

MEMORANDUM

T 206.516.3800
F 206.516.3888

TO: Geoffrey D. Miller, Director Labor & Employee Relations,
Human Resources, Seattle Public Schools

Sue Means, Manager, Human Resources,
Seattle Public Schools

FROM: Robert Westinghouse
Carl Blackstone

DATE: October 9, 2015

RE: Supplemental Investigation of 2014 MSP Testing Irregularities at Beacon Hill
International School

I. INTRODUCTION**A. The Sebree Investigation**

The Measurements of Student Progress (“MSP”) test was given annually by the Seattle Public Schools to all students in grades 3 through 8. It tested students in several subject areas, including for grades 3 through 5, math and reading. In these areas, the test consisted of multiple choice and short answer (fill in the blanks) questions with answers hand written by the students.¹

The test results for tests administered in the spring of 2014 at Beacon Hill International School (“BHIS”), a K-5 elementary school, were unreasonably high, suggesting that there may have been some cheating by one or more persons administering or handling the tests. This prompted the District to pursue an investigation focused on determining what had happened and who was responsible. This investigation was undertaken by Curman Sebree. Ms. Sebree prepared a report, which is attached as Exhibit 1.

The report noted that the Office of the Superintendent of Public Instruction (“OSPI”) concluded “that the test responses were altered in such a way as to significantly increase total scores of students taking the 3rd, 4th, and 5th grade reading and math tests. The OSPI analysis of test data also found that [for the 2013-2014 testing period] BHIS primarily had scores in Levels 3 and 4 (the highest two levels), while statewide, the scores remained spread across the levels.” (Exhibit 1 at 6-7.) OSPI examined the test booklets and detected evidence of heavy erasures, with a high frequency of wrong-to-right (“WTR”) erasures, and possible differences in

¹ The Seattle Public Schools changed to a different standardized test for the 2014-15 academic year. The testing process for this new standardized test was completed electronically.

handwriting on the test booklets, resulting in an almost 100% passing rate for all grades in reading and writing. (Exhibit 1 at 6.)

Ms. Sebree's report disclosed several breaches of protocol and procedures in the 2014 testing at BHIS, including irregularities in both the storage of the test booklets at BHIS and in the administration of the test at the elementary school. No issues were found with the handling of the test booklets after their return to Nancy Steers, the REA State Assessment coordinator, in the District office. The focus of the Sebree investigation, therefore, was directed to those within the BHIS school that may have had the opportunity and the motivation to alter the tests. In particular, the report focused on three persons: Po-yuk Tang, the principal, Michele Nishioka, the assistant principal during the 2013-2014 academic year and the assigned testing coordinator, and Judy Eng, an English Language Learning ("ELL") teacher. The investigative report noted that each of these individuals "had breached security of the test booklets by reading the test items." (Exhibit 1 at 8-9.) Ms. Sebree also opined that the credibility of each of these individuals was found lacking in certain respects. (Exhibit 1 at 11-14.) Nonetheless, no definitive conclusion was reached as to who had altered the tests. As Ms. Sebree stated in the report, "The investigation failed to uncover any credible evidence of a person(s) responsible for the alteration of test booklets. No one implicated anyone else. The cheating, if it occurred, was conducted covertly so that no one would discover it." (Exhibit 1 at 7.)

After a handwriting analyst, Hannah McFarland, found indications that answers had been altered on some of the math test booklets (Exhibit 2), and later, that there were some similarities between the handwriting of Judy Eng and the alterations on at least one of the test booklets (Exhibit 3), the District retained the Yarmuth Wilsdon law firm to conduct additional investigation aimed primarily at determining whether Ms. Eng was responsible for the cheating.

B. The Follow-Up Investigation

We began our investigation at the point the Sebree investigation ended, focusing on the three primary targets, Po-yuk Tang, Michele Nishioka, and Judy Eng. We interviewed and, where Ms. Sebree had previously interviewed them, re-interviewed many teachers and administrators at Beacon Hill, including Ms. Tang and Ms. Eng. We also attempted to re-interview Ms. Nishioka, making repeated attempts to contact her both telephonically and through email messages explaining the reason for our persistence. Although Ms. Nishioka responded to one email, she declined to cooperate with our investigation.

In the end, we were also unsuccessful in our objective of identifying the person or persons responsible for the cheating scandal. Although we found additional evidence which is detailed in this report shedding light on this testing scandal, and potentially implicates Ms. Nishioka, the evidence developed is insufficient to allow us to reach an ultimate conclusion as to the perpetrator(s).

II. INVESTIGATIVE FINDINGS²

We began our investigation by attempting to determine a motive for the cheating. A number of BHIS staff members opined that the test alterations had to have been an act of sabotage because it would have been obvious to the perpetrator(s) that the dramatic improvement reflected in the altered test results would have virtually guaranteed just such an investigation. One suggestion was that Ms. Nishioka may have altered the tests to embarrass the school and prompt the termination of Ms. Tang, which whom she often clashed. Another suggestion was that Ms. Tang was prepared to do everything possible to cause the termination of Ms. Nishioka's employment.

The most obvious alternative motive is that the perpetrator(s) sought to improve the BHIS students' test performances so as to enhance the school's reputation or, perhaps, to earn a reward. Such a theory cannot be reconciled, however, with the sheer magnitude of the improvement. It borders on the ridiculous to alter tests to cause almost 100% of the BHIS students to attain a pass level, which certainly would have been detected by OSPI. Thus, we believe that the most likely motive was sabotage and not simply an attempt to inflate the performance of the BHIS students to enhance the school's reputation or earn a reward for stellar improvement from the prior year's test results.

Determining the motive did not in this instance, however, lead to solving the crime. We did find, like Ms. Sebree, certain aspects of the investigation to have generated troubling inconsistencies which gave us some pause. We also found, in the case of Ms. Nishioka's refusal to meet with us, occasion to question what she might have to hide. In the end, however, we were forced to conclude our work without a definitive answer. We offer in the following paragraphs some of the more pertinent findings with respect to each of the suspects.

A. Po-yuk Tang

We interviewed Po-yuk Tang on July 1, 2015. She was cooperative and answered all of our questions. She adamantly denied altering the test results and she voluntarily agreed to provide a set of her fingerprints and also provided us with a thumb drive containing records from her computer. Based on our interview of Ms. Tang, Ms. Sebree's report, and our complete investigation, we make the following findings.

