frustrated, he allegedly engaged in a tug of war with the child and slammed the computer down on the child’s hand, injuring her thumb. The child was medically treated in the community for a contusion. DCF investigator confirmed the account with several witnesses. The child’s mother had brought the incident immediately to school administrators after learning of the incident the same day. DCF initially

<sup>100</sup> A school administrator told DCF that there are notes and memos documenting what is discussed in meetings.

<sup>101</sup> Report was reviewed in response to information OCA received from HPS and is not part of the “59 case” sample referenced in this section.

substantiated the staff member for physical abuse,<sup>102</sup> and identified several administrative concerns, including:

1. School personnel failed to timely report to DCF.
2. School administrators purportedly conducted their own “internal investigation” of the incident.
3. School administrators were not adequately aware of their obligation to report the incident to DCF and did not report such incident until conferring with central office human resources staff.

Multiple DCF reports read by OCA involved staff that had a history of concerning conduct towards students. DCF reports document that teachers and administrators may have previously witnessed concerning behavior or had previously reported/disciplined the alleged perpetrator for his or her conduct with students. OCA has questions regarding how such employees are counseled, disciplined, surveilled and monitored after concerning conduct is first discovered. One teacher--investigated for child abuse on at least two occasions--was substantiated for abuse by DCF and placed by DCF on the state’s Central Registry. Both findings were reversed on appeal (despite extensive documentation of abusive conduct by DCF investigators) and the teacher is still employed by an HPS elementary school. But how are such teachers supervised by administrators? Are students ever questioned by administrators or school social work staff about their experiences in the classroom and whether they have any questions or concerns? How any teacher can go on for years bullying, cursing at, physically intimidating or hurting students, particularly when there are known concerns about the teacher or staff person is astonishing. One of the teachers referenced in this Section was nominated for a district wide commendation even after multiple reports to DCF alleging mistreatment of students.

While HPS officials placed the blame on DCF for their difficulty holding employees accountable, this allocation of responsibility is not appropriate. As the OCA and Attorney General found in the joint 2010 Report, “The fact that DCF did not substantiate abuse or neglect under a specific legal standard or that an individual was not criminally charged provides no valid basis for school administrators to ignore allegations of misconduct... A decision not to prosecute or not to substantiate for abuse or neglect is not a finding that improper conduct did not occur...Neither DCF nor law enforcement seeks to reach any conclusions on the question of whether or not a school district employee has committed professional misconduct. The Code of Professional Responsibility for Teachers and the Code of Professional Responsibility for School Administrators set the bar for educator conduct well above conduct that is neglectful, abusive, or criminal.”<sup>103</sup>

***DCF has a Critical Role to Play in Tracking and Responding to District’s Failure to Report***

It is essential that DCF track and respond to delays in reporting or a failure to report, and that schools and districts with recurrent problems in this area can be addressed promptly and effectively.

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<sup>102</sup> This finding was later administratively reversed by DCF during an “internal review” requested by the alleged perpetrator. Per DCF Regulations, an individual who has been substantiated by DCF as a perpetrator of abuse or neglect may seek an internal review prior to seeking a formal administrative hearing and that such finding may be reversed if the reviewer finds it to be factually or legally deficient. OCA has previously requested that DCF ensure that it documents the basis for any such reversal, but DCF declined to implement such recommendation, indicating that “no specific documentation is required by law or policy.” From DCF letter to OCA, dated June 23, 2016, on file with OCA.

<sup>103</sup> Joint Report, pg. 37. See Part I of this Report.

OCA/AG 2010 Report, pg. 24

“DCF Has no system in place for tracking delayed reporting or failure to report or make timely reports by mandated reporters... Without a systematic method for tracking failure to report and delays in reporting, DCF cannot effectively identify those who repeatedly fail to meet their statutory obligations.

In some of the reports reviewed by OCA the DCF investigator noted the school or school employee’s failure to timely report suspected child abuse or neglect and investigators would urge personnel to come forward and remind them of their obligations to report. Reports however did not include documentation that personnel were directed for re-training on mandated reporting obligations. Other than the 2013 scandal involving pervasive non-reporting of suspected child abuse and neglect of a young boy in DCF foster care, there is no indication that patterns of non-reporting are adequately addressed with district leadership.

***DCF Often Does Not Substantiate Abuse or Neglect of a Student Even Where Students are Harmed and/or Placed at Substantial Risk***

OCA/AG Report, 2010, pg. 29

“Of greatest concern was an apparent reluctance [by DCF investigators] to substantiate allegations involving school employees. Some investigators acknowledged that the ramifications of wrongfully substantiating a claim made against a school employee impacted their decision-making. In some cases, DCF did not substantiate allegations despite having adequate evidence to do so.

Few of the reports reviewed by OCA resulted in DCF issuing a substantiation of abuse or neglect. DCF varied in its handling of verbal abuse and harassment of students, even where children reported they were scared, angry, embarrassed, afraid and uncomfortable because of the staff person’s conduct. Investigators tended to characterize concerns regarding staff mistreatment of youth as a “program concern,” and DCF directed such concerns regarding the appropriateness of a staff member’s conduct, or the lack of appropriate supervision of children to the attention of district leadership. In one of the cases outlined above, even a teacher allegedly using racial slurs to harass students, allegedly calling one of them a “dumb black bitch,” was not enough to incur a substantiation, even with numerous students corroborating the teacher’s pattern of verbal abuse.

Even in the case of a young child, diagnosed with Autism and non-verbal, who was found blocks away from school after having been left unsupervised, no substantiation issued. In that case, school administrators were on notice of the child’s significant disability, had knowledge of his need for one-to-one supervision, were aware of the lack of appropriate staffing to support the needs of this child and other children with disabilities, and created the conditions for physical neglect of this child that could have led to significant harm. Again in that case, concerns regarding the lack of supervision *and the school’s failure to promptly report the matter to DCF*, were identified only as “concerns.” This may be in part due to the fact that though a child may actually *be neglected*, under state law substantiations run to the adult perpetrator. Meaning, if a perpetrator/s cannot be identified, then no substantiation will issue. Some of the cases described in this section may be more aptly characterized as *institutional* neglect, but where responsibility does not directly flow from one person’s actions. There is no also no clear framework for transparency and accountability with regard to identified “program concerns” or any other concern identified by a DCF investigation and sent to a district superintendent. OCA is currently inquiring with SDE as to whether it even receives notification and responds to such concerns.

