

TO: PCSD Board of Education, Dr. Williams & Attorney Aldinger

FR: Phee Simpson, Executive Principal

DT: November 21, 2017

RE: Alleged Graduation Issues

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On Sunday, November 12, 2017 when the Board of Education Agenda came on-line I became aware that in July 2017 the Board of Education hired special counsel to conduct an investigation into the Poughkeepsie High School Cohort 2013 Graduation Rate. I was provided via email a report authored by attorney Aldinger from the Board of Education Clerk, Victoria Jackson indicating that I was being directed to respond before close of business on Tuesday, November 21, 2017. Attorney Aldinger's report contains allegations of 40 scholars graduating under questionable circumstances without interviews of those who have knowledge of the process utilized to make determinations for graduation. I will be providing items including emails, report cards and other documentary evidence utilized during the graduation/appeal decision making process.

Additionally, it must be noted that I have been given an unreasonable short period of time of less than one week to address over forty allegations of impropriety. While I wish to be cooperative, this investigation has allegedly been going on for four months, yet no one had the courtesy to reach out to me to ask for documentation and/or explanations prior to announcing to the public that there has been some sort of wrongdoing with the graduation rates of the 2013 Cohort. My name has yet to be specifically cited in the press as having some sort of culpability, but it is implicated by virtue of my leadership at the high school. It is unfortunate and disheartening to see a report accusing me of making improper recommendations, when context could have been easily provided. It is my expectation that, after a thorough review of the documentation that the report will be revised to accurately report the

facts. Should anyone have question on the information I have provided herein, my attorney, Jennifer Carlson, should be contacted [REDACTED] Given the limited time I was provided to respond, I reserve the right to provided further information in the future. Further, I respectfully caution the District not to release inaccurate, incomplete and/or false information to the public prior to completing a full and fair investigation into this matter, as it will open the District to legal liability on a number of fronts, including, but not limited to NYS law Defamation pe se states “Plaintiffs in New York **defamation** of character cases can sue for **per se** damages, which means the plaintiff doesn't have to prove economic loss or injury because the **defamatory** statement was inherently harmful.” Serving the scholars of this District is more than just a job for me and I will defend my name and passion for helping scholars by any means necessary.

#### **1. Claim by Attorney Aldingers – 504 Accommodations:**

Summary of Issues with Section 504 Meetings and Plans Unfortunately PCSD seems to have used Section 504 Plans to grant the Safety Net low-pass option to marginal students at the last minute. For example, in 2017, students [REDACTED] and [REDACTED] both were given Section 504 Plans the day before they took summer school finals after their senior year. This allowed PCSD to graduate these students with the low-pass option, but necessarily limited any benefit the students received from their Section 504 Plans to testing accommodations for their last exam.

Even potentially more egregiously, students [REDACTED], [REDACTED], and [REDACTED] all seemed to have received 504 Plans after the date of their last Regents examination, when it was clear that these students would not graduate unless they were able to take advantage of the low-pass option. When these students were given Section 504 Plans and qualified for Safety Net, they immediately were eligible to graduate and did so. In effect, these students were only granted the benefits of a Section 504 Plan after their entire secondary education was over. This runs contrary to the intent of Section 504, which requires PCSD to provide an “appropriate public education” to all students, regardless of disability or handicap. Reducing the required grade needed on exams to graduate, after the fact, cannot be reasonably interpreted as an action meant to aid in providing an “appropriate public education” as required by the regulations. It can only be interpreted as a means to graduate these students. Further evidencing that these hearings were charade-like and contrary to the requirements of Section 504, can be seen by the fact that the accommodations recommended for each of the three students 6 referenced in this paragraph included testing accommodations, such as extra time, when these students had no tests left to take.

**Response from Phee Simpson:**

The information provided on this specific allegation is very limited, as 504 accommodations and the processes used fall under the direct supervision of Dr. Steven Rappleyea, Assistant Superintendent of the Office of Family and Student Support Services (formerly the Director of Special Education). As per Board Resolution #7.13 dated July 1, 2016 "BE IT RESOLVED that...the Executive Director for Special Education shall be the ADA/Section 504 Coordinator (Equal Access for the Disabled) of the Poughkeepsie City School District, for students and serve without remuneration for the 2016-17 school year." Please see attached letters generated by the Family and Student Support Services and signed by the families.