Po-yuk Tang became the principal at BHIS on July 1, 2013. She had been the assistant principal at Van Asselt Elementary School. Some teachers whom we interviewed opined that it was a difficult first year for Ms. Tang at BHIS and that her lack of interpersonal skills and limited administrative experience may have contributed to the strain that was felt within the

² In conducting this investigation, we interviewed or re-interviewed Carmela Dellino, Kimberly DeRousie, Judy Eng, Susan Fluegal (telephonically), Helen Finch, Sarah Lorimer, Natalie Long, Dr. Susan Murphy, Curman Sebree, Nancy Steers, and Po-yuk Tang. We also inspected a sampling of MSP test booklets administered by the BHIS staff in the Spring 2014 at the Office of the State Superintendent of Public Instruction and reviewed various analyses of the 2014 BHIS test results.

school. Ms. Tang served as the testing coordinator at Van Asselt for five years before moving to BHIS and received an award the last year for the student's improved performance.³

Of particular importance to this investigation was the fact that Ms. Tang clearly understood the testing protocols that governed standardized testing in the Seattle Public Schools. She knew, for instance, of the importance of securing the test booklets once they had been delivered to the school. She also knew that it was impermissible to look at or read the test questions in the booklets. Ms. Tang explained that the only reason she would ever flip through a test booklet is to remove scrap paper. Finally, she clearly understood the responsibilities of the testing coordinator and the principal in assuring that the test booklets were properly counted and correctly marked, or "bubbled" for students requiring special accommodations.

Ms. Tang described her relationship with Michele Nishioka, the first year assistant principal at BHIS, as challenging. She began having problems with Ms. Nishioka in October, 2013, finding that Ms. Nishioka lacked organizational skills and sometimes failed to follow through on commitments. Ms. Tang also voiced the concern that Ms. Nishioka did not respect her and treated her with disdain. According to Ms. Tang, after a mid-year mediation session, things were better for awhile, but again encountered bumps regarding the MSP planning for which Ms. Nishioka, as the testing coordinator, was responsible. Others whom we interviewed noted that Ms. Tang repeatedly questioned Ms. Nishioka about her efforts to organize the MSP testing process.

There was obvious friction between Po-yuk Tang and Michele Nishioka. Others opined that they were not operating "on the same page" and that their differences were often very public. Both wanted to be liked, but there were two camps in the school, each leaning more toward one or the other. One teacher opined that Ms. Tang was attempting to do everything possible to get rid of Ms. Nishioka. Judy Eng, on the other hand, was a very strong supporter of Ms. Tang and saw no friction between her and Ms. Nishioka.

The truth probably rests somewhere in between. Ms. Tang and Ms. Nishioka both encountered problems in their respective positions. Neither one was functioning at the level that the school had experienced with the previous administrators.

There were clear inconsistencies in the answers given by Ms. Tang both to Ms. Sebree and to us regarding an incident with a student who finished his MSP test in an unusually short period of time. Although the inconsistencies were puzzling, it did not lead us to conclude that there was much significance to the issue because it related to only one test booklet for reading. The cheating was much more wide-spread and involved alterations to many, in not almost all, of the reading and math booklets.

There were also other reasons to question Ms. Tang's conduct. For example, when she was placed on administrative leave she emptied out her office, reportedly carrying out two boxes of paper work. One teacher told us that when she questioned Ms. Tang about cleaning out her office, Ms. Tang told her it was just a "light cleaning." Ms. Tang explained to Dr. Murphy that

³ There was some question as to whether the Van Asselt test results which prompted the reward to Ms. Tang were themselves the product of some test altering. We did not find any conclusive evidence that supported such a theory.

the boxes contained her personal papers, together with some school materials, but she never returned anything to the school. Dr. Murphy reported to us that when she took over as interim principal, she could not find any evaluation files or hiring packets. Whatever Ms. Tang's reason for cleaning out her office, we were unable to tie it conclusively to any involvement on her part in altering tests.

Likewise, Dr. Murphy alerted us to her concerns that Ms. Tang had signed a series of time sheets for overtime work by Judy Eng, a teacher with whom she was apparently close, immediately before her administrative leave began. Ms. Eng denied that these time sheets were in any way improper, explaining that she had simply failed to submit them at an earlier time. She produced her personal calendar to support the overtime hours. The District is now conducting an analysis of the time sheets and Ms. Eng's calendar, but again there was no apparent tie between this concern and the altered tests.

B. Michele Nishioka

Ms. Nishioka was a first year assistant principal at BHIS. As the assistant principal, she assumed the duties of testing coordinator, previously handled by Helen Finch, the head teacher at BHIS. Ms. Nishioka had been the testing coordinator in the Bellevue School District before taking her position at BHIS. For the most part, she declined Ms. Finch's offers of assistance, indicating that she was up to the task because of her prior experience. There was also a suggestion from other staff members that she declined offers of assistance because she wanted to prove that she was up to the task.

After the 2013-14 academic year, she left the Seattle Public Schools. She became the principal of an elementary school in the Issaquah School District for the 2014-2015 academic year. She resigned this position, effective at the end of the school year.

Teachers interviewed for the most part described Ms. Nishioka's year at BHIS as a difficult one, perhaps made more difficult by Ms. Tang acting in a demeaning manner toward her. Many described the relationship between Ms. Nishioka and Ms. Tang as strained with some describing confrontations which they had witnessed between the two administrators. One teacher expressed the view that Ms. Nishioka was more accessible than Ms. Tang, who often kept her office door shut. As already noted, there was an aura of dysfunction that surrounded both of these administrators.

Some also described challenges experienced with Ms. Nishioka as the MSP testing coordinator. There were some scheduling issues, which Ms. Nishioka readily admitted. It was noted by one teacher that on the one day when the previous testing coordinator was in charge, the testing process ran much more smoothly than on the days when Ms. Nishioka was heading up the testing.

Teachers at BHIS had a variety of reactions to Ms. Nishioka. Some liked her, while others did not. No one offered an opinion on whether Ms. Nishioka may have been implicated in the test alterations. One teacher opined that neither Ms. Tang nor Ms. Nishioka knew the students well enough to know which students would underperform on the MSP, although this

may be of minimal importance because it seems the alterations were wide spread and not limited to only students likely to perform poorly.

The sheer enormity of the test alterations raises questions about who would have had the time to undertake such sweeping changes. Here, again, there is no clear answer. Records suggest that both Ms. Tang and Ms. Nishioka had occasions to come into the building on weekends. In Ms. Tang's case, she was at BHIS almost every Saturday. There is no evidence, however, that either had tests in their possession on any of these weekends.

