

**Response of Pelican Educational Foundation and
Abramson Science & Technology Charter School
to LDOE Investigation Allegations
In Advance of August 3 BESE Special Meeting**

Tuesday, August 2, 2011
New Orleans, LA -

On July 28, 2011, the Louisiana Department of Education released a memorandum, addressed to BESE Board President Penny Dastugue, that presented findings of an investigation into activities at Abramson Science & Technology Charter School. The memo was released one day after BESE issued a notice of special meeting (dated July 27, 2011) to consider the "revocation" of the charter contract between LDOE and Pelican Educational Foundation, Inc., the approved administrator for Abramson. The August 3 meeting has been called purportedly to address issues of alleged concerns regarding the "health, safety and welfare" of students at Abramson.

The LDOE's July 28 memo to BESE President Dastague is attached. Pelican and Abramson dispute the investigation findings contained in the July 28 memo and provide a factual response to the investigation findings as set forth below:

* * *

<p>Report, Page 1: The LDOE's July 28, 2011, Report states that its investigation of Abramson Sci. Tech. Charter School commenced "[b]eginning on July 14, 2011."</p>

The BESE Board president issued a "notice of suspension" of Abramson on July 15, 2011, *one day* after the investigation is said to have commenced.. This action was taken without the benefit of an earnest investigation. (None of the materials attached to the Memo from O. Tyler to P. Dastugue 7.28.11 were provided or are dated prior to July 15, 2011.)

* * *

Report, Page 1: "On July 20, 2011," the LDOE investigation was "broadened to include" Kenilworth Sci. Tech. Charter School "after learning of additional allegations involving the" Pelican Educational Foundation.

No materials related to Kenilworth Sci. Tech. Charter School have been provided to Abramson.

* * *

Report, Page 1: "The scope of this investigation has included, but has not been limited to, the following: * Allegation of incidents, possibly sexual in nature, involving two kindergarten students; * Allegation of incidents, possibly sexual in nature, involving a middle school student; and, * Allegation of attempted bribery by a person possibly affiliated with Pelican."

The reference to a 2010 Alleged Attempted Bribery does not receive another mention in the July 28, 2011, Report.

Moreover, the allegation regarding bribery (which is false) is not related in any way to the health, safety, and welfare of the students.

* * *

1. "Student A, a kindergarten student at the school during the 2010-2011 school year, ... routinely left his classroom on multiple occasions (see Attachment 1, which documents lack of supervision of on 1/5/2011 and 1/6/2011). School administrators advised that on 1/6/2011, Student A exited the building and was later found in the school playground"

Teacher A, a staff member, failed to properly supervise Student A. On this occasion, she contacted Administrator Patrice Yarls and advised that she could not find Student A. Ms. Yarls soon found Student A on the school playground. Abramson does not tolerate lack of supervision by its teachers. At the completion of the 2010-2011 academic year, Teacher A's contract was not renewed, either with Abramson or with Teach for America For Greater New Orleans.

* * *

2. "Student D", a 5th grade student, and "Student C," a 6th grade student, "were also unsupervised during Saturday school, during which time they allegedly had sex on campus."

This statement is false. Student C alleged that this incident took place the morning of Saturday, 2/19/11. According to Professional Counselor Gayle Trombatore's 2/24/11 record of her interview of Student C (Exh. 3), Student C said that the incident "occurred **in the morning**, before lunch." Likewise, Disciplinarian Andrea Estavan's record of her interview with Student C (Exh. 4) states: "I asked her around what time did this happen and she told me **it was in the morning.**"

School administrators properly investigated and confirmed Student D's whereabouts during the morning of 2/19/11. According to the statement of Teacher F (Exh. 4), Student D was observed as present in his classroom the entire morning of 2/19/11: "I observed and taught the student, Student D, in attendance **during the morning classes** of the Saturday School with both Teacher E and myself." Teacher F continues: "[f]urther, the student was also in lunch program." (Exh. 4)

2. "Student C's teacher was never interviewed about the alleged incident to determine if she was in class (see Attachment 4)."

Student C's teacher (Teacher B) was a volunteer tutor who worked on occasional Saturdays but did not work at Abramson during the week. As a result, she was not available for the administrators' investigation. An interview of Teacher B was unnecessary, however, because a thorough investigation conducted within days after the alleged activity revealed that Student C's claim was false. Among other things, Student C's mother, who first lodged the allegation, advised Andrea Estavan that she had taken Student C to a physician, but after agreeing to provide documentation of the physician visit, she never submitted this information to the school. (Exh. 4) Student C also changed her story, stating that the incident occurred in a different location than she first claimed. (Exh. 4) Student C was consistent, however, that the incident took place during the morning session of 2/19/11. Further contradicting Student C's story, the whereabouts of Student D (who categorically denied Student C's claim) were verified during the entire morning session by his teachers, Teachers E and F. (Exhs. 3, 4)

2. "It should be noted that Student D denied having sex with Student C on this date, but school records confirm that Student D's whereabouts could not be accounted for approximately 30 minutes,"

Student C consistently alleged that she engaged in sexual activity with Student D in the morning, not in the afternoon, when Student D went to the bathroom. (See Exhs. 3, 4.)

