

**PRIVILEGED &  
CONFIDENTIAL**

**INVESTIGATIVE  
REPORT**

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**New Rochelle High  
School Matter  
Report**

**Prepared for  
Bond Schoeneck & King**

T&M Protection Resources, LLC

October 18, 2018



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## EXECUTIVE SUMMARY

In May 2018, T&M Protection Resources, LLC (“T&M”) was retained by Bond Schoeneck & King, PLLC (“Bond Schoeneck & King”) to conduct an independent investigation into two distinct allegations regarding the administration of coursework at New Rochelle High School (“NRHS”) during the 2017-2018 academic year.

First, T&M was retained to determine whether NRHS Guidance Counselor Maria Nunez improperly instructed a student in an Independent Study course in 2018 in the Extended Day/Evening School (“Night School”) using course materials taken from art teachers without authorization. The second allegation related to a claim that NRHS teachers and administrators improperly added scores or granted full credit for substandard work by students taking Apex Learning<sup>1</sup> online courses in the NRHS Credit Recovery Program, thereby granting those students unearned credits. At the close of the investigation in August 2018, T&M was tasked to prepare a report with its investigative findings and recommendations.

This report is separated into six main sections. This Executive Summary outlines the general findings of T&M’s investigation based on interviews and review of relevant documents. The second section outlines T&M’s investigative strategy. The third lists the individuals interviewed by T&M and the dates on which those interviews took place. The fourth details the investigation into each of the two allegations and the fifth and sixth contain the conclusions reached by the investigation and T&M’s recommendations going forward. Biographies of members of the T&M Investigative Team can be found at the end of this report, along with a list of terms and their definitions and copies of redacted exhibits.

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<sup>1</sup> Apex Learning is an online for-profit education platform contracted for use at NRHS by the Southern Westchester BOCES between 2014 and 2018.

As to the first allegation, T&M found no credible evidence to support a finding that NRHS Guidance Counselor Maria Nunez improperly instructed an art student in an Independent Study course using materials that were taken from art teachers without their permission. The investigation revealed that Maureen Maire, Director of Continuing Education in charge of the Night School, properly instructed the student using appropriately obtained course materials.

T&M did find a lack of communication between the Day School Art Department staff and the Night School regarding the Independent Study Program. Moreover, T&M found that NRHS kept no records regarding whether students were taking Independent Study courses in the Night School nor the status of those students in the Independent Study Program. The Day School Art Department staff took only limited steps to ascertain the facts surrounding the particular art student's Independent Study course and did not follow up. The investigation revealed that this lack of communication and recordkeeping helped to fuel the allegation made by the art teachers.

As to the second allegation, T&M found credible evidence to support a finding that during the 2017-2018 academic year, NRHS Apex Coordinator/House Principal Shadia Alvarez entered new student grades and changed existing student grades in violation of NRHS grade change practice and without any consistent, comprehensible or valid explanation. T&M's investigation determined that Alvarez entered more than 200 students' grades into the Apex online computer system without apparent associated student work and changed multiple students' grades from one numerical score to another. She made these entries and changes both for students who had graduated and for those who were slated to graduate in June 2018.

T&M found that two students slated to graduate in June 2018 would not have received passing grades in their Apex online courses without the numerical grade changes made by Alvarez. However, the insufficiency of record retention and the lack of procedures relating to entering scores or executing grade changes at NRHS made it impossible for T&M's subject matter experts to ascertain whether the scores inserted by Alvarez were unwarranted.

T&M also found that NRHS Principal Reginald Richardson directed a correction be made to one student's grade after the student had graduated and without appropriate supporting documentation. Richardson admitted that he directed the change be made to the student's final grade in an Apex online course, from a numerical score of 82 to a non-numerical score of "P" for pass, as Apex courses at NRHS were only available for "pass" credit.

T&M also determined that prior to the 2017-2018 academic year,<sup>2</sup> it was the widespread practice at NRHS to inadvertently grant full credit for students in certain units of Apex online coursework without regard to, or review of, the quality of the work. This granting of full credit was the result of entries made in the Apex system by NRHS staff with Apex access. T&M's review of Apex online course requirements at NRHS revealed that many Apex online courses required in excess of ten such entries per course, at different times during students' progression through the courses. These entries were required for students to continue through a course's curriculum. In June 2017 NRHS staff with Apex access complained that making these entries was simply too time consuming and Richardson eliminated the requirement before the start of the 2017-2018 academic year. Interviews revealed that NRHS only became aware that these entries had conferred full credit to students when the instant allegations surfaced in May 2018.

Moreover, T&M's investigation revealed a lack of procedures and general understanding regarding the use of the Apex online learning system and an absence of supervision of the teachers and administrators who were responsible for enrolling, assisting and grading students taking Apex online courses. This lack of procedure and supervision resulted in students taking exams without being proctored, some off campus, in violation of generally accepted NRHS practice.

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<sup>2</sup> Based on these findings and in consultation with Bond Schoeneck & King, T&M expanded the scope of its investigation.

## INVESTIGATIVE STRATEGY

T&M's investigation took place over a period of approximately three months, from May 2018 through August 2018. During that time, T&M generally received cooperation<sup>3</sup> from NRHS and operated with complete independence. T&M was given the authority to interview whomever it deemed appropriate to investigate the allegations. T&M also reviewed numerous documents, including NRHS and School District records along with documents provided by witnesses such as Independent Study records, student transcripts and grade documents, and Apex records and information housed on Apex Learning's offsite server, including Apex-generated audit trail reports.

During the investigation, T&M identified and interviewed individuals whose names appeared on relevant documents associated with the Independent Study Program and the Apex Learning system. Those interviews led T&M to additional individuals, whether directly through statements or documents provided during those interviews, or indirectly through T&M's corroboration of the facts uncovered during those interviews. Those interviewed included teachers and administrators at NRHS, parents of NRHS students, one former NRHS student, New Rochelle School District personnel, and individuals who worked for Apex, the provider of the online learning platform used by NRHS.

T&M reviewed the information provided by each witness and evaluated the credibility of their accounts utilizing various factors. Specifically, T&M examined, where possible, the consistency or inconsistency of their various accounts of events given over time, the witnesses' demeanor during their interviews, the witnesses' motives to lie, whether other corroborative or contradictory evidence existed, as well as whether the witnesses' versions of events made sense.

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<sup>3</sup> After T&M questioned NRHS staff with Apex access regarding the changes made to students' grades, NRHS initially refused to continue to cooperate with T&M. After several days, this issue was resolved by Bond Schoeneck & King.

## **INTERVIEWS CONDUCTED**

The dates of each of the interviews conducted by T&M and the names and titles of those interviewed as provided to T&M or as listed on documents reviewed by T&M are enumerated below.

### **May 29 and 31, 2018**

- Anthony Stirpe - English/Media Arts Teacher, NRHS
- Maria Nunez – Guidance Counselor, NRHS
- Maureen Maire – Director of Continuing Education in Charge of the Extended Day/Evening School, NRHS
- Gregg Sloane – Director of Guidance
- Marc Schneider – Supervisor, Music and Art
- Shadia Alvarez – Apex Coordinator/House Principal, NRHS
- Larene DelGuercio – Art Teacher, NRHS
- Alexandra Brock – Art Teacher, NRHS
- Moira McCaul – Art Teacher, NRHS
- Kerry Sharkey – Art Teacher, NRHS
- Tina McCullough – Secretary, Performing and Visual Arts Education Office

### **June 6, 2018**

- Joseph Starvaggi – Assistant Principal/Union Representative, NRHS
- Shadia Alvarez – Apex Coordinator/House Principal, NRHS
- Camille Edwards-Thomas – House Principal/Union Representative, NRHS

### **June 13, 2018**

- Joseph Starvaggi – Assistant Principal/Union Representative, NRHS
- Shadia Alvarez – Apex Coordinator/House Principal, NRHS

**June 22, 2018**

- Marcus Siotkas – Guidance Counselor, NRHS
- Barbara Hassett - Registrar

**June 26, 2018**

- Joseph Starvaggi – Assistant Principal/Union Representative, NRHS
- Parent of former NRHS student
- Former NRHS student

**June 27, 2018**

- Parent of current NRHS student
- Shadia Alvarez – Apex Coordinator/House Principal, NRHS

**July 24, 2018**

- Shadia Alvarez – Apex Coordinator/House Principal, NRHS
- Brian Osborne – Superintendent of Schools, New Rochelle School District

**August 2, 2018**

- Reginald Richardson – Principal, NRHS

T&M also spoke to numerous additional individuals who worked at NRHS, the New Rochelle School District and Apex, who provided T&M with background information and technical assistance. T&M also conferred, on a regular basis, with Bond Schoeneck & King.

**INVESTIGATION OF FIRST ALLEGATION: IMPROPER INDEPENDENT STUDY COURSE**

As to the first allegation, T&M found no credible evidence to support a finding that NRHS Guidance Counselor Maria Nunez improperly instructed an art student in an Independent Study course using materials that were taken from art teachers without their permission. The

investigation revealed that Maureen Maire, Director of Continuing Education in charge of the Night School, properly instructed the student using appropriately obtained course materials.

T&M did find a lack of communication between the Day School Art Department staff and the Night School regarding the Independent Study Program. Moreover, T&M found that NRHS kept no records regarding whether students were taking Independent Study courses in the Night School nor the status of those students in the Independent Study Program. The Day School Art Department staff took only limited steps to ascertain the facts surrounding the particular art student's Independent Study and did not follow up. The investigation revealed that this lack of communication and recordkeeping helped to fuel the allegation made by the art teachers. Details of the investigation are found below.

#### *Procedures for Independent Study courses at NRHS*

T&M found that there were generally understood procedures in place at NRHS for enrolling students in the regular Day School's Independent Study Program. Interviews revealed that teachers and administrators had a good working knowledge of the rules and forms required, which included a contract filled out by students explaining the reason for seeking an Independent Study course, and the various signatures required for approval.

By contrast, Maureen Maire, Director of Continuing Education in charge of the Night School, explained that she was not required to fill out any forms at NRHS to enroll a student in an Independent Study course in the Night School. The NRHS Night School provided instruction to students who were not able to attend classes during normal school hours. Maire stated that NRHS did not frequently offer Independent Study courses to students in the Night School. She further explained that she was authorized to grant Independent Study credit to students in the Night School if the student was following a curriculum that met New York State requirements and the student properly completed the work.