One incident that surfaced during our investigation involving Ms. Nishioka did give us pause. Ms. Tang and Ms. Finch both told us that on Friday, May 16, 2014, before the test booklets were to be returned to Ms. Steers at the District office, the two of them and Ms. Nishioka met to schedule a time when they could count the test booklets and review the markings or "bubbling" for special accommodations. Both recalled that Ms. Nishioka stated that she could not meet that weekend and the meeting actually occurred the following Tuesday, May 20, 2014. Nevertheless, records reflect that Ms. Nishioka came into the building for over four and one-half hours on Saturday, May 17, 2014. (Exhibit 1 at 34.)

It is also noteworthy that another teacher told us that Ms. Nishioka was purportedly upset that Friday because she had wanted to send the test booklets to the District office before the weekend, claiming that they were all counted and properly marked, but that Ms. Tang had refused to allow it. When Ms. Tang, Ms. Finch and Ms. Nishioka met on Tuesday, May 20, 2014, the counting actually revealed that two booklets were missing. It took some time that evening to find them. One was found in Ms. Nishioka's office and the other in the room where the tests were stored. They also found that many of the test booklets were marked or bubbled incorrectly and these errors had to be corrected. The condition of the test booklets raises additional questions about why Ms. Nishioka wanted to forward them to the District office without the later review by Ms. Tang and Ms. Finch.

The fact that Ms. Nishioka was at BHIS for over four and a half hours on Saturday May 17, 2014, is troubling for several reasons. First, she apparently lied to Ms. Tang and Ms. Finch when she told them she was unable to meet that weekend. Second, her lengthy presence at BHIS on Saturday presented her with the opportunity and time to alter the test results. This information was not known to Ms. Sebree. Although Ms. Nishioka had already denied our request for an interview, we sent her another e-mail⁴ on August 17, 2015 (attached hereto as Exhibit 5) in which we stated:

An earlier investigation was conducted by Curman Sebree, but she was unable to reach any conclusions as to the person or persons responsible. Our investigation has pursued the matter in greater detail. As a result, we have significant concerns regarding your role as Testing Coordinator. We can only resolve these concerns by speaking with you. If you are

⁴ We had sent two prior emails to Ms. Nishioka requesting an interview. (Exhibit 4.) She responded to our second email on June 23, 2015, claiming she did not receive our first email and also stating that she had already answered questions "about the events surrounding testing that happened at Beacon Hill". She said she would call us, but she failed to do so.

unwilling to meet with us, we will reflect this lack of cooperation in our report.

Ms. Nishioka never responded to this email. As a result, we believe it is appropriate to draw an adverse inference that Ms. Nishioka had knowledge of and possible involvement in the alteration of the test booklets.

C. Judy Eng

Ms. Eng was interviewed on July 8, 2015. She, too, was cooperative and answered all of our questions. She also agreed to provide us with a set of her fingerprints. Based on this interview, Ms. Sebree's report, and our complete investigation, we make the following findings.

Ms. Eng is a English Language Literacy teacher with many years of experience at BHIS. She appears to be well liked by most teachers at the school. Of some significance, many teachers described her as extremely committed to the school; a teacher who spent many, many hours in the building; and one who had few other outlets besides her teaching. No one could offer a motive for Ms. Eng attempting to sabotage the MSP test results and one teacher was emphatic in saying it "absolutely" could not have happened.

As with Ms. Tang, we found certain inconsistencies in Ms. Eng's recollection of an incident involving the student who finished the test very quickly. Again, however, we could find no tie between this incident involving a single test and the wholesale alteration of tests at the heart of the investigation.

We were also troubled by Ms. Eng's belated submission of time sheets, which Ms. Tang signed as she left on administrative leave. As explained above, however, Ms. Eng claimed the time sheets were in order and provided us with her personal calendar as a means of corroborating her claimed overtime work. We have provided this information to the District for review. Whatever the conclusion, however, it does not move us closer to solving who altered the tests.

D. MSP Test Protocol Violations

We address separately each of a series of possible irregularities involving the handling of the MSP test booklets and the administering of the tests that occurred at BHIS. Each of these matters has been touched upon in the previous paragraphs, but are described in more detail below. As already stated, none of these possible irregularities moved us closer to resolving the ultimate issue of who is responsible for the cheating.

1. The Storing of the Test Booklets at BHIS

In her investigative report, Ms. Sebree focused at some length on errors/discrepancies in the reported storage location for the test booklets. Ms. Tang maintained that the test booklets were, after delivery and having been placed for a short time in her office, always stored in a small auxiliary room adjacent to the Multiple Purpose Room – A ("MRPA"). This is inconsistent with the report submitted to the District by Ms. Nishioka that identified the extra

custodial closet near the main office as the place where the test booklets were to be stored. It is also inconsistent with Ms. Sebree's report that the test booklets were stored in Ms. Tang's office, still packed and wrapped in plastic, for a couple of days before being moved to the MRPA auxiliary room. When confronted, Ms. Tang claimed that she knew the report submitted to the District called for the test booklets to be stored in the extra custodian closet but she thought that was the same as the MRPA. She denied the test booklets were in her office for more than a few hours.

The inconsistencies regarding the storage of the test booklets are in general of limited importance. It is clear that the test booklets were not altered during the time before the tests were administered because there was nothing to alter until the students made their entries. They do, however, suggest a level of dysfunction in BHIS' testing protocols. Whether the inconsistencies also indicate some lack of credibility on Ms. Tang's part is less clear. Because it was her first year in the building, she may have entertained some confusion as to the names used to reference particular auxiliary or extra rooms in the school. As for the difference in time estimates the booklets remained in Ms. Tang's office, there is no way to be certain which is more accurate.

2. The FERPA ██████████ Test Booklet

Another area of emphasis in the Sebree report was on the handling of the test booklet of a student, FERPA ██████████, who apparently stopped taking the test, or finished taking the test, in an inordinately short period of time. Ms. Tang told Ms. Sebree that Helen Finch, the testing coordinator for several years before Ms. Nishioka arrived, brought FERPA ██████████'s booklet to her, saying that she had looked through the booklet and observed that he had not completed a portion of the test. According to Ms. Tang, Ms. Finch asked her if it would be permissible to have the student resume taking the test and, Ms. Tang, answered that this would not be permissible.