District officials were quick to report to OCA that their employee-discipline options are limited where DCF does not substantiate a staff person for abuse or neglect. And OCA notes concern regarding both the lack of substantiations in some cases *and* the reversal of substantiations on administrative appeal (or internal review) in other cases. No data was available regarding the frequency of such reversals. Yet OCA also finds that HPS officials cannot absolve themselves of a failure to hold employees adequately accountable and ensure the safety of children, placing sole responsibility with the child welfare agency. The number of cases reviewed where staff lingered in classrooms years after concerns were first raised about their mistreatment of children is extremely disturbing.

## PART THREE

### RECOMMENDATIONS

#### Corrective Actions to Ensure Compliance with Connecticut's Mandatory Reporting Laws and Recognize, Prevent and Stop Abuse and Neglect of Students by Staff Members

- HPS should fully implement its June 2016 revised mandatory reporting policy and ensure that all schools within the district are complying with its provisions.
- Ensure that all employees are trained to understand that it is not the role of the employee to evaluate or investigate an allegation of suspected child abuse or neglect, it is only their obligation to report a “reasonable suspicion.”
- While a district has the obligation to conduct human resources investigations, sexual harassment/misconduct investigations, and discipline employees where appropriate, HPS must have clear protocols for coordinating and even delaying activities where necessary for child welfare or law enforcement priorities. Memorandum of Understanding with local law enforcement and child welfare agencies, as well as clear communication protocols with such agencies, can help clarify and coordinate investigative activities and responsibilities shared by the district with local and state officials.
- HPS/Board of Education should review its mandatory reporting policy, procedures and practices annually to ensure that all legislative changes are reflected in those policy, procedures and practices and any necessary changes are implemented. The role of the Board of Education in conjunction with HPS leadership/cabinet staff must be clarified with regard to the monitoring of compliance with mandated reporting policies and procedures.
- HPS should review and revise its internal communications and mandatory reporting training program to ensure that all impacted employees are made aware of the mandatory reporting laws, receive appropriate mandatory reporting training and understand his/her reporting obligations. The Federal Government Accountability Office report observed that one school district created “Identification-sized” cheat sheets for staff to carry as a reminder of the district’s policies on reporting suspected abuse and neglect.<sup>104</sup>
- Protocols, training and guidance for staff should acknowledge that reports of abuse and neglect may often need to be reported internally and externally. Emphasize compliance with legal requirements for reporting to law enforcement and child welfare authorities, while ensuring clear internal reporting protocols for suspected child abuse/neglect and other incidents of child maltreatment. HPS should review its compliance practices and procedures to ensure that periodic reports are run, reviewed by the appropriate department and that any instances of noncompliance are addressed immediately.
- HPS should include in its mandatory reporting policy specific disciplinary actions to be taken for failure to comply with its mandatory reporting provisions.
- HPS should evaluate utility of putting compliance with mandated reporting obligations into district employee contracts.
- HPS should maintain all communications from SDE, including Circular Letters that contain legislative updates concerning mandatory reporting in a central location and share all Letters with appropriate HPS staff and the Hartford Board of Education.

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<sup>104</sup> GAO at 27.

HPS must develop an immediate framework for preventing, identifying and responding to reports/concerns of abuse and neglect of children by district staff.

- HPS must develop a Continuous quality improvement plan for ensuring student safety.
- HPS framework/plan must be transparent and accountable, encompass recommendations from within this report and other expert/technical assistance.
- Framework must include periodic public reporting to outside monitoring agencies such as the State Department of Education, the Department of Children and Families and the Office of the Child Advocate.
- Framework must include process for aggregating concerns identified by DCF and HPS administrators so that systemic issues regarding the treatment of children can be identified and improvements implemented, where necessary.
- HPS must designate a team to work on prevention and response issues as identified in this report. Such team *must include* experts in the field of child welfare, disability rights, special education, and operations management. Ideally HPS will work with an outside consultant to address any issues identified in this report.
- HPS framework should include regular monitoring of compliance with mandated reporting, including a review of administrative complaints made to the Board of Education, HPS executive cabinet and labor relations team, and reports made to DCF. The team must review the contents of reports and resulting investigations to assist with identification of concerning trends or other deficiencies within the district regarding the treatment and education of children.
- HPS framework must include an emphasis on the unique vulnerability of children with disabilities, inclusive of the vulnerability of such children to abuse, neglect and injury from restraint and seclusion.

Code of Conduct, Prevention and Response to Sexual Harassment/Misconduct/Abuse

- HPS should have written policies regarding relationships between staff and students, including descriptions of educationally appropriate touching, “limitations on closed-door, after-hours activities with only one student, required reporting by other teachers and employees, required chaperones, at least one male and one female, for off-site trips.”<sup>105</sup> Policies should address leisure time with students and transportation rules.<sup>106</sup> Policies should limit contact between staff and students to district-sanctioned activities and programs.<sup>107</sup> The GAO’s 2014 report to Congress recommended such policies and stated that they “can help staff, students and parents determine when violations of the rules have occurred.”<sup>108</sup> GAO recommends that districts’ codes of conduct and training specifically address grooming behaviors, i.e. “behavior intended to establish trust with a student to facilitate future sexual activity.”<sup>109</sup> Training should be “scenario-based to give participants opportunity to practice responses.”<sup>110</sup>

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<sup>105</sup> <http://www.wrightslaw.com/pubs/sex.misconduct.doe.2004.pdf> at 47.

<sup>106</sup> [http://www.sesamenet.org/images/docs/sexual\\_misconduct\\_warning\\_signs\\_shakeshaft.pdf](http://www.sesamenet.org/images/docs/sexual_misconduct_warning_signs_shakeshaft.pdf). Pg. 12.

<sup>107</sup> CDC at 12.

<sup>108</sup> GAO at 20.

<sup>109</sup> GAO 20-21, 24.

<sup>110</sup> GAO at 23. The GAO noted that one school district developed an online, interacting training course on preventing adult sexual misconduct with students and that the training will be required for all staff, including bus drivers and cafeteria workers and volunteers. The training includes scenarios depicting questionable interactions between school personnel and students, “gray area behaviors” such as a teacher being alone with a student in a room, and other context-dependent situations. GAO at 24.