### *Allegation of Improper Instruction*

On May 23, 2018, Alexi Brock, Moira McCaul, and Kerry Sharkey, all NRHS Art Teachers, sent an email<sup>4</sup> to school officials, including the New Rochelle School District Superintendent of Schools Brian Osborne, Principal Richardson and Director Maire,<sup>5</sup> outlining their concerns regarding NRHS Guidance Counselor Maria Nunez who, they claimed, may have improperly instructed a student<sup>6</sup> ("Student A") using course materials taken from art teachers without authorization. T&M interviewed the art teachers who sent the email, as well as other NRHS staff members who had knowledge of the events surrounding Student A, and reviewed and analyzed the art course materials, Independent Study documents and records relating to Student A.

The email cited the fact that Nunez was not a certified art teacher and implied that she was, therefore, teaching without a license. The email further alleged that NRHS administrators covered up the incident and referred to unidentified unethical and improper behavior regarding grading protocols, Apex Credit Recovery and the use of Independent Study courses.<sup>7</sup>

The T&M investigation revealed that in April 2018 Nunez was working with Student A, who was classified as a special education and English language learning student with an Individualized Education Plan ("IEP"). Student A needed .5 art credits to graduate as scheduled in June 2018.<sup>8</sup> Nunez stated that due to the late date in the semester, there were only four options available for Student A:

- 1) Independent Study course through the Day School
- 2) Credit Recovery course through Apex Learning

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<sup>4</sup> A copy of this email is attached hereto as Exhibit A.

<sup>5</sup> The email was also directed to: Assistant Principal Joseph Starvaggi; Supervisor Music and Art Marc Schneider; Director of Guidance Gregg Sloane; Performing and Visual Arts Education Office Secretary Tina McCullough; and union representative Martin Daly.

<sup>6</sup> The identity of this student is known to T&M. To protect this student's privacy, this student is referred to herein as Student A.

<sup>7</sup> None of the art teachers could provide any details or evidence to support the allegations relating to grading protocols, Apex Credit Recovery or the use of Independent Study courses and thus, T&M's investigation of their allegation centered solely on the Independent Study Program.

<sup>8</sup> Student A also needed to pass 4 different NYS Regents exams to graduate. T&M is unaware of Student A's graduation status.

- 3) Night School course enrollment
- 4) Independent Study course through the Night School

First, Nunez spoke to Art Teacher Alexi Brock in an attempt to have Student A enrolled in an Independent Study course through the Day School. Both Nunez and Brock recalled meeting at the end of April 2018 to discuss Student A. Nunez asked Brock to provide an Independent Study course for Student A and Brock declined because it was too late in the semester. Brock recalled that she suggested Nunez contact Director Maire and/or enroll Student A in a Credit Recovery course through the Apex online learning platform. Nunez recalled telling Brock that since she had missed the deadline for enrolling the student in Night School - that was no longer an option.

After Brock declined, Nunez approached Alvarez to determine whether an Apex course could be a viable method for Student A to gain the credits. Both Nunez and Alvarez stated they concluded that an Apex course would be too difficult for the student given the student's IEP and limited English proficiency.

Nunez stated she then spoke to Director Maire to see if there was any alternative, even though the deadline had passed for Night School course enrollment. Maire stated she offered Nunez the option for Student A to enroll in a Night School Independent Study art course with Maire as the teacher. Maire gave Nunez an Art Course Independent Study curriculum to see if the student wanted to enroll.

Nunez said that Student A did enroll in a Night School Independent Study art course with Maire. Maire conducted most of the teaching in an office space near her Night School office. Maire stated that she used a curriculum previously prepared by NRHS Art Teacher Larene DelGuercio. DelGuercio told T&M that she did not have any proprietary claim to the curriculum. Nunez recalled that Student A was struggling and sometimes asked for assistance. Nunez stated that as

Guidance Counselor, she helped Student A, including looking up a color wheel on the internet with the student and allowing the student to use a computer in the Guidance Office.

The May 23, 2018 email also claimed that on May 17, 2018, Art Teachers Grace Fraioli and Amanda Tarantino were approached by Students A and B.<sup>9</sup> who were seeking to borrow paint. When questioned, Student A responded that it was for the completion of art worksheets for Nunez. Both students were brought to the PAVE<sup>10</sup> office and questioned by Fraioli, Tarantino and Kerry Sharkey. Secretary Tina McCullough translated for Student A. Student A had a color wheel<sup>11</sup> that Art Teacher Moira McCaul stated she had created and a color worksheet that Art Teacher Kerry Sharkey stated she had created.<sup>12</sup> McCaul told T&M she believed that the color wheel and worksheet were taken from a classroom without authorization as she did not give the worksheet to Student A.<sup>13</sup> After this conversation, Student A went to see Nunez. Nunez described that Student A was upset after being questioned by the teachers. Nunez then called the Art Department and left Supervisor Schneider a message.

The art teachers claimed that they searched their records and determined that Student A was not enrolled with any art teacher for a Day School Independent Study course. Schneider told the teachers that he was not working with Student A.

Brock stated that while she was not present for these conversations, she learned about the color wheel and worksheet from other teachers. Brock believed that Nunez was not a certified art teacher

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<sup>9</sup> Student B was a friend of Student A's and was not a subject of the allegations made by the art teachers. The identity of Student B is known to T&M.

<sup>10</sup> Performing and Visual Arts Education Office.

<sup>11</sup> A copy of this color wheel is attached hereto as Exhibit B.

<sup>12</sup> Both McCaul and Sharkey maintained that the art materials used to instruct Student A, including the color wheel and worksheet, were created by them for the exclusive use in their own classrooms. They asserted that no other teacher could or should be using their creations without their permission. Color wheels, normally circular in shape with different colored sectors used to show the relationship between primary, secondary and tertiary colors and hues, were routinely used in art courses at NRHS. An internet search found hundreds of versions of color wheels readily available for use.

<sup>13</sup> McCaul admitted to T&M that Student B had been enrolled in her art course that semester and recalled providing an extra copy of the color wheel to Student B during that time.

and was improperly instructing the student in an Independent Study course. Brock stated that she spoke to McCaul, the only art teacher working at the Night School, to see if McCaul was instructing the student. McCaul informed Brock and Sharkey that she was not aware of any Independent Study course in the Night School and was not instructing the student. After speaking to McCaul, Brock spoke to Schneider about Nunez. Schneider emailed the Registrar and the Director of Guidance, Gregg Sloane, to establish Student A's credit situation.

Brock and Schneider recalled making plans to meet with Sloane about this issue. Very shortly thereafter, however, Schneider spoke to Sloane alone. Sloane told Schneider he had spoken with Nunez and that the student was enrolled in a Night School Independent Study course. Sloane showed Schneider the course curriculum and paperwork obtained from Nunez. Schneider stated he was satisfied that the student was enrolled in a Night School Independent Study course and that the curriculum looked sufficiently rigorous.

Schneider told Brock he had spoken to Sloane and that Student A was enrolled in a Night School Independent Study course. Brock stated that she felt Schneider was covering up improprieties and demanded<sup>14</sup> to see Sloane.

Brock, Sharkey and McCaul then met with Sloane to talk about Nunez. Sloane told them that Nunez had done nothing wrong and that Student A was enrolled in a Night School Independent Study course. The art teachers stated they were not satisfied with Sloane's explanation,<sup>15</sup> but did not speak with either Nunez or Maire directly about Student A, the curriculum or the color wheel and worksheet. It was after this meeting that Brock and Sharkey drafted the May 23, 2018 email which was sent to district officials.

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<sup>14</sup> Schneider described Brock as being aggressive, using profanity and acting in a confrontational manner.

<sup>15</sup> Assistant Principal Starvaggi stated that although he did not attend this meeting, he saw and overheard a portion of it. He described Brock and Sharkey as "confrontational," but did not see a reason to intervene.

T&M has concluded based on its investigation that Director Maureen Maire properly instructed Student A in a Night School Independent Study course using appropriate curriculum materials and that Guidance Counselor Maria Nunez neither improperly obtained coursework from other teachers nor instructed the student in the art course. Thus, the allegation against Nunez is unfounded.

#### **INVESTIGATION OF SECOND ALLEGATION: IMPROPER GRADING THROUGH APEX**

As to the second allegation, T&M found credible evidence to support a finding that during the 2017-2018 academic year, NRHS Apex Coordinator/House Principal Shadia Alvarez entered new student grades and changed existing student grades in violation of NRHS grade change practice and without any consistent, comprehensible or valid explanation. T&M's investigation determined that Alvarez entered more than 200 students' grades into the Apex online computer system without apparent associated student work and changed multiple students' grades from one numerical score to another. She made these entries and changes both for students who had graduated and for those who were slated to graduate in June 2018.

T&M found that two students slated to graduate in June 2018 would not have received passing grades in their Apex online courses without the numerical grade changes made by Alvarez. However, the insufficiency of record retention and the lack of procedures relating to entering scores or executing grade changes at NRHS made it impossible for T&M's subject matter experts to ascertain whether the scores inserted by Alvarez were unwarranted.

T&M also found that NRHS Principal Reginald Richardson directed a correction be made to one student's grade after the student had graduated and without appropriate supporting documentation. Richardson admitted that he directed the change be made to the student's final grade in an Apex online course, from a numerical score of 82 to a non-numerical score of "P" for pass, as Apex courses at NRHS were only available for "pass" credit.

T&M also determined that prior to the 2017-2018 academic year, it was the widespread practice at NRHS to inadvertently grant full credit for students in certain units of Apex online coursework without regard to, or review of, the quality of the work. This granting of full credit was the result of entries made in the Apex system by NRHS staff with Apex access. T&M's review of Apex online course requirements at NRHS revealed that many Apex courses required in excess of ten such entries per course, at different times during students' progression through the courses. These entries were required for students to continue through a course's curriculum. In June 2017 NRHS staff complained that making these entries was simply too time consuming and Richardson eliminated the requirement before the start of the 2017-2018 academic year. Interviews revealed that NRHS only became aware that these entries had conferred full credit to students when the instant allegations surfaced in May 2018.

Moreover, T&M's investigation revealed a lack of procedures and general understanding regarding the use of the Apex online learning system and an absence of supervision of the teachers and administrators who were responsible for enrolling, assisting and grading students taking Apex courses. This lack of procedure and supervision resulted in students taking exams without being proctored, some off campus, in violation of generally accepted NRHS practice. Details of the investigation are found below.