Others remember this incident quite differently. Ms. Finch recalled that Ms. Tang had brought FERPA ██████████'s test booklet to her, noting that it was incomplete and questioning whether they could give it back to the student. Ms. Nishioka told Ms. Sebree that she recalled talking with someone, other than Ms. Tang, possibly Judy Eng, in the back of a classroom and that person expressed concern that FERPA ██████████ had finished early.

Jennifer Clifford, a substitute teacher at BHIS during the 2013-2014 school year, reported to Ms. Sebree that FERPA ██████████ had taken his test while sitting at a table between the two third grade classrooms and that he had finished very early. Ms. Clifford recalled that Ms. Eng had later approached her, highly agitated, and told her that Ms. Nishioka and she had looked at FERPA ██████████'s test booklet and that he had not completed one-third of the test. Beth Alexakos, a second and third grade literacy teacher who was proctoring the other third grade classroom, reported a similar encounter with Judy Eng. When Ms. Clifford responded that she did not know this because she had not looked at the booklet, Ms. Eng confirmed that she had examined it. When Ms. Nishioka was re-interviewed by Ms. Sebree she could not recall looking at FERPA ██████████'s test booklet, but she did not deny doing so. Ms. Eng stated that she did not look at FERPA ██████████'s test booklet and did not know how she knew he had only partially completed the test.

As with the test booklet storage discrepancies, this incident involving whether one or more teachers looked at FERPA ██████████'s test booklet, has more significance in helping to measure credibility than it does in determining who altered the test booklets. One could reasonably conclude that, despite denials, Po-yuk Tang, Michele Nishioka, Judy Eng, and possibly others looked at FERPA ██████████'s test booklet after he made a half-hearted effort to complete the test. Their later denials or claims of memory loss may have more to do with their realization that they committed a violation of the testing protocol by looking at a testing booklet to determine if a student had completed a test than it does with any complicity in the cheating scandal.

3. The Test Booklet Counting and Re-Packaging

After the time for make-up tests had passed, the principal and the testing coordinator are responsible for making certain that the test booklets are correctly marked for any exceptional testing procedures such as those afforded to ELL and Special Education students; that all test booklets were counted; and that the test booklets were re-packaged and delivered back to the school. For the 2013-2014 academic year, the test booklets had to be returned to Ms. Steers in the District office on or before May 22, 2014

Po-yuk Tang described for us a conversation that she had with Ms. Nishioka and Ms. Finch on Friday, May 16, 2014, when they discussed meeting to process the test booklets. According to Ms. Tang, although she typically came into the school on Saturdays, she was unable to do so on this particular weekend and had proposed Sunday as an alternative. Ms. Nishioka stated, however, that she was not available at any time on the weekend and that as a result they decided to meet the next Tuesday. Records reflect, however, that Ms. Nishioka actually spent over four and a half hours in the school on Saturday, May 17.

Ms. Finch at first recalled Ms. Tang asking her to come in over a weekend to process the tests, but that she was not available and offered to meet the next weekend. Later in the interview, it "rang a bell" that Ms. Tang was available on Sunday, not Saturday, but Ms. Nishioka was not available at all. The meeting actually took place the next Tuesday, May 20, 2014.

Sarah Lorimer, a Special Education teacher, recalled that Ms. Nishioka came to her on Friday, May 16, extremely agitated, stating that she had told Ms. Tang that the test booklets were all processed and ready to be delivered to the District office, but Ms. Tang had insisted that the booklets be checked by her first. Neither Ms. Tang nor Ms. Finch recalls any such request from Ms. Nishioka. Furthermore, when Ms. Tang, Ms. Finch and Ms. Nishioka gathered in the MSP-A room the next Tuesday to finalize the test booklet processing, there were many problems, including missing test booklets and incomplete "bubbling" or marking the test booklets to reflect that special accommodations had been afforded certain students. Ms. Finch was stunned at the errors. She had not been asked for assistance, but she had made it clear to Ms. Nishioka that she was available for assistance. She found Ms. Nishioka somewhat defensive when she offered her assistance.

At the Tuesday meeting, Ms. Tang, Ms. Nishioka, and Ms. Finch reviewed all the test booklets. They found two of the booklets were missing. After a search, Ms. Nishioka found one of the test booklets, possibly that of FERPA ██████████, in her office. She found the other missing third grade test booklet in the storage room.

4. The Time Sheets

During the follow-up investigation, some evidence came to light suggesting that Ms. Eng may have falsified time sheets relating to her after school tutoring of students during the 2014-2015 academic year. A number of time sheets were submitted in late April 2015. All were signed by Ms. Tang. The circumstances made it reasonable to question whether the time sheets were accurate.

When confronted, however, Ms. Eng produced her detailed daily calendar. This calendar was color coded and seemed to support MS. Eng's claim that she had carefully recorded all of her extra work hours and that the time sheets, although submitted late were accurate. It remains for the District to conduct a more detailed analysis of these time sheets, but Ms. Eng's claim may well be substantiated.

E. Handwriting Analysis

As noted above, this investigation was prompted by a preliminary handwriting analysis that suggested that some of the handwriting in the alterations on three math test booklets appeared to be that of Ms. Eng. (Exhibit 3). Ms. Eng emphatically denied having ever opened any math booklets, much less made any alterations in them. When the final report was submitted, the analyst's preliminary assessment was eliminated. Instead, she concluded that she could make no determination as to who had written any of the alterations in any test booklets. (Attached hereto as Exhibit 6).

F. Fingerprints

As something of a last ditch effort, we proposed obtaining fingerprints from Ms. Tang, Ms. Nishioka, and Ms. Eng and submitting them for comparison to any latent prints developed from an examination of test booklets.⁵ During the follow-up investigation, Ms. Tang and Ms. Eng were both asked to submit fingerprints so that they could be compared with any latent fingerprints lifted from altered test booklets. Both voluntarily agreed to do so. On the other hand, because we were unable to meet with Ms. Nishioka, we were unable to ask her to provide her fingerprints to complete this analysis.

In the end, it was determined not to proceed with the fingerprint analysis. This decision was premised on a number of factors. The inability to procure Ms. Nishioka's fingerprints made it impossible to include her in the analysis. Furthermore, although such an analysis may have eliminated one or more of the individuals under suspicion, there was no assurance that it would do so because the absence of latent fingerprints does not conclusively establish that a person did

⁵ It was necessary to obtain new fingerprints from each person because Washington law prohibits the retention of fingerprints taken by the District in the course of employment.

not have contact with the object, i.e., the test booklet. Finally there were procedural issues that made it uncertain whether a public law enforcement laboratory could have completed the analysis.