* * *

3. "These records also indicate that Student C arrived at Saturday school and had no teacher, leaving her to wander around the campus unsupervised."

This statement is not factual and does not refer to which "records ... indicate that Student C ... had no teacher" Moreover, the July 28 Memo provides no support for the statement that Student C was "[left to] wander around the campus unsupervised." Teacher B was Student C's teacher during the morning session on 2/19/11. Simply because Teacher B was not interviewed does not mean that she did not provide tutoring to Student C during the morning session on that day.

* * *

4. "In addition, Teacher H, a teacher employed at Abramson during the 2010-2011 school year, described incidents in which classes were unsupervised (see Attachment 5)."

Attachment 5, Teacher H's unsworn statement, includes this allegation: "During state testing, several teachers were supposed to cover the [9th] grade classes because they were not testing that week. I covered a [9th] grade class with 25 students for 3 periods, but when it was time for me to teach my elementary class, the principal's wife, Sevino Dokmen (a test-prep teacher), came to cover the class. When I returned an hour later, there was no adult in the room...."

This allegation is disputed. 2010-2011 faculty member Sevino Dokmen taught the class to which Teacher H refers for the entire period and departed to teach another 9th grade class only after the period ended. Ms. Dokmen states that Teacher H arrived late to the 9th grade class, which is why the students

were not supervised for a brief period of time. In addition, another school administrator, Disciplinary Andrea Estavan, regularly checked the high school classes between periods.

* * *

5. The July 28 Report alleges that incidents involving Student A were not properly investigated, and that key personnel were not interviewed. She cites the alleged failure to interview "para-professional A."

This is false. The para-professional in question was interviewed regarding incidents involving Student A, but she did not personally witness any of the events about which Teacher A complained.

* * *

6. "Abramson administrators also failed to question Student C's Saturday morning school teacher, Teacher B, regarding whether Student C was in class on 2/19/2011 - the day Student C claims to have had consensual sex on campus with Student D. When asked why Teacher B was never interviewed, an assistant principal responded, 'I didn't know her.'"

Teacher B was not a member of the faculty at Abramson, but was a volunteer tutor who provided assistance with Abramson's innovative weekend tutoring program on occasional Saturdays. This incident was investigated during the following school week and determined to be false. Teacher B was not available to school administrators during the investigation because she did not work at Abramson during the school week.

* * *

7. "When asked about Student C's afternoon teacher, school administrators stated they did not know who was assigned to be her afternoon teacher."

This is immaterial. Student C consistently claimed that the incident took place "in the morning." (Exhs. 3, 4)

* * *

8. "In addition, there is no record of school administrators having interviewed Teacher E, Student D's afternoon teacher (see Attachments 2, 3 and 4, showing that only Student's morning teacher, Teacher F, was interviewed)."

This claim is false. Disciplinarian Andrea Estavan's written record (attached to the July 28 Memo) states that she interviewed Student D's teachers. (Exh. 4) Moreover, Teacher F submitted a statement in which he stated that both he and Teacher E were present with Student D during the entire morning session. Most importantly, Student C alleged that the incident took place during the morning session, not during the afternoon session. (Exhs. 3, 4)

* * *

9. "School administrators reported differing accounts of the boys allegedly involved in this incident - once they stated that Student C could not identify any of the boys, later they acknowledged that Student D was one of the boys involved, and another time they referred to 'four fifth grade boys' that had been named by Student C."

School administrators dispute the July 28, 2011 Report statement that they offered "differing accounts" of this incident. An investigation ensued (including by NOPD), and the 5th grade students' whereabouts during the period that Student C alleged that a rape took place was confirmed. Moreover, Student C's whereabouts during the subject time period was also confirmed; she was in her P.E. class at all times.

9. The July 28, 2011, Report states that there exists "no record that any of [the students] or their teachers were ever interviewed or disciplined...."

Also: "In investigating the alleged rape reported by Student C's mother, school administrators failed to question any of the boys named."

The students were not disciplined because the allegations were determined to be false. Moreover, other than Student D, Student C failed to identify any of the other alleged perpetrators. Student D was confirmed to be present in class during the time, as was the accuser (Student C). Meanwhile, Student C's identified witness did not corroborate her claim.