#### *Apex Online Learning at NRHS*

In 2014, the Southern Westchester Board of Cooperative Educational Services ("BOCES")<sup>16</sup> contracted with Apex Learning to provide online courses for students in the New Rochelle School District. Apex is a for-profit online learning and curriculum platform that provides the ability for students to take courses at their own pace and receive either full coursework credit or credit

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<sup>16</sup> The Southern Westchester Board of Cooperative Educational Services was established in 1948 by the New York State Commissioner of Education and the Board of Regents to provide shared educational and management services to schools and school districts in a particular geographic region. One of those school districts is the New Rochelle School District.

recovery. The contract between the New Rochelle School District and Apex Learning expired on June 30, 2018.<sup>17</sup>

According to its website, Apex has been in existence for more than 20 years and provides courses designed to meet New York State curriculum requirements and learning standards. Open source material revealed that Apex received accreditation and approvals from various state education departments<sup>18</sup> and the College Board.

Interviews revealed that there were three types of Apex content courses available for use at NRHS:

- Original content courses solely developed by offsite Apex staff
- Customized hybrids which used Apex courses as a base to which NRHS added content
- Fully customized NRHS-created content

According to those familiar with the terms of its Apex contract, NRHS could customize virtually all aspects by which courses on the Apex learning platform were administered, including adding, changing or creating content and establishing procedures for entering and/or changing student scores. The only indication that NRHS customized the Apex system was Richardson's elimination of some Apex course requirements, as discussed below. There was no evidence that NRHS established any procedures for entering and/or changing student scores.

At NRHS, Apex online courses could be taken by students wherever a student had connectivity to the internet. Therefore, students could take courses from school laptops or their own laptops, tablets or smartphones. Students could also work on Apex online courses both on and off the school campus. There were three categories of students who enrolled in Apex online courses at NRHS:

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<sup>17</sup> The contract was not renewed. Cooperation by Apex staff with T&M's investigation, including documents requests, was minimal after the contract expiration date.

<sup>18</sup> According to Cynthia Rogan, Vice President for Marketing at Apex, New York State Department of Education does not have a statewide accreditation or approval process for online learning platforms such as Apex. Approvals are obtained by individual school districts. Apex has been approved and used by numerous school districts throughout New York State.

- Students in the Credit Recovery Program:<sup>19</sup> Courses provided to students deficient in credits to allow them to make up credits. These courses were programmed with Apex-created original content. Students seeking credit recovery at NRHS could use these courses as an alternative to earning credits through a traditional semester-length course. Some students completed courses in as little as a few days, while others took an entire semester or more to finish a course. An uncompleted course would not appear on a student's transcript, enabling students to not only take more than one semester to finish a course, but to abort a course they were failing and start again
- Students in non-credit recovery courses: Courses provided to students who were not deficient in credits. These students often needed courses: to replace courses that conflicted with their school schedules; to provide further academic advancement, such as Advanced Placement, or to afford class options not offered at NRHS, such as tutorials and specific teacher-designed courses
- Students not physically available for traditional classroom instruction: Courses provided to students who were not able to attend school due to: medical issues, incarceration or those who were not able to take a traditional course, such as those receiving home-bound instruction

Due to the nature of the allegation, T&M's investigation focused on the use of Apex in the NRHS Credit Recovery Program.

Students' progression within Apex online courses was self-paced. Apex courses were broken down into units, each covering a different content area of a course. A review of Apex Course Activity Scores Reports, an Apex-generated document which listed all of the units, in order, in a particular course, revealed that different courses contained different numbers of units and that there were routinely in excess of 30 units to be completed in a course.

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<sup>19</sup> New York State sets standards for credit recovery programs which allow for the equivalent alternative to classroom instruction.

Each of those units consisted of one or more learning lessons which required activities to be completed by students. Prior to the 2017-2018 academic year, these activities consisted of either computer-scored assessments or teacher-scored progressive work, as described below:

- Computer-scored assessments: Students were required to take quizzes, computer-scored tests and final exams online while connected to the Apex system. The Apex system automatically provided a scored grade once students had completed these computer-scored activities
- Teacher-scored progressive work – Students were required to author documents labeled by the Apex system as “journals,” “discussions,” “diagrams” or “logs.” among others. Students would print blank versions of these documents from the Apex system and complete them by writing and/or drawing offline, depending on the course. Once complete, students were required to present these documents to an NRHS staff member. To acknowledge completion after being shown the work by a student, an NRHS staff member with Apex access had to log onto Apex using his/her unique identification and password, access the particular student’s Apex course information and input data

For the 2017-2018 academic year, the teacher-scored progressive work activities were eliminated by Principal Richardson, as NRHS staff with Apex access complained that logging into the Apex system to acknowledge this work was too time-consuming.

Upon completion of each unit within a course, students were awarded points based on their scored work. Each unit was worth a particular number of points. A review of Apex Course Activity Scores Reports revealed that courses contained various numbers of overall points available for students to earn. Upon completion of a course, the total number of points earned was automatically calculated by the Apex system to provide an overall “recommended” percentage grade.

Interviews revealed that at NRHS students had three chances to pass Apex online quizzes, computer-scored tests or exams. If a student was unsuccessful after three attempts, the Apex

system would “lock” the course, preventing the student from taking further action. To remedy this situation, an NRHS staff member with Apex access was required to log onto the Apex system, access the records for that student and “unlock” and reset the course, allowing the student to continue. Moreover, interviews revealed that NRHS had a generally understood yet unwritten practice dictating that these Apex online quizzes, computer-scored tests and exams were to be proctored by NRHS staff.<sup>20</sup>

### *Training and Supervision in Apex*

T&M’s investigation revealed that NRHS and School District staff had limited knowledge of how to use the Apex online system and how Apex was used by NRHS students. Both Osborne and Richardson stated that they did not have any direct knowledge of how to sign in to an online Apex course nor had either ever actually done so. Osborne’s knowledge of Apex was based upon information he had obtained when he was a Principal in New Jersey, ten years earlier. Richardson stated that, as Principal, he was responsible for the use of the online Credit Recovery Program at NRHS, but that he relied on subordinates to administer the Apex program in an ethical manner. Assistant Principal Starvaggi<sup>21</sup> stated that he did not do any work on the Apex system and was not involved in how courses were administered.

The administration of the Apex system at NRHS was delegated to different NRHS staff during the contract period. During the 2014–2015 academic year, Apex was administered by the Director of Guidance, Michael Kenney. When Kenney retired during the 2015-2016 academic year, Richardson reassigned the administration of Apex among the four House Principals<sup>22</sup> who were collectively responsible for enrolling students and assisting them in advancing through their individual Apex courses. The four House Principals maintained this responsibility during the 2016-2017 academic year. However, during the 2017–2018 academic year, Richardson centralized these responsibilities

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<sup>20</sup> As described below. T&M’s investigation revealed that this practice was neither followed nor enforced at NRHS.

<sup>21</sup> After Principal Richardson’s resignation in August 2018, Starvaggi was appointed Principal of NRHS.

<sup>22</sup> Students at NRHS were assigned to four different “houses,” each with its own Principal.

and selected Alvarez to administer the Apex program at NRHS under the title of Apex Coordinator.<sup>23</sup> Alvarez also continued to serve as one of the four NRHS House Principals.

Interviews with Alvarez revealed that NRHS provided minimal training for NRHS staff with Apex access regarding the proper navigation and use of the Apex system. Additionally, there were no procedures regarding the supervision or review of their daily work in Apex on behalf of students to ensure that they had navigated and used the system correctly and in accordance with NRHS practice. Alvarez admitted that in her role as Apex Coordinator, she did not review the work of other NRHS staff members with Apex access. Similarly, Richardson, in his role as Alvarez's supervisor regarding her work as Apex Coordinator,<sup>24</sup> never reviewed her work in Apex.

Alvarez recalled only two training sessions, one in 2014 during a faculty meeting, and another in 2016 where department chairs were trained on how to customize a course. Apex did provide NRHS with available online training and assistance, a customer support telephone line and an assigned Apex representative to answer questions and resolve problems. Interviews revealed that the NRHS staff were not required to participate in any Apex online training.

T&M's investigation revealed that, throughout the period of the Apex contract, any NRHS staff member with Apex access could unilaterally enroll a student in an Apex course. Those without Apex access could simply ask a staff member with access to enroll a student for them in an Apex course. The investigation revealed that there were no guidelines concerning enrollment criteria or the supervision of students once they were enrolled in an Apex course.

#### *Procedures Regarding the Administration of Apex*

During interviews with Osborne, Richardson and Alvarez, T&M requested all procedures regarding the administration of Apex. All three informed T&M that during the entirety of the four-year Apex

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<sup>23</sup> As such, Osborne directed T&M to Alvarez as the designated point of contact for the investigation.

<sup>24</sup> Starvaggi was Alvarez' direct supervisor in all other matters.

contract period, NRHS had no guidelines or procedures for administering Apex courses. There were no guidelines regarding eligibility or enrollment criteria for students, no procedures regarding the proctoring of those students, and no rules governing the management of courses resulting in credits for students. Once enrolled in Apex courses, there were no NRHS procedures regarding the review of students' ongoing Apex course activity or the assessing the quality of the coursework they submitted.

It was generally understood that NRHS students were required to earn a recommended final grade of 65% or above to be credited with a "P" for pass, in an Apex course. This grade was automatically determined by Apex by averaging the percentage earned by students in each unit as they progressed through a course. This passing grade earned the students between .5 and 1 NRHS credit, depending on the course. A review of transcripts for students who received credits by completing Apex courses revealed that, as expected with the Credit Recovery Program, many students earned Apex credits during their final semester at NRHS.

After students completed a course successfully, earning a score of at least 65%, an NRHS staff member with Apex access was required to perform the ministerial task of entering the students' final grade in the Apex system. As noted above, if students did not complete a course successfully, they could simply begin again without the failure being recorded on their transcripts. A final passing grade entry caused the Apex system to generate an "End of Course Grade Report." This Apex-generated "End of Course Grade Report" provided an overall percentage grade and "recommended" final grade.