IV. CONCLUSIONS AND RECOMMENDATIONS

As previously noted, there is simply not enough evidence to establish that either Po-yuk Tang or Judy Eng was responsible for altering the test results. However, as to Michele Nishioka we believe that there is some evidence indicating that she had a motive and the opportunity to alter the test results. This conclusion is based in large part on the fact that she lied about her availability on the weekend of May 16 and 17; and spent over four and one half hours at BHIS on Saturday May 17, 2014, and the adverse inference drawn from her refusal to cooperate with the investigation. Nonetheless, we do not believe that this evidence alone is sufficient to conclude that Ms. Nishioka actually altered the test results. After two investigations, the District has determined that it is time to move on. Without someone coming forward with significant new evidence, there is little hope of ever identifying the culprit. We concur in this decision.

EXHIBIT 1

CONFIDENTIAL AND PRIVATE¹

THE SEBREE FIRM
1001 FOURTH AVENUE SUITE 3200
SEATTLE, WASHINGTON 98154
(206) 622-8001
csebree@sebreelaw.com

TO: GEOFFREY D. MILLER, Director Labor and Employee Relations
Seattle Public Schools

FROM: Curman Sebree, Attorney

DATE: April 7, 2015

SUBJECT: Beacon Hill International School Investigation Report

¹ This report contains private and confidential information relating to students.

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BEACHON HILL INTERNATIONAL SCHOOL

2025 14th Avenue South
Seattle, Washington 98144

Principal: Po-yuk Tang
Testing Coordinator: Michele Nishioka

Executive Director: Kelly Aramaki

I. INTRODUCTION

Seattle Public Schools' ("SPS") Director of Labor and Employee Relations, Geoff Miller, retained the above firm to conduct an independent investigation of MSP testing anomalies at Beacon Hill International School ("BHIS") during spring 2014.

II. BACKGROUND

BHIS is a K-5 elementary school with a student population of approximately 460 students for school year ("SY") 2013-14. This was the first year at BHIS for Principal Po Tang and also the first year for former Assistant Principal/Testing Coordinator, Michele Nishioka. BHIS is designated as a Title I school.

A. The MSP

The Measurements of Student Progress ("MSP") is a multiple choice and short answers (fill-in-the-blanks) examination given annually through SY 2013-2014 to all public students in Washington in grades 3 through 8.² Students are tested in reading (grades 3-8, and in high school), writing (grades 4 and 7, and in high school), math (grades 3-8), and science (grades 5 and 8, and in high school). Students are allowed a full day to complete each test, with writing tested over two (2) days. A student's performance is assessed using scale scores, a three (3) digit number that determines where a student's performance falls into one of four levels:

Level 1	Below Basic (<u>not</u> meeting state standards)
Level 2	Basic (<u>not</u> meeting state standards)
Level 3	Proficient (<u>meets</u> state standards)

² Beginning in school year 2014-15, all students in grades 3 through 8 and 11 will be assessed using the Smarter Balanced testing system.

Level 4 Advanced (exceeds state standards)

Washington law requires that the tests be administered under strict conditions. The test materials (sealed and boxed) were delivered to BHIS on April 16, 2014.³ The first test, 4th grade writing, was administered at BHIS on April 29 and May 1 (5th grade science also administered on this date). The math test for grades 3-5 was administered on May 6, with the Reading test for grades 3-5 administered on May 8. May 15 was the last day for make-ups tests. May 22 was the last day for the completed test booklets to be delivered to Nancy Steers, SPS' Coordinator for State Assessments. Only after Steers checked the booklets ensuring they were all accounted for and packed correctly were the boxes sealed and shipped to Minnesota for scoring.

Each school designates a certified educator to be responsible for test administration, known as the testing coordinator, who must ensure that the test is administered according to strict test protocols. However, the Principal bears ultimate responsibility for ensuring that the test is administered correctly. Michele Nishioka, former Assistant Principal, was BHIS' testing coordinator for SY 2013-14. She worked one year at BHIS and left the District at the end of school year. She is currently employed as Principal at Discovery Elementary School in the Issaquah School District.

Teachers and the principal received mandated training on test administration using procedures that specifically set forth how the tests must be administered. Any deviation from the test protocol is prohibited and required approval from Nancy Steers. Only SPED students and English Language Learning ("ELL") students may have variances in the test administration in the form of accommodations. Accommodations provided to these students are to be specifically noted by the testing coordinator on a sheet in the back of the test booklet. Nishioka received the mandated training on April 10. She also received a copy of the PowerPoint presentation to train BHIS staff scheduled to administer or assist in the administration of state assessments. Nishioka trained BHIS staff on April 22.

³ All dates hereinafter are 2014 unless otherwise specified.

A key aspect of the training and the administration of the state assessments is that no one read the test items. The power point slide provides: “Never read the test items. This is a huge breach of security...”

B. REA Flagging Of BHIS

SPS’ Department of Research, Evaluation and Assessment (“REA”) is responsible for coordinating the administration of state testing and compiling test results for schools within the District. On August 8, as REA was preparing reports and preliminary test scores, it discovered dramatic and disconcertingly high scoring for BHIS for the 2014 tests, as compared to previous years. For example, the results showed an increase in reading proficiency for English Language Learners (“ELL”) from **30%** in 2013 to **99%** in 2014, an almost statistically impossible result. After gathering some additional information, REA contacted the Office of the Superintendent for Public Instruction (“OSPI”). REA provided OSPI a sampling of students’ scores, which appeared unexpectedly high, and of students who progressed from a Level 1 in 2013 to a Level 4 in 2014 in Reading and/or Math.

C. OSPI Preliminary Investigation

OSPI requested Data Recognition Corporation (“DRC”) to rescore the sample test booklets to determine whether the booklets were previously scored correctly. After determining that DRC had compiled the scores correctly, OSPI concluded that the test booklets were scored accurately. However, OSPI detected evidence of heavy erasures, with a high frequency of wrong-to-right (“WTR”) erasures, and possible differences in the handwriting on the test booklets, resulting in an almost 100% passing rate for all grades in reading and math. OSPI suppressed the scores for BHIS pending further investigation.

III. SUMMARY OF FINDINGS

A. Narrative

After concluding its review of the data and the test booklets, OSPI concluded “that the test responses were altered in such a way as to significantly increase total scores of students

taking the 3rd, 4th, and 5th grade reading and math tests.” OSPI’s analysis of the test data also found that “in 2013-14, Beacon Hill primarily had scores in Levels 3 and 4, while statewide, the scores remained spread across the levels.