- Policies should also find a balance between “encouraging positive and appropriate interactions and discouraging inappropriate and harmful interactions.”<sup>111</sup> Not all physical/verbal expressions of nurturance or affection between school staff and a child will be inappropriate. A hug can be a supportive and developmentally appropriate response to a student, depending on context and age of the student.
- HPS should implement a policy regarding electronic communication between HPS staff and students, which policy would provide clearly defined limitations on such use on behalf of HPS staff, including the use of only HPS e-mail accounts to discuss school related topics, which are only permitted to be sent during school hours.<sup>112</sup>
- Policies should specify what staff behaviors the district will respond to internally and what behaviors must be reported to authorities (child welfare and law enforcement).<sup>113</sup> Seeking child welfare agency guidance regarding policy development will be beneficial.
- District policies should specify how breaches and boundary crossing will be addressed, *even where sexual abuse is not suspected*. Consequences should be explicit.<sup>114</sup>
- Training for school staff regarding sexual abuse prevention should address not only abuse that occurs *outside school* but should outline behaviors that are not acceptable *within the school*. As the U.S. Department of Education noted in a technical assistance brief in 2008, “traditional teacher training courses on child abuse focus primarily on physical or emotional abuse. When sexual abuse is discussed, it is often within the context of the family unit or as a stranger-posed risk. School personnel largely are not attuned to potential hazards their colleagues—or even themselves—inadvertently may pose in situations which could be defined as educator sexual misconduct.”<sup>115</sup>
- Training for educators and school staff should be designed to overcome and address challenges to reporting, such as the cognitive dissonance individuals may experience that prevents them from believing a colleague or other familiar adult may be engaging in sexual misconduct. Trainings should use statistics, current events and actual case examples to address the phenomena of denial.<sup>116</sup> Training must address the biggest barrier of staff not being sure *when* to report. Clear and specific codes of conduct, integrated into staff training, can assist with this overcoming this barrier. The same advice should be applied to trainings regarding mandated reporting of abuse/neglect.
- Sexual abuse prevention training should be required for all staff. The 2014 GAO report found that only 11 states provided training on appropriate and inappropriate behavior by school personnel.<sup>117</sup>

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<sup>111</sup> Preventing Child Sexual Abuse Within Youth-Serving Organizations, *Getting Started on Policies and Procedures*, Center for Disease Control (2007) at 9.

<sup>112</sup> The 2014 GAO report found that sometimes challenges can arise from blanket prohibitions on social media use by school personnel, noting that “some teachers use this forum as a way to share educational interests or to quickly share messages about school event cancellations.” GAO at 21.

<sup>113</sup> CDC at 17.

<sup>114</sup> CDC at 17.

<sup>115</sup> U.S. Department of Education-Readiness and Emergency Management for Schools Technical Assistance Center: Educator Sexual Misconduct. What School Staff Need to Know and Do. Vol. 3 Issue 2, 2008.

<sup>116</sup> CDC at 29.

<sup>117</sup> GAO at 23.

- District leadership is critical in the prevention of educator sexual misconduct, and there must be clear points of contact in the superintendent’s cabinet who have significant training and expertise to guide and monitor the organization’s prevention and response efforts.<sup>118</sup>
- HPS should consider environmental safeguards as well to prevent opportunities for educator/staff sexual misconduct, including making sure doors have windows, instituting a no-closed door policy wherever possible and appropriate, and ensuring appropriate lighting in all areas of school buildings.<sup>119</sup>
- HPS must have clear policies that explain what constitutes educator sexual abuse or misconduct and what the mechanisms are for legally required reporting. School district mandated reporting policies must deal specifically with educator sexual misconduct. According to experts “broad statements about nondiscrimination or child abuse are insufficient to ensure that staff, parents, and students understand what constitutes educator sexual misconduct and the procedures necessary to prevent or report adult sexual exploitation of students in schools.”<sup>120</sup>
- The district must have clear requirements for “reporting suspicious adult behavior, and an effective complaint system, including definitions, administrative consultation protocols, investigations and criminal referral processes, parental notification requirements, administrative resolution steps and immunity and retaliation considerations.”<sup>121</sup> District policies must emphasize that suspicion is enough particularly given that most sexual behavior will happen in private and reporters will often not be a direct witness to sexual misconduct.
- HPS should consider the use of a centralized team to respond to all incidents of educator sexual misconduct, which would allow patterns of behavior to be detected and greater protection for students. The district must have a clear reporting structure within the organization for suspicions and concerns about conduct between staff and students that is overlaid with the mandated reporting requirements under state law.<sup>122</sup>
- HPS policies must allow for the separation of the victim and the accuser while investigations are pending.
- HPS should immediately implement its sexual awareness and prevention program mandated by Conn. Gen. Stat. §17a-101q, which program includes providing instructive materials for teachers and educational materials for students.

Corrective Actions to Prevent the Hiring, Retention and Promotion of Individuals to High-ranking Administrative Positions at HPS who Have a History of Predatory and/or Questionable Conduct

- HPS should modify its application process to require that all potential applicants be required to disclose any investigations into improper, unethical and/or abusive conduct in Connecticut and any other states in which the applicant has resided.
- All internal job promotions/lateral transfers/demotions at HPS for high-ranking administrative positions should be brought before the Hartford Board of Education and a review of the personnel files of those employees should be completed by the Board.
- HPS should explore whether all records concerning abuse/neglect of a student by a staff member, including records detailing allegations, investigations and reports may be shared immediately with the Hartford Board of Education without creating any due process concerns should any resulting

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<sup>118</sup> CDC at 29.

<sup>119</sup> CDC at 15.

<sup>120</sup> [http://www.sesamenet.org/images/docs/sexual\\_misconduct\\_warning\\_signs\\_shakeshaft.pdf](http://www.sesamenet.org/images/docs/sexual_misconduct_warning_signs_shakeshaft.pdf) pg. 12.

<sup>121</sup> USDE at 4.

<sup>122</sup> CDC at 13.

adjudicative function in cases of termination be held in accordance with Conn. Gen. Stat. § 10-151.

- HPS should review its practices to ensure that any staff member who has shown predatory behaviors (including grooming behaviors) toward HPS students be disciplined accordingly and that the Hartford Board of Education be apprised of such conduct and weigh in on appropriate disciplinary action.
- HPS should consider whether certain predatory behaviors, such as “grooming,” should serve as a basis for requesting the revocation of the professional license of a certified staff member from the State Department of Education.