After receiving the "End of Course Grade Report," a "Virtual School Final Grade Report" was created by NRHS staff. This second report, containing the recommended grade, which should have been a "P" for pass for each Apex course, and the amount of credit earned for the course, was signed by the Principal and appropriate Department Chair. Both reports were then submitted to the Registrar's Office where the grade and the credit would be officially added to the students' transcripts.

### *Grading in Apex Prior to the 2017-2018 Academic Year*

T&M's investigation revealed that prior to the 2017-2018 academic year, NRHS staff with Apex access, while providing perfunctory reviews of certain Apex student coursework such as logs, journals and discussions, made entries into the Apex system that resulted in a score of 100% being assigned on Apex "Course Activity Scores Reports" regardless of the quality of the coursework. Unlike the computer-scored assessments such as quizzes, computer-scored tests and exams, which were graded automatically in Apex, these non-computer-generated activities required grade-related input from NRHS staff with Apex access.

When students presented logs, discussions or journals to an NRHS staff member with Apex access, that staff member had to engage in a three-step process: log onto the Apex system using his/her unique identification and password; access the record of the particular student and indicate that the work had been presented. Until this process was completed, the Apex system would not allow the students to move forward in the course. By their own account, NRHS staff members with Apex access did not actually evaluate or grade these logs, discussions, journals and other non-computer-generated activities; they merely indicated that the students had completed them.

T&M's interviews revealed that Alvarez did not understand that this three-step process, which Alvarez referred to as "checking the box," resulted in full credit being assigned to a particular unit of students' courses and the use of this full credit by the Apex system in calculating the overall numerical weighted grade for students' taking those courses. As NRHS had no procedures for reviewing Apex activity engaged in by NRHS staff members with Apex access, this activity remained undetected.

In fact, T&M's interviews revealed that NRHS staff were first alerted to the fact that this three-step process resulted in grades of 100% being automatically entered into students' "Course Activity Scores Reports" in May 2018 after newspaper articles, which included copies of certain Apex and NRHS documents, were published. By that time, however, as noted above, Richardson

had eliminated the non-computer-generated activities that required this three-step process, as NRHS staff members with Apex access had complained that this three-step process was too time consuming.

T&M attempted to evaluate whether these inadvertently entered scores of 100%, as found on students "Course Activity Scores Reports" prior to the 2017-2018 academic year, resulted in passing grades for students who did not earn them. However, since NRHS did not retain any of the students' work, it was impossible for T&M, or anyone else,<sup>25</sup> to quantify the genuine grade the students would have received if their work had actually been evaluated by a member of the NRHS staff with Apex access.

#### *Changes in the Apex System for the 2017-2018 Academic Year*

Principal Richardson made three significant changes to the administration of Apex at NRHS for the 2017-2018 academic year, the first two prior to the beginning of the school year and the third at the end. Before the school year began, Richardson changed the course requirements for Physical Education courses through Apex by eliminating the requirement for students to take a final exam and reducing the number of units in those courses.

As noted above, Richardson also changed the Apex requirements for Credit Recovery Program courses by eliminating the activities that required an NRHS staff member with Apex access to engage in the three-step process to indicate that a student had completed a non-computer-generated activity.

At the end of the 2017-2018 academic year, Richardson made his third change to the Apex system. In June 2018, he moved the date by which students had to complete their Apex courses to obtain credit for the 2017-2018 academic year from June 18, 2018 to the very end of July 2018.

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<sup>25</sup> Without records to review, T&M could not retain subject matter experts to evaluate the students' work.

Alvarez also told T&M that she made a change in Apex for the 2017-2018 academic year. She stated that she added time limits for students to complete courses. Prior to this change, students had unlimited time in which to complete the courses including, in some cases, years. However, a review of Apex documents revealed that these time limits were not always enforced.

*Receipt of Documents by the School District in May 2018*

On May 17, 2018 a package of documents,<sup>26</sup> including Apex-generated “End of Course Grade Reports” and “Course Activity Scores Reports,” NRHS-generated “Virtual School Final Grade Reports” and assorted non-computer-generated work and notes ostensibly belonging to a former NRHS student,<sup>27</sup> had been mailed to the New Rochelle School District to the attention of Superintendent of Schools Brian Osborne. A review of this package of documents revealed that they identified five former NRHS students and that they were all dated from the 2015-2016 academic year.

At about the same time, the Journal News, a local Westchester County, New York, news media outlet, also received documents which, based on media reporting, appeared to be the same or similar as those sent to the School District. The documents suggested that NRHS staff with Apex access may have been improperly adding scores or granting full credit for substandard work by students taking Apex online courses, thereby granting those students unearned credits.

The documents received at the School District office had been sent by NRHS English/Media Arts Teacher Anthony Stirpe. Stirpe told T&M that he had found the documents in his office at NRHS and that he did not know how they got there or to whom they belonged.<sup>28</sup> Stirpe believed the documents to be genuine and held on to them for approximately five days before speaking to his

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<sup>26</sup> A copy of these documents, redacted to protect the identities of the students, is attached hereto as Exhibit C.

<sup>27</sup> Of the approximately 38 pages of hand-written documents comprising this non-computer-generated work, only 5 pages contained the name of Student D. However, a review of the remaining 33 pages revealed that they related to the same Apex online course and appeared to be in the same handwriting.

<sup>28</sup> Stirpe admitted that he occasionally left his office door unlocked.

union representative Martin Daly<sup>29</sup> about them. Stirpe explained that Daly advised him to mail the documents to the New Rochelle School District office, which he did.<sup>30</sup>

T&M analyzed the documents received by the School District office. The documents consisted of Apex-created and NRHS-created records for five former NRHS students. (“Student C, D, E, F, and G,” respectively).<sup>31</sup> As discussed in more detail below, the documents relating to Students C and E revealed that in 2016, both students had been awarded numerical grades for Apex course.<sup>32</sup>

As noted above, T&M’s interviews revealed that this numerical grade was not in compliance with NRHS practice since Apex courses were only available for “pass” credit at NRHS. This numerical grade could have potentially affected the students’ overall grade point averages and class standing as the numerical score would have been averaged with the students’ remaining numerical scores while the passing score of “P” would not have been part of that averaging process.<sup>33</sup> However, the fact that numerical grades were entered is less significant than the fact that Students C, D and E had received numerous scores of 100% for non-computer-generated units in their Apex courses in the 2015-2016 academic year, as described in more detail below.

#### *Student C*

Documents sent to the School District revealed that Student C<sup>34</sup> completed an Apex Music Appreciation course on June 8, 2016. Student C’s Apex-generated “End of Course Grade Report” indicated a recommended final grade of 82. Of the 39 units graded for that course and listed on

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<sup>29</sup> Daly was, and is, the President of the New Rochelle Federation of United School Employees, Local 280 AFT/NYSUT, and was present during the T&M interviews with NRHS teachers, guidance counselor and support staff.

<sup>30</sup> Stirpe mailed the documents through the United States Postal Service.

<sup>31</sup> The identities of the students are known to T&M. To protect their privacy, they are referred to by letter.

<sup>32</sup> Similar documents for Students D, F and G contained in the package did not reveal any numerical grade-related impropriety.

<sup>33</sup> After consultation with Bond Schoeneck & King, T&M did not pursue the reweighing of all 2016 graduates’ grade point averages to determine any discrepancies in class standing.

<sup>34</sup> Copies of the “Course Activity Scores Report” and “End of Course Grade Report” for Student C are attached hereto as Exhibit D. The documents have been redacted to protect the identity of the student.

Student C's June 8, 2016 Apex-generated Course Activity Scores Report, 12 were entered by NRHS staff with Apex access and awarded an automatic score of 100%. With those scores, Student C earned a total of 810 points out of an available 985, leading to a recommended final grade of 82%, as displayed below.

Total Course Units	Computer Generated	Teacher Entered	Total Points Earned/Total Points Available	Recommended Grade
39	27	12	810 / 985	82

T&M then extracted the points from those 12 units from the "Course Activity Scores Report" and recalculated Student C's grade for the course. Without the 12 units in which Student C received automatic 100% scores, Student C would have earned 370 points out of an available 560, which would have led to a recommended and passing grade of 66%, as displayed below.

Computer Generated	Total Points Earned/Total Points Available	Recommended Grade
27	370 / 560	66

Based on the lack of record retention for student coursework and the lack of procedures regarding grade entries, T&M is unable to ascertain Student C's appropriate grades for those 12 units and thus, the correct recommended final grade.

*Student D*

Documents sent to the School District revealed that Student D's Apex-generated "End of Course Grade Report"<sup>35</sup> properly indicated a recommended final grade of "P" for pass for an Apex Art Appreciation course completed on June 20, 2016. Of the 38 units graded for that course and listed on Student D's June 20, 2016 Apex-generated "Course Activity Scores Report," 11 were entered by NRHS staff with Apex access and awarded an automatic score of 100%. With those scores, Student D earned a total of 526 points out of an available 765, leading to a recommended final grade of 69%, as displayed below.

Total Course Units	Computer Generated	Teacher Entered	Total Points Earned/Total Points Available	Recommended Grade
38	27	11	526/ 765	69

T&M then extracted the points from those 11 units from the "Course Activity Scores Report" and recalculated Student D's grade for the course. Without the 11 units in which Student D received automatic 100% scores, Student D would have earned 391 points out of an available 630, which would have led to a recommended and failing grade of 62%, as displayed below. It is interesting to note that in 16 of the remaining 27 units, Student D failed to meet the passing grade of 65%.

Computer Generated	Total Points Earned/Total Points Available	Recommended Grade
27	391 / 630	62

<sup>35</sup> Copies of the "Course Activity Scores Report" and "End of Course Grade Report" for Student D are attached hereto as Exhibit E. The documents have been redacted to protect the identity of the student.

Based on the lack of record retention for student coursework and the lack of procedures regarding grade entries, T&M is unable to ascertain Student D's appropriate grades for those 11 units and thus, the correct recommended final grade

*Student E*

Documents sent to the School District office revealed that Student E completed an Apex Art Appreciation course on June 8, 2016. Student E's "Course Activity Scores Report"<sup>36</sup> indicated a grade of 77. Of the 41 units graded for that course and listed on Student E's June 14, 2016 Apex-generated "Course Activity Scores Report," 14 were entered by NRHS staff with Apex access and awarded an automatic score of 100%. With those scores, Student E earned a total of 639 points out of an available 830, leading to a grade of 77%, as displayed below.