Based on the evidence gathered in the investigation, the investigator concludes that cheating may have occurred in the form of test alterations on the MSP at BHIS in 2014. Twenty one (21) individuals were interviewed, some more than once. A random selection of test booklets for grades 3-5 and subjects, reading, math, and writing, were also reviewed at OSPI’s offices in Olympia. Suspected cheating is evidenced by the statistically improbable testing gains⁴ and extremely high WTR erasures in the MSP math and reading test booklets.

The investigation failed to uncover any credible evidence of a person (s) responsible for alteration of the test booklets. No one implicated anyone else. The cheating, if it occurred, was conducted covertly so that no one would discover it. SPS has a career advancement growth and support program where a student achievement award of up to \$7,500 can be earned annually by principals based on demonstrated growth in student achievement as determined by the results of state assessments in reading and mathematics. Principal Tang received an award for the previous school year while principal at Van Asselt. She stated she believed the award was “a couple of thousand dollars.” Tang denied altering the answers on any test booklet. She further denied having any knowledge of cheating or of anyone altering the test booklets at BHIS.

The District also retained a certified document examiner, Hannah McFarland, who conducted an independent examination of several reading (47) and math (82) test booklets of students in grades 3, 4, and 5. The document examiner found indications in the math test booklets of three (3) students that suggested that the answers may have been altered by someone other than the student taking the test. Ms. McFarland compared the answers in these three (3) booklets to handwriting samples of nine (9) District employees who had keys to the closet where the test booklets were stored at BHIS. She found no “significant similarities” between the

⁴ See Attachments A and B for BHIS MSP performance from 2011 – 2014 in comparison to similarly situated schools.

handwriting of any of the nine (9) employees and the sections of the three test booklets that might have been altered by someone other than the student taking the test.

The investigation revealed several breaches of protocol and procedures in the 2014 MSP testing at BHIS. First, BHIS failed to provide corrected information to the District regarding the storage location of the test booklets and the identity of all persons having a key to the storage closet.

The District required schools to submit information to the District identifying the testing coordinator, the locked storage location for the test booklets, and the identity of persons with keys to the locked storage location. On the 2014 MSP documentation form Nishioka provided to the District, she identified the locked storage location as the “extra custodial closet,” and she identified five (5) persons with keys to the extra custodial closet: Principal Tang, Assistant Principal Nishioka, Family Support Worker Natalie Long, and the two custodians.

The test booklets were never stored in the extra custodian closet. After initially storing the booklets in a space referred to as the “back office” (an enclosed space in the front office behind where the secretaries sit), the booklets were moved to the principal’s office. The booklets remained in the principal’s office (still packed and wrapped in plastic) for a couple of days. They were then moved to the storage closet in Multi-Purpose Room (“MPR”) A, to the left of the stage area. The investigation uncovered at least ten (10) persons who had a key to this storage closet, five (5) persons in addition to the persons reported to the District. Principal Tang was aware of the change of the storage location for the booklets. However, she never had any discussions with Nishioka about providing the District with the correct storage location and the correct information about individuals who had keys to the storage location.⁵

The investigation revealed that three (3) BHIS staff members breached security of the test booklets by reading the test items contained in the booklets: Principal Tang, former Assistant

⁵ Tang reported that she had been testing coordinator at Van Asselt for 5 years and was familiar with the District required MSP documentation form. She further admitted discussing with Nishioka where the test booklets would be stored before they were delivered to BHIS, indicating they were to be stored in the “old custodian closet,” and later stating she understood the old custodian closet to mean the storage closet in MRP-A.

Principal Michele Nishioka, and ELL teacher Judy Eng. The evidence substantiated that Tang and Eng read the test items in at least one (1) third grader's test booklet, and that Nishioka read the test items in at least two (2) third grader's test booklets, one of which was retrieved from her office on May 20.⁶

B. Chain of Custody

Seven (7) boxes containing MSP test booklets were delivered to BHIS on April 16. The booklets were initially located in the "back office," a room in the main office area behind where the school secretaries sit. Administrative Assistant Cheryl Nitta, Assistant Principal Nishioka, and Principal Tang had keys to this back office. According to Nishioka, the booklets remained in the back office area less than a day, when Principal Tang asked that the booklets be moved to her office. The booklets remained in Tang's office for two days and were thereafter moved to the small storage closet in MPR-A, near the stage, the same location used to store the test booklets the previous year. Nishioka reported that she, the Principal, Helen Finch, and the two custodians had keys to this closet.⁷ The booklets were never stored in the extra custodian closet near the front security door as previously reported to the District.⁸

Throughout the time before the booklets were moved to MPR-A, the booklets remained vacuum-packed with plastic and were never opened. The booklets were unpacked about a week

⁶ Nishioka explained that the test booklet found in her office was in one of the plastic containers test proctors used to transport the test booklets to and from the storage closet in early May. She stated she had overlooked the booklet when she transferred the test booklets from the containers to the original boxes in the storage closet. Nishioka reported that the test booklet found in her office was not FERPA's missing test booklet. She further explained that the booklet found in her office did not have any answers to the test questions. When asked how she became aware of this, Nishioka reported that she looked through the booklet and saw that the student had not answered any of the test questions. Nishioka did not inform Principal Tang and Teacher Finch of this information when she returned the booklet to the storage closet where the three of them were counting and processing the booklets for delivery to the District.

⁷ The investigation revealed that several other individuals had keys to the storage closet. The door to the closet has a sign that reads "This door to be locked at all times." It is not a self-locking door when closed. Rather, one has to take steps to relock the door each time it is unlocked.

⁸ Nishioka never revised the 2014 MSP documentation form advising the District of the correct storage location for the booklets and the correct identity of individuals who had keys to this storage closet.

before testing began on April 29. No answer key to the test questions was provided to BHIS and no one at BHIS was responsible for scoring any tests.

The only credible evidence the investigation uncovered regarding the booklets not being kept in the MPR-A locked storage closet after the testing began, was the one 3rd grade booklet found in the assistant principal's office on May 20.⁹ The circumstances surrounding how the booklet ended up in the assistant principal's office are unclear. Nishioka's explanation about having forgotten or overlooked the booklet in the plastic container is not credible.¹⁰

Two days after the booklets were counted and processed at BHIS, on May 22, in the afternoon, Nishioka delivered the seven (7) boxes (unsealed) of test booklets to Nancy Steers at the JSC warehouse. There were several schools delivering boxes of test booklets that day as it was the last day for delivery to the District. Nishioka, as were all the testing coordinators dropping off test booklets, was required to watch as Steers checked the boxes to make sure all the booklets were accounted for and appropriately packed before she [Steers] sealed the seven boxes with packing tape.¹¹ Steers applied three (3) layers of packing tape to each box, in accordance with OSPI instructions. Thereafter, the boxes were placed on a pallet along with taped boxes from other schools. Each pallet was stacked approximately 4-5 levels high, with each level consisting of 16 boxes.