### Recommendations to Strengthen State Laws Regarding Mandated Reporting

- Strengthen state mandated reporting laws by ensuring that all individuals who are employed by, under contract with, or serving children within the school community are mandated reporters. Current law provides that *most* people within the school are mandated reporters, but the lack of an inclusive definition creates confusion for districts as they craft internal policies and oversee training and compliance. Ensuring that all individuals within the school community are mandated reporters will eliminate confusion and streamline district’s compliance efforts.
- Ensure that board of education (BOE) members are identified as mandated reporters of child abuse or neglect. Current law does not designate BOE members as mandated reporters. Members may be the first person a parent speaks to regarding a concern of child maltreatment.
- Clarify statutory protections for students between the ages of 18 and 21. Current child welfare law is conflictual regarding protections for such students. Though state law was amended in 2015 to clarify protections for older students who are victims of *sexual* abuse, confusion remains regarding protections for older students, often students with specialized needs. State law should be clarified to ensure that reports shall be made to DCF for all students suspected of being abused or neglected.
- Clarify in state law that district leadership, upon receipt of information regarding a DCF investigation of abuse/neglect by a school employee can share findings, including program concerns, with Board of Education members.

### Corrective Action to Track Failures to Report Abuse or Neglect by District Employees<sup>123</sup>

- DCF should continue efforts to be compliant with the requirements in Conn. Gen. Stat. § 17a-101o by: (i) creating a database of records for failure and/or delay in reporting suspected abuse and/or neglect; (ii) investigating such failure and/or delay in reporting and (iii) developing a policy for such investigations, which should include when referrals to the appropriate law enforcement agency are required and when participation in mandated reporting educational and training program is required.
- HPS should maintain a database of records of staff found to have failed to report or delayed reporting of suspected abuse and/or neglect and conduct its own independent investigation, coordinated with child welfare and law enforcement authorities, into such failure and/or delay and have appropriate disciplinary actions in place for such failure and/or delay in reporting.

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<sup>123</sup> Pending further development following discussion with HPS and SDE.

- The SDE should have mechanisms in place to monitor repeated failure and/or delay in reporting in school districts and make such information publically available.
- The SDE and DCF must ensure that they are conducting annual reviews with DCF of “all records and information relating to reports and investigations that a child has been abused and neglected by a school employee” in accordance with state law.

Corrective Action to Improve Transparency and Accountability for Child Maltreatment in Schools and Accountability for DCF Identified Programmatic Concerns

- State law should be amended to ensure that parents of children who are victims or witnesses to abuse or neglect by a school employee are appropriately notified of DCF substantiations and *any DCF program concerns* documented and reported to district leadership. Program concerns, typically involving staffing/supervision/general safety of students, should be considered *citations* similar to those issued by other regulatory agencies with regard to child/adult-serving programs, and schools should be required to respond and be accountable for remedying concerns identified therein. Right now when DCF identifies and notifies school district leadership of institutional concerns, *there is no framework for transparency and accountability* regarding the district’s obligation to respond and correct.
- DCF should be required to develop specific policies and protocols for the investigation of suspected abuse or neglect within schools. Such guidance should also address how DCF will investigate concerns related to restraint and seclusion of children, and injury to students with disabilities, inclusive of standards for evaluating whether children’s injuries are inflicted versus accidentally incurred and whether *programmatic deficiencies* or infrastructure concerns related to staffing, training or supervision creates an unsafe environment for children.
- State law and DCF policies must adequately address concerns of *institutional* neglect or abuse, even where no single perpetrator is identified whether due to diffuse responsibilities within the program or simply an inability to assign direct responsibility.<sup>124</sup> It is important that DCF’s policies and protocols (and relevant statutes where necessary) permit a distinction between institutional and individual neglect. Right now, a child’s safety in a school may be severely compromised due to institutional neglect, and yet no neglect findings issue given the statutory limitations on such findings, and there is no accountability for any findings that DCF may make regarding *programmatic/institutional* failures that *permitted the child to be endangered*. By contrast, where DCF is the licensing authority for a child-serving program, DCF can compel corrective action to address the type of concerns identified in this report.

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<sup>124</sup> When a neglect petition is filed in the Superior Court for Juvenile Matters pursuant to Conn. Gen. Stat. §46b-129, case law provides that whether a child will be adjudicated “neglected” within the meaning of Conn. Gen. Stat. §46b-120 depends on the *status of the child* at the time the neglect petition was filed, and the adjudication is rendered regardless of which parent or guardian is *responsible* for the neglect. *In re Joseph W.*, 301 Conn. 245 (2011). However the DCF administrative finding of abuse or neglect appears to be tied to the identification of a perpetrator. Meaning, even if a child has inflicted injuries that an expert diagnostician finds are the result of child abuse, if no perpetrator is clearly identified by DCF, the child will not be found administratively neglected or abused.

- The SDE should be copied/notified regarding not only DCF findings of abuse/neglect but also DCF *programmatic concerns*, and districts should be required to submit responses and/or corrective action plans to both the SDE and DCF. SDE and DCF should jointly set criteria for the notification and response to DCF programmatic concerns, and state statute should expressly authorize DCF to make such findings. Where program concerns implicate a district's compliance with state or federal laws applicable to schools, or the safety of children in the program, the SDE and DCF, where appropriate and necessary, should take steps to provide monitoring of a district's corrective action plan.
- Districts should be required to report *all* injuries of children to parents/guardians and all serious injuries to the SDE, DCF, OCA and the Office of Protection and Advocacy.

Corrective Action to Prevent Restraint and Seclusion of Children in Schools and Ensure Accurate Reporting of Interventions and Student Injuries

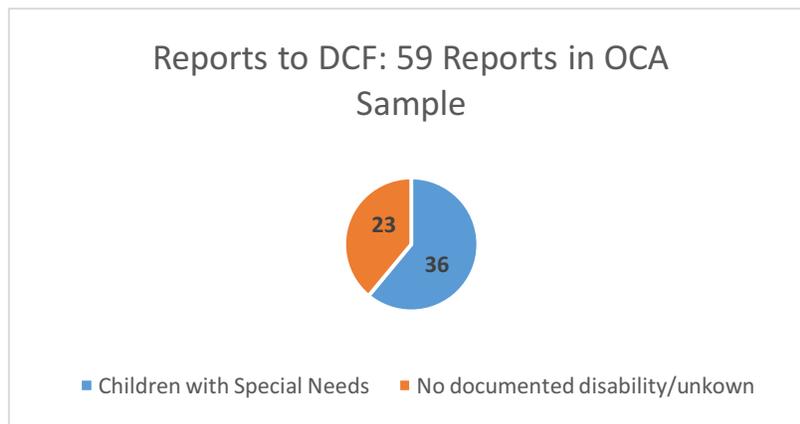
- HPS must immediately educate itself and its staff regarding the utilization of emergency interventions such as physical restraint and seclusion, including the harmful effects of such techniques for students and staff, and programmatic approaches to the reduction and prevention of such interventions.
- HPS must surveil its utilization of restraint and seclusion and immediately ensure compliance with state law requirements regarding documentation of such interventions and any resulting injuries to children.
- HPS principals and the Superintendent's Office should review monthly the district's data regarding restraint, seclusion and injury to students, and such data should be submitted to the SDE for review, along with any other information the SDE deems relevant to a compliance inquiry. The SDE should require the district to attest monthly regarding the reliability of its compliance framework.
- The SDE should monitor the HPS' compliance with these state law requirements over time.
- HPS should review its utilization of such intervention both quantitatively and qualitatively to determine implications for children's rights under federal and state law to a Free Appropriate Public Education, and ensure that the utilization of such emergency interventions is not the result of inadequate staffing, failure to implement best educational practices, and lack of compliance with federal special education law.