Total Course Units	Computer Generated	Teacher Entered	Total Points Earned/Total Points Available	Recommended Grade
41	27	14	639 / 830	77

T&M extracted the points from those 14 units from the "Course Activity Scores Report" and recalculated Student E's grade for the course. Without the 14 units in which Student E received automatic 100% scores, Student E would have earned 474 points out of an available 615, which would have led to an identical recommended and passing grade of 77%, as displayed below.

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<sup>36</sup> A copy of the "Course Activity Scores Report" for Student E is attached hereto as Exhibit F. The document has been redacted to protect the identity of the student.

Computer Generated	Total Points Earned/Total Points Available	Recommended Grade
27	474 / 615	77

Starvaggi and Alvarez both acknowledged that after reviewing the documents sent to the School District relating to the numerical grades awarded to Students C and E in 2016, they realized that this could have impacted student grade point averages. Richardson stated it would be too difficult to conduct an historical review of all students records to determine the impact, if any, of these entries on individual students' grades or ultimate grade point averages and class standing. As the Apex Coordinator, House Principal Alvarez asserted that a lookback would be difficult considering the number of student records involved, although she could not identify that number.

Moreover, Alvarez and the other administrators explained that they neither printed nor preserved the type of course documents, including "Course Activity Scores Reports," journals and discussions sent to the School District office and that without these documents, an historical review was not possible. Starvaggi added that this issue most likely only affected past students and not current ones as Richardson had eliminated these requirements from Apex courses for the 2017-2018 academic year.

In fact, administrators all told T&M that Apex work was stored electronically on the Apex system and none of them could explain the mechanism by which the Apex-generated documents that Stirpe sent to the School District in May 2018 could have been gathered. Based on the lack of record retention for student coursework and the lack of procedures at NRHS regarding grade entries, T&M is unable to ascertain the appropriate grades for students who received 100% scores for these non-computer-generated activities, such as journals, logs and discussions and thus, or identify issues relating to grade point averages and class standings.

T&M attempted to identify the source of the documents sent to the School District. However, due to the lack of record retention procedures at NRHS and the inability of the Apex system to identify users who print certain records from the Apex system, T&M was unable to identify the source of the documents. T&M was also unable to authenticate whether the assorted non-computer-generated work and notes ostensibly belonging to a former NRHS student were drafts never submitted for review, drafts submitted to an NRHS staff member for initial review, or the final copies of those assignments submitted for review and indication of completion in the Apex system by an NRHS staff member with Apex access.

*Richardson Directs Grade Correction be Made to Student C's Record in 2018*

T&M's investigation further revealed that Richardson directed a change be made to Student C's transcript in 2018, two years after Student C graduated, in violation of NRHS grade change procedure.<sup>37</sup> Richardson told T&M that it was common to change student documents, such as transcripts, and that such changes may result from mistakes in calculating a grade or other common irregularities. He explained that changes would typically involve a dialogue among teachers, students, parents or guidance counselors and that the school maintained written forms used to request and effect such a change. Richardson stated that in accordance with school procedure, after this paperwork was completed, including providing the reason for the change, he would sign off on the change. The change would then be recorded in the e-school plus electronic computer system at the Office of the Registrar.

Richardson recalled that he directed a change be made to the transcript of Student C after he reviewed documents sent to the School District and spoke to a local news reporter in May 2018. He stated that all errors should be corrected on a transcript when they are discovered, even if the student, as in the case of Student C, graduated two years earlier.

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<sup>37</sup> While NRHS administrators stated there were no written procedures, they were aware of the forms that needed to be completed to effect such a change.

As noted above, Student C's Apex-generated "End of Course Grade Report" dated June 8, 2016 indicated a recommended final grade of 82 for an Apex Music Appreciation course. Richardson stated that he realized this numerical grade was incorrect as school practice allowed only for passing grades in Apex courses. Richardson stated he personally reviewed Student C's transcript, which was not part of the package of documents sent to the School District, and discovered it incorrectly listed a grade of 82 for that course.

Richardson recalled he directed Sloane, the Director of Guidance, to fill out the paperwork to change Student C's transcript from a grade of 82 to a grade of P, for pass. Richardson asserted that the transcript change for Student C was properly done and that he had the authority to correct any errors. Richardson stated that he had not considered notifying the student, nor anyone else of the grade change. Osborne told T&M that he did not ever recall a school transcript being changed for any reason after the graduation of a student. He explained that if it were to happen, the Director of Guidance, the Assistant Superintendent, the teacher as well as the department head would all have to be involved.

Richardson told T&M that Starvaggi could provide T&M with copies and printouts of the documents authorizing this change. Starvaggi later reported to T&M that he searched both the paper and computer files at NRHS and was unable to locate any of the forms relating to this grade change. Starvaggi did provide T&M with an official transcript for Student C which he stated that he obtained from the Registrar's office. This transcript confirmed that Student C's transcript now indicated a grade of P, for pass, for the Apex Music Appreciation course.<sup>38</sup>

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<sup>38</sup> However, Starvaggi noted that the date on Student C's transcript, 7/1/2016, appeared have been added after, in his words, the original "was whited out." T&M compared the font and type size of the date on Student C's transcript to other NRHS student transcripts. This comparison revealed that the font and size type on Student C's transcript did not match the font and size type found on other NRHS student transcripts. Neither Starvaggi (nor T&M) could ascertain why the transcript date was altered. A copy of this transcript is attached hereto as Exhibit G. The document has been redacted to protect the identity of the student.

Based on its investigation, including interviews and document review, T&M has concluded that Richardson directed a grade correction be made to Student C's record, from the numerical score of 82 to "P" for pass, in violation of NRHS grade change policy.

*Alvarez Made Entries and Changed Grades in Students' Records in 2017 and 2018*

T&M requested and analyzed an Apex audit trail<sup>39</sup> which detailed all changes made to students' course records between August 1, 2017 and June 19, 2018 using Alvarez's unique identification and password. The Apex offsite server recorded every keystroke made in the Apex system, including the unique credentials entered by an individual to log onto the system and all subsequent actions taken by that individual while in the system, including entering or changing grades. The Apex audit trail provided a list of these actions and the credentials of the individual making them.

The audit trail revealed that between August 14, 2017 and June 19, 2018, Alvarez had made 212 entries to students' grades, including 149 related to quizzes, 59 related to computer-scored tests and 4 related to exams, as displayed below.

	Quizzes	Computer-Scored Tests	Exams	Total
	149	59	4	212
Date Range	12/12/2017 - 6/11/2018	9/20/2017 - 5/17/2018	9/20/2017 - 3/28/2018	9/20/17 - 6/11/2018

<sup>39</sup> A copy of this audit trail is attached hereto as Exhibit H. The document has been redacted to protect the identity of students.

T&M's investigation revealed that all of these quizzes, computer-scored tests and exams should have been completed by students online through the Apex system and graded automatically by Apex. The Apex offsite server captures every question asked as part of a quiz, computer-scored test and exam, and every answer input by a student. In these 212 cases, the Apex system did not capture any student input.

The analysis further indicated these entries affected the scores for 32 students who had completed 40 Apex courses. In several cases, Alvarez had changed a score from one number to another. In most, she had simply filled-in a score for the quiz, computer-scored test or exam where the student did not complete the unit and would not have otherwise received a score.

According to Apex, an authorized user with appropriate access must complete a three-step process to fill-in a score where a student had not performed a computer-scored activity, such as a quiz, computer-scored test or exam:

- First, the NRHS staff member with Apex access must log in using their unique identification and password and select the student's record in Apex
- Second, they must fill-in the score for the student in the appropriate place
- Third, they must press "save changes" to save the newly entered fill-in score

There were no recognizable patterns in the scores that Alvarez filled-in for students. In some students' courses, Alvarez filled-in the scores only a few times while in others she filled-in many.

T&M attempted to ascertain whether these entries and changes ultimately affected students' overall grade point averages and class standing. However, since most of the changes were fill-ins, there was no student work for T&M's subject matter experts to assess in determining whether the score was reflective of the quality of the work. Moreover, due to the lack of NRHS procedures for entering fill-ins into students' records, there was no method to accurately ascertain if the scores filled-in by Alvarez were unwarranted.

T&M next attempted to ascertain whether any students slated to graduate in June 2018 may not have been eligible based on the fill-ins entered by Alvarez. Starvaggi provided T&M with a list of 21 students, currently enrolled in Apex online courses during the Spring 2018 semester, who needed their Apex credits to graduate. T&M obtained the transcripts for those 21 students and compared them to the audit trail of entries and changes made by Alvarez. T&M reviewed the entries and changes made in each of the students' records and recalculated the students' scores to determine what grade the students would have received absent the alterations made by Alvarez.

T&M identified only two students whose scores in their respective Apex online courses would have averaged below 65% had it not been for the many fill-ins by Alvarez. Those average scores would not have resulted in those students receiving NRHS credit for those courses. However, since there were no copies of the students' work for T&M's subject matter experts to assess, T&M was unable to determine whether the scores for these two students, filled-in by Alvarez, was reflective of the quality of their work. Additionally, due to the lack of NRHS procedures for entering fill-ins into students' records, coupled with Alvarez's wholesale denial that she made the changes, T&M was unable to ascertain if the scores filled-in by Alvarez were unauthorized or unwarranted. Finally, since Richardson extended the deadline to complete Apex online courses and still be part of the 2018 graduating class, T&M is not aware whether these two students ultimately graduated using credits earned in those particular Apex courses, assisted by the fill-ins made by Alvarez, or if they simply restarted the courses to earn new scores in Apex.

T&M confronted Alvarez with the audit trail information. Alvarez admitted that the audit data and information provided by Apex "must be correct." When asked about specific students, she could not explain changing their scores in any way. She denied ever losing her identification or password and stated that she had not provided them to anyone else to use. She stated she was not aware of anyone who may have taken her password and logged in using her credentials. T&M requested Alvarez to check her e-mails and calendar for a specific date and time listed on the audit report which showed that she had made changes to student records using her unique identification

and password. When she did so, she noted that her calendar entry for that specific date and time was in fact allotted for Apex administration.<sup>40</sup>

Alvarez ultimately admitted to altering 3 of the 32 student records and provided very limited explanations, as follows:

- One student was a special education student for a teacher who she could not identify and who had printed out the coursework (“Student H”)
- One student had to re-do work on the system (“Student I”)
- Another teacher who she could not identify oversaw one student with an Individualized Education Plan (“Student J”)

Alvarez claimed that yet another teacher who she could not identify was involved in the Apex courses taken by Students H and J and thus, had something to do with the changes she made to those students’ records, though she could not articulate any reasons that would explain the changes. Additionally, further questions regarding the changes made to Student I’s record and the remaining 28 students’ records represented in the audit trail materials, and for which she offered just a simple denial, did not result in more detailed answers.