The pallet containing the Beacon Hill test booklets consisted of 69 boxes, with the BHIS boxes on the first two lower levels of boxes on the pallet. There were boxes from six (6) schools that arrived before BHIS, which were loaded on the pallet before BHIS, and boxes from eleven

⁹ During her second follow-up interview, Principal Tang reported seeing test booklets in Assistant Principal Nishioka's office "almost every day." Nishioka, during her follow-up interview adamantly denied this allegation. It should be noted that although Tang addressed RCW 42.56.230(3) in Nishioka's annual performance evaluation, she never mentioned in the evaluation she saw test booklets "every day" in Nishioka's office, nor did she report this during her first investigative interview. When asked about what actions she took upon seeing the test booklets, Tang reported she did nothing because Nishioka "claimed" to have a system and Tang did not want to interfere. On one occasion when she observed test booklets on the corner of the Administrative Assistant's desk, Tang stated she removed the booklets from the corner of the desk, placed them in Nishioka's office, and locked the door.

¹⁰ See footnote 12, page 14 of the report.

¹¹ Of the seven BHIS boxes, five boxes were labeled green (to be scored) and two were labeled red (not to be scored -blank tests not used by any student). A label identifying each school is placed on top of each box.

(11) schools that arrived after BHIS that were stacked on the same pallet. Early on the morning of May 23, around 6 – 6:30 a.m., a warehouse worker transported the pallets to an area where a machine shrink-wrapped the boxes with plastic for shipping to DRC in Minneapolis, Minnesota at 7 a.m. The machine is located approximately 100 feet from the area where Steers had processed, taped, and stacked the boxes on the pallet the approximately 12 hours earlier.

Approximately seven (7) employees who work in the warehouse and 11-13 truck drivers have access to the warehouse between 6 a.m. and 3:30 p.m., Monday through Friday. There is also a night custodian who access to the warehouse during the evening. The custodian's access is monitored by the security department. These employees were not interviewed as part of the investigation for several reasons. The test boxes were taped securely immediately after arriving at the warehouse. Thereafter, the BHIS boxes were placed on a pallet (on first two levels of the pallet) along with boxes of test booklets from seventeen (17) other schools. Thereafter, all the boxes on the pallet were shrink-wrapped with plastic for shipping. The boxes were scheduled to ship at 7 a.m., less than one day after they had been delivered to the warehouse.

C. Credibility

1. Principal Po-Yuk Tang

Principal Po Tang's credibility was lacking in some respects. She stated some facts in such a way that she looked good, when the true facts were not so favorable. In addition, she refused to accept responsibility for her actions without implicating someone else. She had trouble giving direct answers to some questions and appeared to be evasive, calculating, and conniving. Some examples include:

Tang stated she never saw the 2014 MSP documentation form until just before her second interview. This is a District required form where Nishioka listed the "extra custodian closet" as the storage location for the books. In response to several questions about why she did not direct Nishioka to revise the information on the form, Tang stated that "we" understood that the extra custodian closet is the same as the storage closet in MPR-A.

Everyone interviewed was clear about the custodian closet near the front security door being the extra custodian closet referred to on the testing form. During her initial interview, when the investigator asked to see the extra custodian closet, Tang took the investigator directly to the old janitor closet near the front security door. It was only during the second interview that she appeared to be attempting to back track (to cover up the erroneous information on the form provided to the District and her failure to direct the assistant principal to provide accurate information to the District), and said that extra custodian closet was understood to be the storage closet in MPR-A.

(b) Principal Tang stated during the second interview that she observed test booklets in the assistant principal's office "every day," which Nishioka denied quite vehemently. When asked what she did about this, Tang reported she did nothing, stating the assistant principal had told her [Tang] that she [assistant principal] had a system and "I didn't want to interfere." There was no mention of test booklets being seen frequently in the assistant principal's office in Nishioka's annual performance evaluation prepared on June 28, approximately one month after the testing process was concluded. In that evaluation, Tang lists RCW 42.56.230(3) [REDACTED] Nor did Tang report this conduct in the first interview. There is no evidence that Nishioka proctored any make-up tests so there was no reason for the booklets to be in Nishioka's office rather than the locked storage location. Tang did not insist that the booklets be kept in the locked storage closet nor did she remove the booklets from the assistant principal's office and place them in the locked storage closet.

(c) Tang alleged facts that implicated long-time teacher and experienced testing coordinator Helen Finch in reading the test items in [REDACTED]'s test booklet, along with Tang and Nishioka, even adding during the second interview that Finch allegedly stated, "I know we're not supposed to do that." Tang further alleged that Finch asked her and Nishioka if she [Finch] should give the test booklet back to [REDACTED] and insist that he work longer on the test.

This description of the incident between Tang and Finch involving [REDACTED]'s test booklet is not credible, given that Finch did not proctor [REDACTED]'s tests as confirmed by both Finch and Nishioka, Nishioka denied having a discussion with Tang regarding [REDACTED]'s test booklet with

Finch or Tang, it is belied by Finch's knowledge of and experience with testing procedures and protocol, and the fact that it is unlikely that Finch would have left her proctoring position, retrieve FERPA's booklet from the storage closet, and sought out Tang and Nishioka to have the discussion as described by Tang.

Finch credibly reported during two interviews that she did not proctor FERPA. Nishioka credibly stated she had no discussion with Finch or Tang about FERPA's test booklet. Although Nishioka has some credibility issues, I found her more credible than Tang on this point because she had no motive to lie in this instance, she was very clear that Finch was busy proctoring other students, and it appears to be another instance where Tang is attempting to deflect scrutiny away for her admitted behavior in reading the test items in FERPA's booklet by projecting the same or similar conduct onto others. It shows a consistent unwillingness on Tang's part to admit error or take responsibility for her actions and/or failures to act, combined with a willingness to implicate others.