* * *

10. Teacher H told LDOE / BESE, that "she was aware of an incident involving Student C and fifth grade boys in a bathroom (see Attachment 6)."

Attachment 6, notes of a telephone interview that LDOE officials held with Teacher H, provide that Teacher H reported "sex in bathroom w/ [redacted] grade boys during Saturday school."

Teacher H's unsworn statement (Exh. 6) contains hearsay but no useful information. Moreover, the rape involving Student C is alleged to have occurred on Thursday, 4/7/11, not on a Saturday (as the notes of the call with Teacher H state).

* * *

11. "Abramson school staff failed to report suspected child abuse involving Student A to DCFS after witnessing at least three incidents involving sexual behavior that is extremely uncommon for a student of his age."

This is an allegation against "school staff," *i.e.*, the student's kindergarten teacher, and not against the administration. This staff-member was trained to identify suspected child abuse and is required by law to report such if she witnesses it (LSA-Ch.C. Art. 609). No other staff-member or administrator witnessed these incidents first-hand, and Teacher A did not report these incidents to DCFS or to the police, assumedly because she did not suspect child abuse. Student A's parent withdrew her child from Abramson shortly after the 3/3/11 incident.

* * *

12. "It is also possible that behavior observed on 2/14/2011 ... might have been sexual in nature, but this could not be confirmed."

School administrators concluded that this incident, involving a kindergarten student who entered the bathroom while it was occupied, did not involve improper sexual behavior. Professional Counselor Gayle Trombatore's report (Exh. 8) states that this incident did not involving improper touching between the two kindergarten children involved, but that the incident likely did involve Teacher A's failure to supervise her classroom. School administrators Gayle Trombatore, Patrice Yarlis, and Cunyet Dokmen met with Teacher A and advised her "that she should make sure that she keeps an eye on all of the

students and make sure they understand not to go in the bathroom when someone else is in there."

* * *

13. "On 3/3/2011, a serious sexual incident occurred involving Student A in which he appears to have forced himself onto another student in a classroom closet (see Attachment 9). It is possible that this could have been prevented if DCFS had been contacted sooner."

The question whether DCFS should have been previously contacted is addressed above. This incident occurred under Teacher A's supervision completely inside of her classroom, inside of a toy closet. Proper supervision of the classroom likely would have avoided this incident. On the date of the incident, NOPD and DCFS were called and arrived at the School. NOPD did not conduct an investigation but deferred to DCFS, which commenced an investigation that they deem confidential. That same day, Student A's mother withdrew the child from the school. Teacher A's contract has not been renewed with Abramson or with Teach for America For Greater New Orleans.

* * *

14. "In documents provided by the school, there is a handwritten note that school administrators claim was obtained by a school staff member (Attachment 10). According to school administrators, the first eight lines were written by Student C (see Attachment 2). She wrote, "I have a serious problem and I need some advice ... do you want to help me?" ... School administrators claim that this note was obtained prior to Student C's first alleged instance of consensual sex on Abramson's campus on 2/19/2011 (see Attachment 2). There is no evidence that Student C received counseling or that DCFS or police were contacted after either of the alleged sexual incidents involving her on 2/19/2011 or 4/7/2011."

The statement that "[t]here is no evidence that Student C received counseling" is false. In fact, upon receiving the note, Disciplinarian Andrea Estavan counseled Student C and her mother, and Gayle Trombatore counseled Student C as well. Moreover, Student C had a private counselor, who met with her at the school on a regular basis. The July 28, 2011, Report suggests that police and DCFS should have been contacted to respond to a handwritten note that did not represent a threat to another student but was a statement of sexual desires by an adolescent girl. School administrators acted reasonably, however,

as the disciplinarian and counselors intervened directly with the student and her parent.

* * *

15. "There is no documentation of Student A ever having been recommended for evaluation to determine if he had an exceptionality or was in need of services."

This is false. Student A's teacher, Teacher A, had not submitted a completed referral form (FBA) for evaluation, which is to be prepared by the child's teacher in the first instance. (Exh. 2, pp. 5-6) Only after receiving this form does the Counsellor engage in a behavioral evaluation. (Exh. 2, p. 6) In addition, the child's mother resisted having her child evaluated and withdrew him from the school. It should be noted that Student A's behavioral problems only became serious in early 2011, and culminated in his withdrawal on 3/3/11. Student A's report card, graded by Teacher A, awards him a grade of "85B" for conduct for 1st Semester 2010-11 year. (Exh 11)

* * *

16. " ... [T]here is no record of Student C having been recommended for evaluation to determine if she had an exceptionality and was in need of services."

This is false. Student C was a "504 student," *i.e.*, she was, in fact, receiving services and protection under Section 504 of the Rehabilitation Act of 1973.