#### *Final Interview with Alvarez*

Until her final interview with T&M, Alvarez had agreed that the Apex audit data was correct but could not explain the entries and changes made in the Apex system using her unique identification and password. In her final interview however, and the only one to which she brought Counsel,<sup>41</sup> she first denied making that initial statement to T&M and then provided T&M with a succession of different explanations as to how the Apex audit data was in fact, incorrect.

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<sup>40</sup> As noted above, for the 2017-2018 academic year, Alvarez served as both House Principal and Apex Coordinator. Her calendar indicated that she was conducting Apex work and not work as a House Principal on that date and time.

<sup>41</sup> Alvarez’s union Counsel was Michael Starvaggi, Esq.

Alvarez first explained that she had performed many resets for the large volume of students she administered in Apex and that these resets were not properly captured in the audit report, causing the report to be inaccurate. As noted above, an NRHS staff member with Apex access needed to reset a course after a student had failed a quiz, computer-scored test or exam after three attempts. According to Alvarez and Edwards-Thomas, it was common for students to fail these activities multiple times, requiring numerous resets.

Apex records clearly revealed numerous instances of these resets along with the identification and password information of the NRHS staff member with Apex access who logged onto the system to complete them. If there was a reset, the Apex system would remove the previous score from being visible to the student. That initial score, however, was still saved to the Apex system, along with the credentials of the specific NRHS staff member with Apex access who was involved in the reset.

Alvarez next claimed the audit report was inaccurate because individual course requirements changed over time. Alvarez mentioned Richardson' elimination of non-computer-generated coursework as well as the recycling of courses year after year as possible explanations for why the audit data was inaccurate.

T&M's interviews with Apex staff revealed that none of the changed course requirements described by Alvarez would have had any effect on the Apex audit data relating to quizzes, computer-scored tests or exams. In fact, the Apex system saved every question accessed by a student and every answer. This double-save system was designed to earmark a students' place in case the student lost connectivity while taking a quiz, computer-scored test or exam, and allowed the student to be brought back to where they left off once connectivity was reestablished. After a student completed an answer, that data was sent to the server and when the student finished all the questions in that module, the score was calculated. The quiz, computer-scored test and exam scores were maintained by Apex on its server. Thus, changes in course requirements had no effect on Apex data and thus, the explanation by Alvarez is not supported.

To reconcile the information presented to her with her prior denials, Alvarez offered that she must have inadvertently caused changes to students' records because she was overworked throughout the year administering all of the students in Apex. She stated that in September 2017 she started to administratively clean-up prior academic years' records and this must have caused the changes seen in the audit trail. A review of the audit data was conducted to see if there was any pattern in the changed records before or after September 2017. No such pattern was detected.

In fact, approximately 100 of the changed scores were fill-ins, indicating that the students had not completed the work and Alvarez had simply filled-in a score for the students' activities. Additionally, according to Apex, there is a three-step process to fill-in a score where a student had not performed a computer-scored activity: log in using a unique identification and password and select the student's record in Apex; fill-in a scored number for the student in the appropriate place, and press "save changes" to save the newly entered filled-in score. Thus, it is unlikely that 100 fill-ins could have been made inadvertently or could have been caused by Alvarez' clean-up in September 2017.

Alvarez also attempted to downplay her role as Apex Coordinator and her ability and skills in the use of Apex. As noted above, Alvarez stated that administrators and teachers received little training in Apex and that she asked Richardson, her Apex supervisor, for more training. Richardson said the two met periodically throughout the school year and discussed, but only in general terms, how Apex was being used effectively. Richardson stated that he believed that Alvarez was doing a good job administering the program and making it more organized than it was in the past. Richardson did not recall any complaints made by Alvarez about the program.

Finally, Alvarez told T&M they should interview other people within the school and insinuated the possibility that other House Principals changed scores. Despite repeated requests, Alvarez provided no details or evidence to support these statements. T&M requested that Apex provide

audit trail reports for the other three House Principals but did not receive them before the end of the Apex contract period. Cooperation from Apex after the contract period expired was minimal.<sup>42</sup>

At the end of the interview, Alvarez' union representative Joseph Starvaggi and her Counsel promised to conduct their own review of the Apex documentation and told T&M they planned to submit further material to T&M. In an email to T&M dated July 24, 2018, Counsel asserted that Alvarez denied making any grade changes in Apex except for the instances relating to Students H and J. Starvaggi claimed "some technical anomaly" was to blame and stated that he was "conducting our own inquiry into the APEX system." He ended the email by stating that he will inform T&M "if we reach any further conclusions." No further communications or correspondence has been received.

Based on its investigation, including interviews and document review, T&M has concluded that Alvarez made entries and changes to students' records in violation of NRHS grade change practice and without any consistent, comprehensible or valid explanation.

### *Proctoring*

At NRHS, Apex courses could be taken by students wherever they had connectivity to the internet. Therefore, students could take courses from the school laptop or their own laptops, tablets or smartphones. Students could work on Apex courses both on and off the school campus. T&M's interviews with Osborne, Richardson and NRHS staff revealed that they believed that Apex computer-generated quizzes, computer-scored tests and exams were proctored on the school campus for all students that were not in a home-bound learning environment.

Alvarez initially stated to T&M that students usually took quizzes, computer-scored tests and exams at the offices of their respective House Principals while proctored by school personnel.

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<sup>42</sup> See footnote 17, supra.

Alvarez later admitted to T&M that many students did not take quizzes, computer-scored tests and exams on the school campus and thus were not proctored or supervised in any way. In fact, Alvarez recalled that during the 2017-2018 academic year, she personally approved the requests of approximately 10-15 seniors to take their Apex final exams outside of the school campus.<sup>43</sup> These students were not in a home-bound learning environment, nor did they meet other exceptions for off campus exams generally understood at NRHS, including incarceration or medical leave.

The T&M investigation revealed that contrary to popular belief at NRHS, students were not always proctored while taking Apex quizzes, computer-scored tests and exams and there were no proctoring procedures of guidelines in effect at NRHS.

## CONCLUSION

As to the first allegation, T&M found no credible evidence to support a finding that NRHS Guidance Counselor Maria Nunez improperly instructed an art student in an Independent Study course using materials that were taken from art teachers without their permission. The investigation revealed that Maureen Maire, Director of Continuing Education in charge of the Night School, properly instructed the student using appropriately obtained course materials.

T&M did find a lack of communication between the Day School Art Department staff and the Night School regarding the Independent Study Program. Moreover, T&M found that NRHS kept no records regarding whether students were taking Independent Study courses in the Night School nor the status of those students in the Independent Study Program. The Day School Art Department staff took only limited steps to ascertain the facts surrounding the particular art

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<sup>43</sup> Jeffrey Hastie, Vice President of the New Rochelle Board of Education requested that T&M speak to a source, the identity of which is known to T&M, regarding a specific allegation that a student was paid to take an Apex course exam for another student off campus. T&M spoke to the source who repeated the allegation. In T&M's presence, the source called the parents of the student who allegedly took the exam for another student and sought permission for T&M to interview the student in a confidential manner. The identity of the parents and the student are not known to T&M. The parents refused to grant access to the student. As this line of inquiry was beyond the scope of its engagement, T&M did not pursue the issue further.

student's Independent Study course and did not follow up. The investigation revealed that this lack of communication and recordkeeping helped to fuel the allegation made by the art teachers.

As to the second allegation, T&M found credible evidence to support a finding that during the 2017-2018 academic year, NRHS Apex Coordinator/House Principal Shadia Alvarez entered new student grades and changed existing student grades in violation of NRHS grade change practice and without any consistent, comprehensible or valid explanation. T&M's investigation determined that Alvarez entered more than 200 students' grades into the Apex online computer system without apparent associated student work and changed multiple students' grades from one numerical score to another. She made these entries and changes both for students who had graduated and for those who were slated to graduate in June 2018.

T&M found that two students slated to graduate in June 2018 would not have received passing grades in their Apex online courses without the numerical grade changes made by Alvarez. However, the insufficiency of record retention and the lack of procedures relating to entering scores or executing grade changes at NRHS made it impossible for T&M's subject matter experts to ascertain whether the scores inserted by Alvarez were unwarranted.

T&M also found that NRHS Principal Reginald Richardson directed a correction be made to one student's grade after the student had graduated and without appropriate supporting documentation. Richardson admitted that he directed the change be made to the student's final grade in an Apex online course, from a numerical score of 82 to a non-numerical score of "P" for pass, as Apex courses at NRHS were only available for "pass" credit.

T&M also determined that prior to the 2017-2018 academic year,<sup>44</sup> it was the widespread practice at NRHS to inadvertently grant full credit for students in certain units of Apex online coursework

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<sup>44</sup> Based on these findings and in consultation with Bond Schoeneck & King, T&M expanded the scope of its investigation.

without regard to, or review of, the quality of the work. This granting of full credit was the result of entries made in the Apex system by NRHS staff with Apex access. T&M's review of Apex online course requirements at NRHS revealed that many Apex online courses required in excess of ten such entries per course, at different times during students' progression through the courses. These entries were required for students to continue through a course's curriculum. In June 2017 NRHS staff with Apex access complained that making these entries was simply too time consuming and Richardson eliminated the requirement before the start of the 2017-2018 academic year. Interviews revealed that NRHS only became aware that these entries had conferred full credit to students when the instant allegations surfaced in May 2018.

Moreover, T&M's investigation revealed a lack of procedures and general understanding regarding the use of the Apex online learning system and an absence of supervision of the teachers and administrators who were responsible for enrolling, assisting and grading students taking Apex online courses. This lack of procedure and supervision resulted in students taking exams without being proctored, some off campus, in violation of generally accepted NRHS practice.