## PART FOUR

### REPORTS RAISE CONCERN ABOUT ACCOUNTABILITY AND TREATMENT FOR CHILDREN WITH SPECIAL NEEDS

OCA was deeply concerned about what DCF reports and subsequent investigations revealed regarding the safety and educational support of children with specialized needs. As outlined above, the majority of reports reviewed by OCA involved children with specialized needs, and over fifteen percent of those children were identified as having an Autism Spectrum Disorder. OCA's concerns include:

1. Lack of knowledge by some staff regarding disability and best educational practices;
2. Persistent beliefs that children with autism will need to be restrained;
3. Lack of appropriate staffing and supervision for children with specialized needs;
4. Lack of accountability for provision of appropriate educational services for children with disabilities;
5. Utilization of restraint, leading to child injuries;
6. Persistent lack of documentation and reporting regarding restraint, seclusion and associated student injuries;
7. Lack of trauma-informed interventions for children;
8. Lack of expert support to determine whether injuries sustained by children with disabilities (and who may have limited communication) are more likely accidentally incurred or intentionally inflicted.



Several reports reviewed by OCA involved injuries, often unexplained, sustained by children with autism (or other disabilities) allegedly during the school day, or injuries sustained due to a child being physically restrained or handled. Note that an administrator from one Hartford school reported that he told a parent he could not guarantee their child would not

be injured in the “ABA classroom.”<sup>125</sup> Other DCF investigation documents reflected staff theories that the child’s injuries may be self-inflicted, but in none of the DCF investigations did HPS staff produce an incident report or other documentation to support a conclusion that the child was supervised and somehow injured him/herself through self-directed behavior. The lack of documentation and lack of accountability for the injuries sustained by young children with disabilities, often unable to advocate for or protect themselves, is stunning.

<sup>125</sup> Applied Behavior Analysis is a methodology for instructing children with Autism.

DCF Consistently Finds HPS Not Documenting Restraint or Injuries to Children

Reports to DCF included allegations that children were being unnecessarily or roughly restrained by school staff, and children's challenging behaviors were later offered as a reason for physical intervention that may lead to injury. DCF investigations in these cases consistently found a disturbing lack of school documentation regarding restraint, seclusion, injury and notification to parents. DCF investigative documents reveal multiple families who had long-standing concerns that their child was being injured in school.

No parent should be in a position where they are retrieving their child from school and finding bruises, scratches, cuts, and other marks on the child, *and with no explanation or report* from the school district as to what happened. Reports reviewed by OCA depicted family members (some of whom are not fluent in English), frustrated and frightened for the well-being of their children, meeting with school officials and looking for answers as to what is happening to their child. Some of these parents experience the deep fear that comes with encountering an injury that their son or daughter may not be able to explain. Reports reveal children, some as young as 5 and 6 coming home with pinch marks, cuts and bruises on their ears, bruises on their arms, and scratches on their neck. Notwithstanding the concerns outlined above regarding the failure to timely report all of these incidents to DCF, OCA is deeply troubled by what these incidents may reveal regarding cultural or educational attitudes by *some* employees and district officials regarding children with disabilities. OCA also notes that the last held position by Eduardo Genao after he was demoted

from the Superintendent's cabinet was that of Director of Compliance for Special Education. OCA also notes that some employees are clearly advocates for children and take steps to advocate for their protection and care.

OCA finds that too often a child with specialized needs, whether due to a diagnosis of Autism or developmental trauma, is labeled "difficult," or troublesome. Once the label is on the child, use of restraint and seclusion or the occurrence of inflicted injuries becomes the accepted and inevitable result of the child's behavior, and therefore adults are *not alarmed* and *do not effectively respond* to prevent such harms to children.

OCA also finds that HPS is historically and persistently not compliant with state law regarding the reporting of restraint and seclusion and resulting injuries to children in school. Though several of the DCF reports reviewed by OCA reference the use of physical intervention and time-out for students, public reports and DCF investigations reflect a pervasive lack of documentation about the use of such interventions, despite such reporting being required by state law.

Over the last three reported school years, HPS consistently reported to state officials that no child was injured as a result of restraint or seclusion.

Annual reports from 2012 through 2015 regarding the use of restraint and seclusion in schools, including injuries incurred by students, compiled by the State Department of Education, reveal *significant and persistent non-reporting* by HPS.<sup>126</sup> The lack of transparency and accountability for the utilization of restraint and seclusion and resulting student injuries is alarming.

<sup>126</sup> In Connecticut's 2011-12 report, Hartford reported only 8 instances of restraint and seclusion (compare East Hartford's report of 1,169 incidents, Fairfield's report of 248, Groton's report of 398, and New Britain's

OCA is concerned that staff are not knowledgeable or sufficiently trained regarding the harmful effects of restraint and seclusion on children or best practices to prevent the need for such interventions. Concerns about staffing, training and the use of best practices also implicate the children's rights under federal and state special education law and raise the specter of a pattern of non-compliance by the district with entitlements for children with disabilities.<sup>127</sup>

**Children with disabilities are at higher risk of abuse/neglect and even unintentional injury due to their disabilities.**<sup>128</sup> Children, no matter their disabilities, should not be injured in school. It is not an inevitability that children with autism or other disabilities need or should be restrained or secluded in an effort to address problematic behaviors. Experts around the country conclude precisely the opposite and warn that children with disabilities are uniquely vulnerable to trauma and injury from reliance on restraint and seclusion as educational tools and interventions.

Between 2012 and 2015 the Connecticut State Department of Education reported more than 1,313 incidents of a child being injured during a restraint or seclusion, with more than two dozen injuries categorized as "serious." In Connecticut, the most likely children to be restrained or secluded are children with Autism.