**2. Claim by Attorney Aldinger - Appeals to Graduate with a Lower Score on A Regents Examination**

Students can graduate with exam scores lower than a 65 pursuant to an appropriate Appeal to Graduate with a Lower Score on A Regents Examination ("Appeal"). To qualify for such an Appeal, a student must meet the following criteria as set forth at 8 NYCRR 100.5(a)(7)(i)(a): A student who first enters grade nine in September 2005 or thereafter and who fails, after at least two attempts, to attain a score of 65 or above on a required Regents examination for graduation shall be given an opportunity to appeal such score in accordance with the provisions of this paragraph, provided that no student may appeal his or her score on more than two of the five required Regents examinations and provided further that the student: 1. has scored within five points of the 65 passing score on the required Regents examination under appeal and has attained at least a 65 course average in the subject area of the Regents examination under appeal; 2. provides evidence that he or she has received academic intervention services by the school in the subject area of the Regents examination under appeal; 3. has attained a course average in the subject area of the Regents examination under appeal that meets or exceeds the required passing grade by the school and is recorded on the student's official transcript with grades achieved by the student in each quarter of the school year; and 4. is recommended for an exemption to the passing score on the required Regents examination under appeal by his or her teacher or department chairperson in the subject area of such examination. [emphasis added] Slightly different criteria are set forth at set forth at 8 NYCRR 100.5(a)(7)(i)(c) for students with disabilities: c. A student who is otherwise eligible to graduate in January 2016 or thereafter, is identified as a student with a disability as defined in section 200.1(zz) of this Title, and fails, after at least two attempts, to attain a score of 55 or above on up to two of the required Regents examinations for graduation shall be given an opportunity to appeal such score in accordance with the provisions of this paragraph for purposes of graduation with a local diploma, provided that the student: 1. has scored within three points of a score of 55 on the required Regents examination under appeal and has attained at least a 65 course average in the subject area of the Regents examination under appeal; and 2. has met the criteria specified in subclauses (2) - (4) of clause (a) of this subparagraph. Thus, for both regular and special education students, these regulations require six separate criteria be met: (1) a student must at least twice attempt the Regents examination to be appealed; (2) a regular education student obtain a score of a

6064 on the Regents examination to be appealed, and a special education student obtain a score of 52-54; (3) a student must obtain at least a 65 course average in the subject area of the Regents examination under appeal; (4) there must be evidence provided that the student has received academic intervention services by the school in the subject area of the Regents examination under appeal; (5) the student must have attained a course average in the subject area of the Regents examination under appeal that meets or exceeds the required passing grade by the school; and (6) the student must be recommended for an exemption to the passing score on the required Regents examination under appeal by his or her teacher or department chairperson in the subject area of such examination. These separate criteria are conjoined by “ands;” therefore the absence of any one of these criteria makes the student ineligible for an Appeal to Graduate with a Lower Score on A Regents Examination.

**Response by Phee Simpson:**

In 2017, as in years past, the records of students whose parents were seeking an appeal were reviewed.

If the committee felt a student met the criteria within the regulation and/or guidance documents issued by New York State Education Department, we could make a recommendation to the Assistant Superintendent for Curriculum and Instruction. I would then meet and go over all the records with the Assistant Superintendent and other district stakeholders and would be informed by the Assistant Superintendent that the recommendation would be granted. For the 2013 Cohort, I continued to follow the process and met with the Assistant Superintendent Ms. Tracy Farrell, Mrs. Lovinsky, Ms. Ingram and Mrs. E. Rosado to review the Committee’s recommendations. At no point in time during the meeting was I informed that the documentation was insufficient or that any of the student’s appeals would not be granted. Mr. Aldinger’s report is the first time I have heard that the Assistant Superintendent purportedly does not have the authority to grant an appeal, as I had never dealt with the Superintendent on this topic before. I do not have the final say over whether an appeal would be granted and respect the determination of the District in such matters.

At Poughkeepsie High School we have implemented Operation Graduation. This is a process where we identify our scholars in three categories represented by the colors red, yellow and green.

**Red** – Scholars are credit deficiency and lacking Regents Exams. Supports are \*Adopt-A-Senior Mentor, Regents tutoring, PLATO credit recovery, Saturday school, and AIS classes during the school day if their schedules permitted.

**Yellow** – Scholars have credits making them eligible to be a senior but they are lacking Regents Exams. Supports are \*Adopt-A-Senior, Regents Tutoring, and AIS Classes during the school day if their schedules permit.

**Green** – Scholars who are on track to graduate and all Regents Exams are completed.

According to NYSED Section 100.2(ee) requires school districts to provide academic intervention services to students who score below the State designated performance level on State assessments and/or who are at risk of not achieving the State learning standards. Attached please find a Question and Answer guideline report that was released by NYSED in 2000 stating that AIS can be offered in the following forms:

- Extra period(s)/time during the regular school day;
- Within-class staffing that reduces student-teacher ratios (e.g., co-teaching, team-teaching);
- Extended school day;
- Before-school sessions;
- After-school sessions;**
- Evening sessions;
- Weekend sessions; and/or
- Summer school

All Assistant Superintendents, Ms. Tracey Farrell, Mr. Mario Fernandez, Dr. Steven Rappleyea and the Director of Data Analysis and Accountability, Dr. Elizabeth Ten Dyke all were assigned as additional support to tutor our scholars **after school** beginning in December 2016 and again in February 2017. Please see emails attached with schedule for tutoring.