* * *

17. "There is no incident referral form for an incident in which Student A kicked a teacher and slapped her in the face (1/6/2011) (see Attachment 1)."

Teacher A (whose contract was not renewed by Abramson or by Teach For America) failed to prepare an incident referral form. This is a staff, not an administration, responsibility.

* * *

18. "There is no copy of a notice to Student A's parent regarding his suspension for 2/16/2011 through 2/23/2011."]

The parent was, in fact, notified by Administrator Patrice Yarls, of the suspension.

* * *

19. "School administrators produced an incident referral form for Student A which noted that an incident occurred on 2/22/2011, when other documents show that he was on out-of-school suspension from 2/16/2011 through 2/23/2011 (see Attachment 13)."

This incident referral form was prepared by Teacher A, Student A's teacher. She prepared this form many weeks after the event, as she often did. As a reminder, Teacher A's contract was not renewed either by Abramson Sci. Tech. Ch. School of by Teach for America For Greater New Orleans at the end of the 2010-2011 academic year.

* * *

20. "There is no copy of a notice to Student A's parent concerning a bus suspension that occurred on 2/28/2011...."

Patrice Yarls advised the LDOE investigators that she did notify Student A's parent of this incident. (Exh. 2, p 6)

* * *

21. "Student A was withdrawn by his parent on 3/3/2011 for 'home school' (see Attachment 15); however, there is no record of Student A applying to participate in an approved home school program, and no evidence of Abramson receiving any requests from another school for Student A 's records. School administrators recalled hearing that Student A had enrolled in another Charter School, but did not describe any action taken to transfer his records or assure that he was enrolled in school somewhere. LDOE found that Student A enrolled in another Charter School on 3/11/2011 (see Attachment 16)."

Abramson administrators did hear that Student A enrolled at another public school. However, no school contacted Abramson to request a transfer of

records. (Exh 2, p 6) Abramson treats student records as confidential, and requires that a formal request be obtained prior to transmitting student records.

* * *

22. There are "no statements from an alleged witness to a second sexual incident that allegedly occurred on 4/7/2011. There are also no statements from teachers or from other students who may have been involved in the alleged incident."

The "alleged witness" referred to here appears to be the "friend" that Student C identified as having interfered to stop the alleged rape. (Exh 2, p 7) Administrators Patrice Yarlis and Andrea Estavan separately interviewed this individual, and she did not corroborate Student C's story, saying that she knew nothing of the incident whatsoever. (Exh 2, p 7) Moreover, during the investigation school administrators concluded that the incident could not have occurred as Student C claimed it had, for a number of reasons, including that her whereabouts were accounted for at all times during the P.E. period (which is when she claims the incident took place). Her teacher for that period, Coach D, confirms that Student C did not leave his sight at any time during the P.E. period. Moreover, Student C's mother made the claim that Student C was "held down" and raped, and that she "contacted police and child services (at hospital)." (Exh. 2, p 7) Yet the parent was unable to produce a single record of the hospital visit. Finally, when police questioned Student C's first period teacher, they advised him that there was "no case." (Exh 2, p 7)

* * *

22. "There are no meeting minutes from the school administrators' interview of Student C regarding a sexual incident that allegedly occurred on 2/19/2011...."

This claim ignores that LDOE attached several records of interviews with Student C to its own 7/28/11 report. (See Exhs. 3, 4) Professional Counselor Gayle Trombatore's entire file pertaining to Student C was stolen from her office at Abramson during a recent break-in. This incident was reported to the local police. Abramson has requested a police report but has not yet received one from NOPD.

* * *

23. "School administrators reported (see Attachment 2) that there were two break-ins at the school during June of 2011 (administration building) and later on July 18, 2011 (robotics building and library, which housed school counselor files). To date, the only items observed missing are Student C's records and an employee's personal camera. A copy of police reports regarding these alleged thefts has not yet been provided."

These break-ins did occur. Abramson administrators have requested that NOPD provide the school with completed police reports, but these have not been received to date.

As the LDOE investigators' notes reflect: "She had a counseling file on STUDENT C, had visited her for counseling; file contained records on the incidents we've discussed abt Student C; mostly handwritten notes; started seeing Student C after Christmas of 2010-2011; Andrea Estavan's files on Student C were missing - had records of two incidents ... Student C had written a statement on the first incident -- it is now missing." (Exh. 2, p. 3)

* * *

24. "There is no documentation of Student C being allowed to continue to be enrolled at Abramson and study at home (4/8/2011 and thereafter) and coming back only for testing, as described by Student C's parent (see Attachment 17)...."

LDOE did not provide Attachment 17 to Abramson with the July 28, 2011, Report.

* * *

For further information, please contact:

King Logan
klogan@loganbrand.com
(504) 296-5111