The United States Departments of Education and Health and Human Services as well as advisory committees comprised of experts in the disabilities/mental health fields, have long concluded that restraint and seclusion are non-therapeutic, non-evidence based and often dangerous interventions for children.<sup>129</sup> The Interagency Coordinating Council, authorized under federal law as an advisory committee to HHS, issued a public letter in 2011 outlining

significant concerns regarding the pervasive use of restraint and seclusion for children with autism.

report of 638). In the state's 2012-13 report, Hartford reported zero instances of restraint or seclusion (compare with West Hartford's report of 200, and East Hartford's report of 1,644). In the state's 2013-14 report, Hartford's reporting climbed to 335 incidents for 26 total students, an increase in reporting but still far below what would be expected, and including *no reports of any injuries sustained*. SDE's informed OCA that HPS is reporting only 172 incidents of restraint (no seclusions) for the 15-16 school year, and no injury reports. OCA's small sample review for the last 3 years included multiple concerns of student injuries and one student who was rushed to the hospital after being injured trying to run out of a seclusion space. SDE reported to OCA that Hartford certifies its data on an annual basis as accurate and consistent with state law.

<sup>127</sup> The last Director of Compliance (for Special Education) within the District was Eduardo Genao. He was "demoted" to this position by the most recent Superintendent of Schools who no longer wished to have him in her executive cabinet.

<sup>128</sup> See United States Department of Health and Human Services, Child Welfare Information Gateway, Bulletin for Professionals: *The Risk and Prevention of Maltreatment of Children with Disabilities*, Published 2012, found on the web at : [www.childwelfare.gov/pubs/prevenres/focus/](http://www.childwelfare.gov/pubs/prevenres/focus/).

<sup>129</sup> Per the United States Department of Education, Restraint and Seclusion Resource Guide (2012) "As many reports have documented, the use of restraint and seclusion can, in some cases, have very serious consequences, including, most tragically, death...There is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors that frequently precipitate the use of such techniques." The United States Department of Health And Human Services issued a report in 2009 emphasizing that the use of seclusion and restraint is dangerous and traumatic not only to the individuals subjected to these practices, but also for the staff implementing them. USHHS, *Promoting Alternatives to the Use of Seclusion and Restraint in Mental Health Residential Facilities* (2009). See also W.K. Mohr & J.A. Anderson, *Faulty Assumptions Associated with the Use of Restraints with Children*, 14 J. OF CHILD AND ADOLESCENT PSYCHIATRIC 141 (2001) (perception that seclusion and restraint is beneficial has been challenged and refuted).

The IACC—Chaired by Thomas Insel, M.D., Director of the National Institute for Mental Health—stated **“utilization of restraint or seclusion should be viewed as a treatment failure** that exacerbates behavioral challenges and induces additional trauma...federal legislation is urgently needed to ensure the safety of all students and staff,” by requiring standards for monitoring and enforcement of restraint and seclusion practices.<sup>130</sup>

Multiple DCF investigative reports reviewed by OCA documented concerns by investigators regarding the lack of training, supervision or appropriate staffing levels for some HPS students with disabilities. Most if not all of these reports included notations that a record of such concerns would be sent by DCF to the HPS Superintendent and school principal. OCA has remaining questions regarding how such reports/records are received and acted on by HPS executives. HPS administrators should be aggregating the concerns to better identify systemic deficiencies/needs and ensure accountability and improvements, where necessary. HPS has a responsibility to ensure that children are appropriately served, that their educational plans are implemented, that children are supervised and above all safe in school and free from harm.

Issues identified in this report implicate children’s civil rights to safety and appropriate education and treatment in school. Local and state officials will need to take action to address these issues going forward. Action must include working with a multi-disciplinary, inside-outside team to improve educational supports for children with disabilities, ensure compliance with federal and state laws regarding provision of special education and reporting of injuries to children, prevent and reduce utilization of restraint and seclusion, provide trauma-informed supports to children with specialized needs, and ensure transparency and accountability for the safety of vulnerable students. OCA will continue to monitor the district’s efforts to improve conditions and safety for children with disabilities.

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<sup>130</sup> Emphasis added. *IACC (Interagency Autism Coordinating Committee) Letter to the Secretary on Seclusion and Restraint*, Sept. 7, 2011, [http://iacc.hhs.gov/publications/2011/letter\\_seclusion\\_restraint\\_090711.shtml#ref6](http://iacc.hhs.gov/publications/2011/letter_seclusion_restraint_090711.shtml#ref6) (last visited Jan. 29, 2015).

## APPENDIX A

### **Eduardo (“Eddie”) Genao’s Employment History Included Previous Investigations into Allegations of Abuse/Neglect, Harassment, Improper Conduct and Ethics Violations**

On November 21, 2004, Genao sent a letter of interest to HPS Superintendent Robert Henry regarding the position of Principal at the Sports and Medical Sciences Academy. In his letter of interest, Genao emphasized his twenty-two (22) year career in education and numerous promotions during that career in the New York City Schools, which included promotions that Genao indicated had “come to me without my asking in recognition of my hard work, proven success, and, above all, my loyalty.”

On December 15, 2004, HPS made the decision to hire Genao, and its Human Resources Director submitted a priority application to the Bureau of Educator Preparation, Certification Support and Assessment Office for his Administrator Certification. On December 17, 2004, Genao was offered the position of Principal at the Sports and Medical Sciences Academy to begin January 3, 2005 at a salary of \$120,413. As referenced in a December 17, 2004 offer of employment letter, Genao’s employment was conditioned on the results of a State and National Criminal History Records Check, DCF Report and proof of Certification of License. In January of 2005, Genao acknowledged receipt of the following documents: (i) HPS Code of Ethics; (ii) HPS Employee Handbook; (iii) Code of Ethics for the City of Hartford and (iv) Summary of the Code of Ethics for the City of Hartford.<sup>131</sup>

#### Prior to His Employment with HPS, Genao was Under an Undisclosed Investigation by the New York City Conflicts of Interest Board for an Ethics Violation

Prior to being offered the position of Principal at the Sports and Medical Sciences Academy in December of 2004, Genao served as Local Instructional Superintendent of the Department of Education, Region 2 in New York. On August 26, 2004, Genao improperly forwarded his brother’s resume to all principals in Region 2, which included principals whom he supervised in violation of the New York City conflicts of interest law. Genao’s actions prompted an investigation by the New York City Conflicts of Interest Board.