Scholars not having “Evidence that the student has taken advantage of academic help provided by the school in the subject tested by the Regents examination under appeal” was left blank, because it was understood by Ms. Farrell and myself that all scholars received this service through Operation Graduation. While all the sections perhaps should have been filled in after the confirmation by Ms. Farrell, I did not wish to alter a document that was already signed and dated, nor was I instructed to do so by Ms. Farrell, who indicated that there was sufficient evidence to recommend graduation.

[illegible]

████, █████, █████, █████, █████, █████, █████, █████, █████, █████, █████, and █████ in question received AIS after school support. More specifically, █████, █████, █████, █████, █████, █████, █████, █████, █████, and █████ all had AIS classes during the day in their schedules for the courses in which they received the appeals. **(Please see attached)**

**Scholar █████** – Did receive an appeal for Earth Science based on her passing AIS Earth Science Class with an average of 65.

**Scholar █████ and █████** – We used the attached 2016 memorandum to grant the appeal where it clearly states “No. Students are not required to take any Regents examinations more than once to be eligible for the Superintendent Determination.” **(Please see attached)**

#### **Claim by Attorney Aldinger - General Graduation Requirements**

Generally students are required to have obtained 22 credits to graduate. Unless an exception applies, these 22 credits must include 4 credits in English, 3 credits in math, 3 credits in science, 3 credits in social studies, and 2 credits in physical education. Additionally, a student must receive passing grades, over a 65%, on five Regents examinations, unless they qualify for the 4+1 program.

#### **Response by Phee Simpson:**

████ – This scholar has the correct amount of credits. Please see the attached report card with PE Credit and Final score from Plato (credit recovery). This scholar also received AIS after school tutoring. **(Please see attached)**

████ – This scholar has the correct amount of credits. Please the attached Final score from Plato (credit recovery). This scholar also received AIS after school tutoring. **(Please see attached)**

██████ – This scholar was scheduled for all the classes he needed to graduate. Mrs. Lovinsky sent an email (**attached**) to Science Teacher requesting an update on the scholar's status in Forensics class and failed to receive a reply. It was erroneously assumed that the lack of a reply meant the class was passed. Final report cards do not come out until after graduation. Normal policy is that teachers report any seniors who failed their classes, so they can be pulled from graduation. In this case that did not happen.

██████ – This scholar was eligible to graduate after the August Regents. An Appeal was completed and forwarded to the Curriculum and Instruction Department. Once completed and forwarded from the high school the form leaves our control so I can offer no opinion as to what occurred in this circumstance.

Scholars ██████, ██████, ██████, ██████, ██████, ██████, and ██████ are all part of the 2011 or 2012 Cohorts. They are considered Super Seniors and are not a part of the 2013 Cohort Graduation Rate. These scholars were eligible to graduate according to the **attached email** from Marybeth Casey, Associate from NYSED stating that "The decision to grant an appeal to graduate with a lower score rests with the district. You can use the attendance rate from a previous test attempt if the last time the student took the test she was not enrolled in school. This is a question for the Appeal Committee to grapple with. The spirit of the regulation regarding attendance is to insure the student took advantage of the instruction provided to give s/he the best possible chance to pass the test. The "95% attendance rate at the time of the last test" rule does not always apply to students who have essentially finished all the high school requirements and are simply continuing to try to pass the exam. The committee should exercise their best judgment in this case." Based on the supporting email and the guidance it provided we granted these scholars an appeal to graduate.

There were three scholars [REDACTED], [REDACTED] and [REDACTED] included in the documents sent to my attention that were not included in Attorney Aldinger's report. However, these scholars are all early graduates from the 2014 Cohort not the 2013 Cohort which is the subject of Attorney Aldinger's investigation. According to NYSED 100.5 #4. States "A student who has completed the diploma requirements as set forth in paragraphs (1) and (2) of this subdivision in fewer than eight semesters, who is otherwise eligible to receive a diploma, shall not be required to continue enrollment in high school for the sole purpose of completing the physical education requirements as set forth in this paragraph.

Thus, based upon my review of the documentation, it appears that there may have been one scholar, not forty scholars, from the 2013 Cohort who was inadvertently overlooked. This scholar is [REDACTED], was an oversight based upon the applicable teacher not following protocol and notifying us that the scholar did not pass. I sincerely regret this oversight and look forward to working with the district to establish protocols that would prevent this from happening in the future. Should I come across more data that will assist the District in closing this matter, I shall forward it promptly. I look forward to reviewing the revised report based upon this information.