## **RECOMMENDATIONS**

T&M's investigation revealed numerous deficiencies in the method by which NRHS implemented the online learning platform which allowed for improper grading and violations of school practice regarding grade entries and proctoring. Moreover, T&M discovered a lack of understanding in the use of the Independent Study Program in the Night School and a lack of communication between the Day School and Night School staff.

Based on its investigation, T&M makes the following recommendations.

### ***Regarding Independent Study Coursework***

T&M recommends that NRHS draft and disseminate procedures for the administration of Independent Study courses in the Extended Day/Evening School. These procedures should identify how Independent Study courses will be utilized by students, including detailed student eligibility criteria and supervision requirements. NRHS should keep a publicly available and up-to-date list of authorized instructors for Independent Study courses and create a supervisory chain of command for decision making regarding the enrollment of students and course materials. NRHS should require all authorized instructors to inform management when a student has been accepted into an Independent Study course, listing the subject matter of the course and the instructor. NRHS management should keep a list of such Independent Study courses and create a course tracking methodology.

T&M also suggests that NRHS conduct ongoing monitoring to ensure compliance with school practices regarding the use of the Independent Study Program in both the Day School and the Extended Day/Evening School. NRHS should communicate regularly with School District officials, parents and students regarding the availability of Independent Study courses. NRHS should create a handbook with guidelines for students and parents describing the Independent Study course practice.

Finally, T&M advises NRHS to conduct routine meetings between Day and Extended Day/Evening School personnel to foster communication.

### ***Regarding Online Coursework***

T&M recommends that NRHS draft and disseminate procedures for the administration of online coursework. These procedures should identify how online courses will be utilized by students, including detailed student eligibility criteria and supervision requirements. These procedures should identify authorized NRHS staff responsible for all aspects of the administration of the

online platform and delineate the roles and responsibilities of the different NRHS staff users in the system.

NRHS should require all authorized users to inform management when a student has been enrolled into an online course, listing the subject matter of the course and the instructor. NRHS management should keep a list of such online courses and create a course tracking methodology.

NRHS should create a two-party authorization and supervisory chain of command for decision making and clear guidelines for entering online student records to input new scores or alter grades. There should be mandatory paperwork with appropriate sign-offs before any new scores or alterations can be made to student grades.

Procedures should also set forth guidelines regarding proctoring of all quizzes and exams taken on the online platform. Authorized locations should be designated, along with permanent sign-in sheets to identify student, course and proctor. NRHS should create an exemption file and note all exemptions.

Training should be mandatory and ongoing for all active users in the system. NRHS should provide step by step instructions regarding online forms and assign an instructor who is a subject matter expert to evaluate student eligibility and ongoing course status. Vendors should be required to provide extensive live training and users should be required to take online training at routine intervals. Records should be kept of all training. Generalized training should be provided to supervisors and select School District personnel to ensure that the program is being utilized effectively.

NRHS should create a handbook for students and parents describing the online course platform and setting forth time limits for courses. Deviations from those time limits should require supervisory sign-offs. Paperwork relating to such deviations should be maintained. Uncompleted coursework should be periodically reviewed and NRHS should develop an alert system if courses remain open for extended periods of time.

Moreover, T&M recommends that NRHS adopt and utilize a record retention protocol for materials related to the online platform, including enrollment, course status, grade alterations or entries, and proctoring information. These materials should be held in a centralized location with a records custodian assigned to ensure accuracy.

T&M also suggests that NRHS conduct ongoing monitoring to ensure compliance with school practices. Routine audits should be made of the online system to identify if new scores have been added to students' records or alterations made to grades, if courses have remained open for too long, and if students have been enrolled in violation of school practice. Crucial data should be downloaded routinely from the online vendor's server for NRHS compliance review.

## TERMS AND DEFINITIONS

Terms and definitions are based upon information provided to T&M:

**Apex Learning:** The online learning platform contracted by Southern Westchester BOCES and used at NRHS between 2014 and 2018. The contract expired on June 30, 2018.

**Apex Coordinator:** NRHS personnel assigned to administer the Apex online learning platform. This assignment changed during the four years of the Apex contract with NRHS. During the 2014–2015 academic year, Apex was administered by the Director of Guidance, Michael Kenney. During the 2015-2016 and 2016-2017 academic years, the four NRHS House Principals collectively administered the program. During the 2017–2018 academic year, NRHS House Principal Shadia Alvarez administered the Apex program.

**Apex audit trail:** The Apex offsite server recorded every keystroke made in the Apex system, including the unique credentials entered by an individual to log onto the system and all subsequent actions taken by that individual while in the system, including entering or altering grades. The Apex audit trail provided a list of these actions and the credentials of the individual making them.

**Apex Course Activity Scores Report:** An Apex-generated report which listed the following: course name; every unit in the course; the lesson and activity for each unit; the date the score for a particular unit was recorded; the score for that unit in points; the status of the unit's completion - left blank if the unit was completed, recorded as "Teacher Entered" if an NRHS staff member with Apex access input the score or recorded as "Not Complete" if the unit had not been completed; the percentage earned by the student for that unit and the total number of points available for that unit.

**Apex End of Course Grade Report:** An Apex-generated report produced and sent to the student upon completion of the course. This report listed the following: the name of the course; the "Grade to Date/Overall Percent" the student earned for the course, stated numerically; the recommended final grade, represented numerically; and the date and time of course completion. The report also informed the student that "your school holds ultimate grading authority."

**Apex server:** An offsite computer server housed at an Apex facility, this server retained records relating to all Apex coursework at NRHS.

**CST:** An Apex-generated computer scored test. All questions and answers were recorded on the Apex server and once completed, the test was automatically scored by the Apex computer system.

**Fill-in:** A fill-in is an original score entered into a student's course record in the Apex system by an NRHS staff member with Apex access. In particular, this score is entered for units containing quiz, test or exam activity, normally taken online by a student and graded automatically by the Apex computer system, in instances where the student did not complete the unit and would not otherwise have received a score.

**Altered Score:** An altered score is not an original student score. An altered score denotes an NRHS staff member with Apex access entering a new score for the student different from what the student previously received. The Apex computer system recorded both the previous and the new score, along with the credentials of the individuals who input both scores.

**Teacher Entered:** "Teacher Entered" is a term listed on the Apex Course Activity Scores Report which denoted when an NRHS staff member with access to the Apex system was required to make entries related to particular non-computer-generated activity within a course, such as a logs, discussions or journals. Prior to the 2017-2018 academic year, it was the widespread practice at NRHS to inadvertently grant full credit for students for these units without regard to, or review of, the quality of their work. In June 2017 NRHS staff complained that making these entries was simply too time consuming and these requirements were eliminated.



## Lauren Mack, J.D., Managing Director - Investigations



Lauren Mack joined T&M in November 2017 as Managing Director of Investigations. Since joining, she has helped clients across sectors and industries meet their diverse investigative goals and challenges. For law firms, Ms. Mack provides expert litigation support services including deposition support, witness interviews, data analysis, legal strategy consulting and expert witness referrals. For private clients Ms. Mack has helped guide them through sexual assault investigations at the prosecutorial level, private level and/or the defense level. In support of academic institutions, she conducts discreet investigations into issues concerning students, faculty and staff with regard to harassment and sexual misconduct issues. For parents of college-bound children, she oversees inquiries into teenagers' social media presence, helping to uncover and take action on any postings that could potentially negatively impact their college admissions process. Additionally, for T&M's corporate and private clients, she oversees due diligence investigations and background checks for both employment and non-employment purposes.

Prior to joining T&M, Ms. Mack spent three years as a Partner with Moses & Singer LLP, where she was active in the Manhattan firm's White-Collar Criminal Defense, Government Investigations and Healthcare Litigation practice groups. In that role, she structured and negotiated pleas, corrective action plans and settlement agreements for health care providers, insurers, and individuals facing government investigations, prosecutions and civil lawsuits. Additionally, she investigated campus sexual assault cases pursuant to Title IX guidelines.

Ms. Mack began her legal career at the Kings County District Attorney's Office in Brooklyn, New York. During her 25 years as an Assistant District Attorney, she screened incoming matters, indicted and tried numerous court cases; including but not limited to sexual assaults, homicides and conspiracy cases. Ms. Mack has negotiated pleas, monetary penalties, and analyzed and led complex fraudulent crimes investigations. She was also called upon to train investigators at various city agencies and cadets in the police academy. Ms. Mack's success led to multiple promotions, including to Chief of the Crimes Against Children Bureau, Chief of the Health Care Fraud & Abuse Division, a 35-person unit which she founded, Chief of Public Assistance Crimes Unit, Deputy Bureau Chief of the Grand Jury and Chief of Investigations, where she and her team recovered more than \$10 million from defendants involved in fraudulent matters. Working in these various units enabled her to gain prosecutorial experience in a wide range of subject matters and led her to be promoted to Executive Assistant District Attorney, the final title she held until leaving the Office.

Ms. Mack's prior joint investigative experiences alongside multiple government agencies and task forces has solidified her reputation for integrity, thoroughness and skilled strategic analysis, all of which positively impact her business relationships. With experience in public and private practice, she offers clients the unique ability to understand the perspective, strategy and acumen of both defense attorneys and prosecutors.

Ms. Mack earned her Juris Doctor from the Benjamin N. Cardozo School of Law and is a faculty member in their Intensive Trial Advocacy Program/NITA. She holds a Bachelor of Arts degree in Education from The George Washington University.



## Michael J. Mansfield, Esq., Senior Vice President - Investigations

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Michael J. Mansfield, Senior Vice President of Investigations, joined T&M in November 2011 after a distinguished law enforcement career that spanned more than three decades. Mayor Michael R. Bloomberg appointed him in 2007 to serve as commissioner and chair of the New York City Business Integrity Commission, which targets organized crime and corruption at public wholesale markets and in the private carting and shipboard gaming industries.

Mr. Mansfield had been a prosecutor for 23 years at the Queens County District Attorney's Office in New York. He rose through the ranks in management, serving as Deputy Bureau Chief of the Rackets Bureau, Chief of the Public Corruption Bureau, Chief of the Civil Enforcement Bureau, Chief of the Arson and Economic Crimes Bureau and Deputy Executive Assistant District Attorney overseeing the Investigations Division. In August of 2002, he was promoted to Executive Assistant District Attorney for Operations where, among his many responsibilities, he directed counterterrorism initiatives and the Witness Protection program.