While that investigation by the New York City Conflicts of Interest Board was on-going, Genao accepted the position of Principal at the Sports and Medical Sciences Academy and began serving in that position on January 3, 2005. On February 7, 2005, Genao entered into a settlement agreement with the New York City Conflicts of Interest Board in which he acknowledged that he violated the New York City conflicts of interest law and agreed to pay a penalty of \$1,000.<sup>132</sup>

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<sup>131</sup> As Principal at the Sports and Medical Sciences Academy, Genao was a member of the Hartford Principals and Supervisors Association, Local No. 22, AFSA, AFL-CIO (known as “HPSA”), which is a bargaining unit for certified professional administrators employed at HPS.

<sup>132</sup> As reported in the New York City Conflicts of Interest Board’s 2005 Annual Report:

The Board concluded a settlement with Eduardo Genao, formerly a Department of Education (“DOE”) Local Instructional Superintendent in Region 2, who used a DOE computer to e-mail his brother’s resume to all principals in Region 2, including principals whom he supervised. Genao’s brother was offered an interview because of the e-mail Genao circulated among the principals in Region 2 but did not pursue the employment opportunity. Genao acknowledged that his conduct violated the New York City conflicts of interest law, which prohibits public servants from misusing City time and resources for any non-City purpose and from using their City position to benefit someone with whom the public servant is associated. The City Charter includes a brother among those persons associated with a public servant. The Board fined Genao \$1,000, a disposition

During a 2007 DCF and HPS investigations into the alleged abuse/neglect by Genao of a HPS student, Genao disclosed for the first time to DCF and HPS that he had been subject to an investigation by the NYC Conflicts of Interest Board that began prior to obtaining employment with HPS, which investigation was on-going.<sup>133</sup> As part of the stipulated agreement with the Conflicts of Interest Board, Genao was required to disclose the investigation to any New York City employers, but he was *not* required to disclose the investigation to a *Connecticut* employer.

HPS Conducted an Investigation into Allegations that Genao Engaged in Improper Conduct

Sometime in 2006, the Internal Audit Department of HPS conducted an investigation into allegations that Genao had improperly changed biracial students' race and ethnicity data at the Sports and Medical Sciences Academy. As alleged in an anonymous letter submitted to then Mayor Eddie Perez, the Hartford Board of Education and Attorney General Richard Blumenthal:

Mr. Genao called our children into his office one at a time and spoke to each of them of how the school will get 'millions of dollars' if the child would just let him change their ethnic background in the computer from minority to white . . . . He did not call the parents to get permission. He thought he could just change these facts with the permission of 14 and 15 year old children.<sup>134</sup>

On June 6, 2006, Genao was notified that those allegations had not been substantiated due to "insufficient evidence to support the allegation." In response to OCA's request for all records related to investigations involving Genao, there were no records submitted by HPS that provided any information concerning the scope of this particular investigation, how the investigation was conducted, the HPS staff involved in that investigation or that indicated whether the Hartford Board of Education was involved in any of the decision-making.<sup>135</sup>

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that took into account the facts that Genao tried to recall his e-mail when advised that someone had complained and that he self-reported his conduct to the Board. *COIB v. Genao*, COIB Case No. 2004-515 (2005).

<sup>133</sup> The New York City Conflicts of Interest Board's 2005 Annual Report, which Report is publically available on-line, confirms this investigation and resulting stipulated agreement reached with Genao. As part of that agreement, Genao was required to disclose the investigation to any future New York City employers. As specifically stated in the Stipulation and Disposition in *COIB v. Genao*, COIB Case No. 2004-515 (2005), "I agree to provide a copy of the Disposition to any City agency where I may apply for employment upon the request of such agency or in response to any inquiry calling for such information, and, in any event, prior to accepting employment with the City."

<sup>134</sup> See *Racial Identities Altered*, by Rachel Gottlieb, The Hartford Courant, March 15, 2006.

<sup>135</sup> Genao's HPS personnel file also included multiple harassment complaints from a fellow district employee. Beginning in August and continuing in November and December of 2009 and January of 2010, there were four (4) harassment complaints filed against Genao by a HPS employee. After conducting an investigation, the HPS Central Harassment Team notified Genao on July 12, 2010 that it was unable to substantiate harassment but clearly found elements of Genao's behavior to be troubling enough to recommend that Genao be "careful about casual conversations with employees as such can be misperceived." Interviews with district personnel conducted by OCA as part of this review indicate that the harassment was not sexual in nature.

APPENDIX B

Sample School District Behavioral Guidelines Governing Adult-Student Interactions

Green

Light Behaviors—*These behaviors are appropriate:*

- Providing humor and friendly comments
- Giving compliments that are not overly personal
- Talking to, treating and touching all students in a consistent manner
- Making sure when alone with a student the door to the room is open and ensuring that you are in plain sight
- Spending a majority of time with all and not with one student or a single group of students
- Making personal contact only in safe-touch areas, which include the shoulders, upper back, arms, head and hands.
- Educating all students and parents about the possibility of educator sexual misconduct while using approved developmental, cultural and socially appropriate materials.

Yellow Light Behaviors—*These behaviors may be misconstrued and should be stopped if currently practiced:*

- Singling out students for favors
- Giving overly personal cards, notes, email or yearbook inscriptions
- Teasing that references gender or contains sexual innuendo
- Making sexist comments.

Red Light Behaviors—*These are inappropriate unless specifically part of an education or counseling program:*

- Touching students frequently
- Commenting on students' bodies in an overtly sexual manner
- Being alone in a locked room with student
- Meeting students during out-of-school hours and away from the school grounds
- Lap sitting for students beyond second grade.

(Source USDE citing to Seattle Public Schools (2007) Adult sexual misconduct: Keeping students and staff safe. Guidelines for teachers and school personnel.)

**Behaviors to Watch Out for When Adults are With Children**

<http://www.stopitnow.org/ohc-content/behaviors-to-watch-out-for-when-adults-are-with-children>

(2008)

Behaviors that routinely disrespect or ignore boundaries make children vulnerable to abuse

- Makes others uncomfortable by ignoring social, emotional or physical boundaries or limits?
- Uses teasing or belittling language to keep a child from setting a limit
- Insists on hugging, touching, kissing, tickling, wrestling with or holding a child even when the child does not want this physical contact or attention?

Creates relationships with children

- Turns to a child for emotional or physical comfort by sharing personal or private information or activities, normally shared with adults?
- Has secret interactions with teens or children or spends excessive time emailing, text messaging or calling children or youth
- Insists on or manages to spend uninterrupted time alone with a child
- Seems “too good to be true, i.e. frequently buys children gifts, takes children on special outings”
- Allows children or teens to consistently get away with inappropriate behaviors?

Sexual Conversation or Behavior

- Frequently points out sexual images or tells dirty or suggestive jokes with children present
- Exposes a child to adult sexual interactions or images without apparent concern
- Is overly interested in the sexuality of a particular child or teen (e.g., talks repeatedly about the child’s developing body or interferes with normal teen dating)?

**If you answered yes to more than one (1) of these questions, get help.**

United States Center for Disease Control: Preventing Child Sexual Abuse Within Youth-Serving Organizations, *Getting Started on Policies and Procedures*, Center for Disease Control (2007)

Examples of Appropriate/Inappropriate/Harmful Behavior from Youth-Serving Organizations

Sometimes it is unclear if a behavior is appropriate, inappropriate, or harmful. For example, intimate contact, such as kissing, may be developmentally appropriate for older youth, but may be inappropriate within the confines of the organization. It may even be harmful if the kissing is coercive. Another example involves hugging. Hugging may be appropriate and positive in some circumstances, but it can also be inappropriate if the child is not receptive, if the employee is hugging too often or for too long, or if the contact is romanticized or sexually intimate.

**Verbal**

**Communication**

Approp

riate:

- Praise
- Positive reinforcement for good work/behavior

Inappropriate/harmful

- Sexually provocative or degrading comments
- Risqué jokes

**Physical behavior**

Appropriate:

- Pats on the back or shoulder

Inappropriate/harmful:

- Patting the buttocks
- Intimate/romantic/sexual contact
- Corporal punishment
- Showing pornography or involving youth in pornographic activities.

APPENDIX C

INVESTIGATION OF GENAO IN 2007 REVEALS HOLE IN SAFTY NET FOR STUDENTS BETWEEN THE AGE OF 18 AND 21.

**A Safety Net Hole for Vulnerable Youth--Child Welfare Statutes are Ambiguous as to the Protections for Students Between the Age of 18 and 21**

The child welfare statute section, Conn. Gen. Stat. § 17a-93, the definitional section of the child welfare chapter of the Connecticut General Statutes, provides the following:

“Child” means any person under eighteen years of age, except as otherwise specified, or any person under twenty-one years of age who is in full-time attendance in a secondary school, a technical school, a college or a state-accredited job training program;”

However, section 17a-101a provides:

That a mandated reporter must made a report where he or she “has reasonable cause to suspect or believe that any child *under the age of eighteen years*” has been abused or neglected.

Separately, section 17a-101b(d) provides the following:

“Whenever a mandated reporter... has reasonable cause to suspect or believe that any child has been abused or neglected by a member of the staff of a public or private institution or facility that provides care for such child or a public or private school, the mandated reporter shall report as required ....”

The relevant child welfare statutes taken together could be interpreted to mean that a child under the age of twenty-one (21) who is enrolled full-time in a public high school (or other public or private institution or facility that provides care for such child) meets the definition of “child” for purposes of the mandatory reporting laws. However OCA finds that the statutes, taken together, create confusion as to mandated reporters’ obligations to report, and DCF’s responsibility to investigate, suspected abuse or neglect of older students.

**It will be important to address this ambiguity in the statutes.** There are important policy reasons supporting the statutory definition contained in §17a-93, which definition was clearly intended to provide the greatest level of protection to children and youth. Children who are older than eighteen years of age and enrolled full-time in a secondary school may be profoundly vulnerable to abuse or neglect by an entrusted caretaker or service provider. Many students still enrolled in school between the ages of 18 and 21 are taking longer to complete their secondary education due to Individualized Education Programs (“IEP”) that take into account specific learning, intellectual and/or developmental disabilities. Accordingly youth in school past age 18 are often students with profound developmental disorders or mental health treatment needs. During the 2013-14 school year, for example, there were at least 500 students (school age) with developmental or intellectual disabilities in the Hartford school system, and another 350 students identified as having a serious emotional

disturbance.<sup>136</sup> Research confirms that youth with disabilities are uniquely vulnerable to abuse and neglect.<sup>137</sup>

Additionally, students who reach the age of 18 are still vulnerable to victimization by authority figures, particularly given their “captive” status as students and the stark power differentials between students and school district staff. This vulnerable dynamic is the reason that Connecticut law identifies sexual relationships between a school employee and a student, and between a coach and student in a secondary school, as sexual assault in the second degree.<sup>138</sup> Interpreting the mandatory reporting laws or clarifying that the mandated reporting laws require such reporters to alert authorities of concerns of abuse, neglect or sexual misconduct where the suspected victim is a student between the ages of 18 and 21 is consistent with the public policy of the state to protect students from abuses of power and protect children and youth from abuse and neglect.

**Genao Investigation: DCF Received A Report On November 8, 2007 Containing Allegations Of Abuse/Neglect Against Genao Involving Additional HPS Students But Who Were Never Interviewed By DCF**

On November 8, 2007, DCF received a report of suspected abuse/neglect of HPS students by Genao, which included additional allegations concerning Genao that were not included in the October 29, 2007 report. Specifically, the report alleged that three (3) female students referenced by the reporter (ages 15 and 16) were overheard by an HPS teacher talking about their concerns over Genao e-mailing them and that they allegedly spoke to an HPS Social Worker. The reporter stated that the girls were told “not to say anything.” Although DCF recommended as “non-accept” because “similar allegation[s] are being investigated,” those allegations were provided to the DCF staff member working on the October 29, 2007 investigation. During DCF’s interviews of various HPS staff members regarding those particular allegations, DCF’s investigative record indicate that a HPS staff member admitted that she was aware of two (2) former HPS students, (“Student Diana” and “Student Elena”<sup>139</sup> who “did not want to be in [Genao’s] office when his secretary was not present” and that “they were just uncomfortable.” Though the HPS staff member identified these former students by name to the DCF investigator, there is no record of these former students having been interviewed as part of this particular investigation.

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<sup>136</sup> See Connecticut State Department of Education, EdSight located at [http://edsight.ct.gov/Output/District/HighSchool/0640011\\_201314.pdf](http://edsight.ct.gov/Output/District/HighSchool/0640011_201314.pdf), detailing data for the 2013-14 academic school year.

<sup>137</sup> United States Department of Health and Human Services, Children’s Bureau, Child Welfare Information Gateway, *The Risk and Prevention of Maltreatment of Children with Disabilities*, Bulletin, Mar. 2012 found on the web: <https://www.childwelfare.gov/pubPDFs/focus.pdf>.

<sup>138</sup> Conn. Gen. Stat. § 53a-71.

<sup>139</sup> Pseudonyms are used to protect the identity of the students.