Mr. Mansfield served on the Board of Directors of the New York City Off-Track Betting Corporation and currently serves on The Advisory Board of the Queens College Continuing Education Program. He was also an Adjunct Professor for the City University of New York at the John Jay College of Criminal Justice and a member of the faculty of the National College of District Attorneys. Throughout his career, he has given many lectures, both in the United States and internationally, on regulatory matters, white collar crime and financial fraud.

Mr. Mansfield began his law enforcement career in 1979 with the New Haven Connecticut Police Department after graduating with honors from Long Island University with a degree in criminal justice. He earned his Juris Doctor, with honors, in 1984 from the Quinnipiac University School of Law, where he was an associate editor of the Law Review. He is admitted to practice law in New York and Connecticut.



## Meryl Lutsky, J.D. – Investigations

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Meryl Lutsky recently joined T&M after a distinguished career as a prosecutor in New York State and as a consultant providing individual attention, training, and guidance to individuals and institutions with potential criminal, civil, or regulatory liability.

Ms. Lutsky began her legal career at the Queens County District Attorney's Office in Kew Gardens, New York, where she served in several positions and departments, including the Special Victims Bureau. In this role, she conducted sensitive investigations relating to sex crimes, crimes against children, and crimes against the elderly, and was responsible for interviewing victims, witnesses, and potential defendants, obtaining and analyzing relevant records, and drafting and editing official documents in furtherance of cases. She presented criminal cases to a Grand Jury and civil cases to the appropriate regulatory agency.

After conducting felony trials for three years, Ms. Lutsky was promoted to a position in the Office's elite investigative bureau. During this time, she conducted and supervised numerous long-term confidential and sensitive organized crime and fraud investigations, which included the use of both overt and covert investigative techniques. These included high profile and international investigations relating to individuals traveling through John F. Kennedy International Airport.

Ms. Lutsky then took these skills to the New York State Organized Crime Task Force, where she partnered with federal, state, and local law enforcement and prosecutors in complex organized crime and financial fraud investigations. During this time, she was cross-designated as a Special Assistant United States Attorney in both the Southern and Northern Districts of New York, presenting international criminal findings in federal courts throughout the United States. These cases entailed creating successful partnerships with foreign law enforcement and regulatory authorities.

She was subsequently promoted by the Attorney General of the State of New York to the position of Chief of the Statewide Crime Proceeds Strike Force, a multi-agency unit charged with investigating and prosecuting violations of money laundering as well as violations of the Banking and Tax laws. In this position, she led a task force of regulatory, civil and criminal investigators, auditors, and attorneys. She was a member of the New York/New Jersey High Intensity Financial Crime Area and the El Dorado Anti-Money Laundering Task Force, working closely with agents from the U.S. Department of Homeland Security Investigations, U.S. Customs and Border Protection, the U.S. Secret Service, the U.S. Drug Enforcement Administration, the U.S. Postal Inspection Service, and the Federal Bureau of Investigation, among others. She was granted and maintained Top Secret Clearance while conducting investigations with the Joint Terrorism Task Force.

Ms. Lutsky is also a noted public speaker and subject matter expert in the field of money laundering and financial crime, speaking at conferences throughout the United States, including, among others, those sponsored by the New York Federal Reserve, the New York Prosecutors Training Institute, the American Bar Association, the West Coast Anti-Money Laundering Forum, the American Bankers Association, the Association of Certified Anti-Money Laundering Specialists, the Financial Intelligence Information Sharing Working Group, and Fordham University Law School. For her impact in the fight against money laundering and financial crime, she was recognized as the Anti-Money Laundering Professional of the Year by the Association of Certified Anti-Money Laundering Specialists at their annual conference in Las Vegas.

She has also provided individualized training and risk assessments for financial institutions, money service businesses, compliance professionals, and most recently, marijuana-related businesses, regarding adherence to domestic and international criminal laws and regulations. She has assisted in guiding institutions through enforcement actions, monitorships, non-prosecution and deferred prosecution agreements.

Ms. Lutsky earned her Juris Doctor from New York Law School and holds a Bachelor of Arts degree from New York University.



## **Michael F. Witkovich, Investigations**

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Michael F. Witkovich is an experienced investigator and security consultant with over thirty years of experience with the U.S. Marshals Service. He began his career as a Deputy U.S. Marshal in New York City where he concentrated on fugitive apprehension, escape cases and dignitary protection throughout the United States and traveled to Africa, Asia, Europe, the Middle East, South America and Canada. He also served as a Supervisor in the New York City District Headquarters and in the U.S. Marshal's Office in White Plains, NY, ultimately concluding his civil service career as a Supervisory Deputy U.S. Marshal where he led a team of U.S. Marshals, NYPD Detectives and NY State Troopers in the New York/New Jersey Regional Fugitive Task Force, a part of the High Intensity Drug Trafficking Area (HIDTA) program dedicated to the apprehension of violent and dangerous fugitives. His many notable accomplishments in this role include the successful execution of the task force operation "Falcon III" which resulted in the apprehension and arrest of over two-hundred violent gang members and sex offenders.

Mr. Witkovich received his Bachelor of Science in Police Science from John Jay College of Criminal Justice, graduating with honors. He is also the recipient of numerous awards from the United States Department of Justice and U.S. Marshal Service including the Robert Forsyth Valor Award, a Marshal Service Medal of Honor he received for his actions during a shootout with an armed fugitive.



## **Anastasia Coleman, Esq., Investigations**

Anastasia Coleman brings a career of compliance and investigations experience, having served most recently as the Special Commissioner of Investigation of The New York City School District and Inspector General of the schools' Retirement Systems at the New York City Department of Investigation, Office of the Special Commissioner of Investigation. In this role, she managed more than 55 investigators, attorneys and administrators and was responsible for reviewing policies and procedures and making recommendations to avoid mismanagement, corruption and waste, while ensuring the safety of students, teachers, administrators and employees. She also directed and supervised investigations into wrongdoing, conflicts of interest, unethical conduct and inappropriate sexual relationships with students by teachers, school employees and others within the City of New York School District or those doing business with the school district, the Teacher's Retirement System of the City of New York and the New York City Board of Education Retirement System. Ms. Coleman was also responsible for drafting and reviewing investigative reports and referrals for administrative review and/or criminal prosecution. The New York City School District is the nation's largest, with a \$25 billion budget, over 1.1 million students and 140,000 staff in more than 1,800 schools, as well as vendors doing business with the New York City Department of Education.

Prior to this position, from February 2013 through January 2018, she served as the Director of the Office of Institutional Equity and Compliance/Title IX Coordinator at Fordham University. In this role, she reviewed and developed University-wide policies and procedures in compliance with federal, state and local anti-discrimination and anti-harassment regulations and guidance, including Titles VI, VII, IX, the Violence Against Women Act, Americans with Disability Act, Equal Pay Act, Equal Employment Opportunity (EEO) Act and New York Education Law. She conducted over 50 internal sensitive employee investigations of violations of the Code of Conduct relating to discrimination and sexual harassment, which included gathering evidence, conducting interviews, assessing credibility and drafting investigative reports. Ms. Coleman oversaw and reviewed over 100 student vs. student sexual harassment investigations. In her position, she also oversaw, developed and conducted training and awareness sessions for faculty and staff to ensure legal compliance and an awareness of policies, procedures, and ethical obligations regarding anti-discrimination, hiring processes for the University, and employee mandated reporting obligations. Her responsibilities included leading training and awareness sessions for over 6,000 graduate students and 4,100 employees and overseeing undergraduate training. She presented at law firm conferences and other events covering a range of topics from sexual assault to college athletics. At Fordham, Ms. Coleman was also responsible for assessing, monitoring and analyzing compliance activities regarding harassment investigations, responses, and resolutions. She reviewed data collected and analyzed trends in complaints, investigations and violations to ensure targeted responses. She compiled and reviewed EEO data and drafted the University's Affirmative Action Plan and Athletics Gender Equity Compliance Plan. She implemented software for the tracking of investigative cases and tracking of data for hiring practices. In Summer 2017, the University was found to be fully compliant after a state-wide audit of compliance with NY Education Law 129-b ("Enough is Enough" law re: sexual misconduct on college campuses).



Fordham University is comprised of an estimated 15,500 students and 4,100 employees in 10 academic schools across 5 campuses, with 23 NCAA Division I athletic teams.

Ms. Coleman also notably served as the Inspector General of 8 New York City government agencies from January 2007 through January 2013: City Planning, Department of Design and Construction, Department of Environmental Protection, Department of Buildings, Economic Development Corporation, Department of Transportation, Housing Development Corporation, and Housing Preservation and Development. In this position, she managed a staff of 40 investigators, attorneys and administrators. She managed and directed investigations of complex fraud, corruption, mismanagement, and internal policy and code of conduct violations by all levels of government officials, employees and contractors doing business with the City. Investigation techniques included: document reviews, surveillance, search warrants, interviews and other means. She worked with investigators, forensic auditors, and prosecutors on the federal, state and local level and drafted and reviewed investigative closing reports requiring legal analysis and outcomes such as: recommendations for policy and procedural changes, arrest, and / or internal discipline. Ms. Coleman was also responsible for conducting integrity background screening of "problematic" companies to provide information as to whether or not a company may be found to be "non-responsible" for wrongdoing or having connections with organized crime and possibly barred from contracting with City agencies. She negotiated and drafted monitorship and certification agreements with "rehabilitated" companies; this allowed them to contract with the City requiring Independent Private Sector Inspector Generals to monitor the financial and business activities during City contracted work and reviewed reports of the monitorship activity. During her tenure, she received the 2011 Agency Award for Outstanding Performance on a Major Investigation and the 2009 Agency Award for Outstanding Performance as a Manager.

Prior to this position, Ms. Coleman served as a National Applications Consultant and Research Solutions Specialist for LexisNexis; as an Associate Attorney at Heidell, Pittoni, Murphy & Bach LLP; and as a Senior Assistant District Attorney at the Kings County (Brooklyn, NY) District Attorney's Office.

Ms. Coleman is a member of the following organizations: New York Metro Area Title IX Compliance Association, Founder (approximately 45 local Title IX Coordinators exchange best practices); National Association of College and University Attorneys; New York City Bar Association (former Education Law Committee member); and Association of Title IX Administrators (Certified ATIXA trained). She received her Bachelor of Arts in American Studies at Fordham University, graduating with Honors, and earned her Juris Doctor from Brooklyn Law School.