2. Assistant Principal Michele Nishioka

Nishioka's credibility was also lacking in some respects although not to the same degree as Tang. She stated she did not recall a lot of incidents that were clearly recalled by others. Her explanation about why the test booklet was in her office on May 20 was not credible. Additionally, during the first interview she was quite nervous and defensive and evasive in answering the questions. Rather than answering the question asked, she would repeat information already provided and not respond directly to the questions asked.

During the second interview, she was accompanied by a principal from the Issaquah School District who took notes. Nishioka appeared calmer and less defensive. However, she frequently stated she could not recall a lot of the events she was questioned about.

3. Ell Teacher, Judy Eng

Overall, the investigator did not find Judy Eng to be a credible witness. During the first and second interview with Eng, Eng was evasive and nonresponsive to the questions asked. She appeared eager to talk about other things and repeat things she had already said. The investigator

concludes that Eng, more likely than not, read the test items in FERPA's test booklet. If she did not read the test items in order to learn how well FERPA had responded to the test items, why would she tell two teachers on two separate occasions that she had done so?

Both Jennifer Clifford and Beth Alexakos spoke about their discomfort in how Eng approached each of them to talk about FERPA's test, as if she was blaming them. Both were straightforward and credible. There is no evidence that Clifford and Alexakos conspired to fabricate a conversation with Eng. Clifford no longer works at BHIS and is employed full time as a teacher at another school in the District. Alexakos was reluctant to participate in the investigation without a union representative and did not want to be interviewed at the school because she was providing information about a staff member still at the school. Moreover, Eng did not offer any reason as to why either of them would lie about the conversation she had with them.

IV. INVESTIGATIVE PROCESS

The following persons were interviewed during the investigation: BHIS Principal Po Yuk Tang, BHIS former Assistant Principal Michele Nishioka, former BHIS Head Teacher Helen Finch, REA State Assessment Coordinator Nancy Steers, Student Growth Analyst Seattle Schools REA Brian Gabele, former BHIS House Administrator and Teacher Sue Fluegal, BHIS Teacher Sarah Lorimer, former Substitute Teacher at BHIS Jennifer Clifford, BHIS Family Support Worker Natalie Long, BHIS Head Custodian Christopher Hopper, BHIS Custodian Kevin Snoddy, BHIS ELL Teacher Judy Eng, BHIS Administrative Assistant (Head Secretary) Cheryl Nitta, Elementary Assistant Diana Furuta, Playground Supervisor John Shaw, Teacher Beth Alexakos, Teacher Mary Howard Logel, Facilities Director Bruce Skowya, Safety Manager Larry Dorsey, Maintenance Manager, Bob Westgard, and Warehouse Supervisor, Gary Dietz.

The following documents were reviewed as part of the investigation:

1. Memo to the Board dated August 22, 2014 from Eric Anderson, Director REA;
2. Charts prepared by REA provided to OSPI for preliminary assessment;
3. 2014 MSP Proctor Training Power Point presentation;

4. 2014 MSP Documentation Form for Paper/Pencil Testing
5. Training log for State Assessments provided to testing coordinators on April 10, 2014;
6. Training log for State Assessments for BHIS staff dated April 22, 2014;
7. Charts/Graphs depicting MSP scores for BHIS and comparable schools in SPS district;
8. Excel spreadsheets depicting BHIS students' scale scores, levels, and prior levels by grades;
9. Completed School Site Administration and Security Report signed by Po Tang;
10. Security Daily Logs from May 8, 2014 through May 19, 2014;
11. 40 test booklets reviewed at OSPI offices in Olympia;
12. Test Security Assurance Forms –Prior to Testing;
13. Test Security Assurance Forms – Post Testing;
14. Letter dated October 8, 2014 from Kimberly DeRousie to Eric Anderson;
15. OSPI's Analyses of Beacon Hill International School Spring 2014 MSP;
16. Career Advancement Growth and Support;
17. OSPI's Beacon Hill Summary Data and Excel Spreadsheet containing a comparison of BHIS data to statewide data for reading and math, grades 3-5 at each performance level for years 2013-14 and 2013-13;
18. SPS Policy No. 6805 dated February 15, 2012 regarding keys;
19. Individual Key Record Logs maintained by Head Custodian, Christopher Hopper.
20. Individual Key Record forms;
21. Sample test items for reading and math tests;
22. Annual Performance Evaluation for Michele Nishioka dated June 28, 2014;
23. Rebuttal to Performance Evaluation by Michele Nishioka dated June 29, 2014;
24. Letter dated August 28, 2014 from Sue Means to Po Tang;
25. Letter dated August 28, 2014 from Sue Means to Helen Finch;
26. Letter dated September 2, 2014 from Sue Means to Natalie Long;
27. Letter dated September 16, 2014 from Sue Means to Michele Nishioka; and

28. Draft declaration of document examiner, Hannah McFarland, dated March 2015.

V. SUMMARY AND ANALYSIS OF EVIDENCE

A. Narrative

School staff did not have an answer key for the 2014 MSP, nor was anyone at BHIS responsible for grading the tests. The tests were scored by Data Recognition Corporation in Minneapolis, Minnesota.

B. Testimony of Witnesses

1. Helen Finch (former Head Teacher, Teacher)

Helen Finch was employed at BHIS for thirteen (13) years. Two of those years, she served Head Teacher, 2011-2013. The head teacher role is similar to that of an assistant principal except head teachers do not evaluate staff. During school year 2013-14, Finch served as a 3rd grade Literacy Specialist. In SY 2014-15 Finch began working as the Title I Coordinator for the District.

Finch served as the testing coordinator for BHIS in SY 2012-13. BHIS is an open concept school, meaning there are no walls separating classrooms. During testing, the classes were divided by grouping students in a designated area. During SY 2012-13, as testing coordinator, Finch stored the testing booklets in a windowless room to the left of the stage in multi-purpose room A (“MPR-A”).

In SY 2013-14, when Michele Nishioka was hired as the assistant principal, Principal Tang designated her as BHIS’ testing coordinator. Finch gradually began turning over her other duties to Nishioka as well. Finch offered to assist Nishioka with the testing coordinator duties. However, Nishioka often responded that she had been a testing coordinator in the Bellevue School District and that she had done “this” before. Finch served as a proctor during the 2014 MSP testing.

During the testing Principal Tang approached Finch and reported stated that [REDACTED] had completed the test in approximately twenty (20) minutes, that [REDACTED] had responded only to

multiple choice questions, and that he had not completed any of the short answers/fill-in-the-blank questions.¹²

Principal Po-yuk Tang requested Finch's assistance in processing the test booklets for delivery to the District on or before May 22. On the evening of May 20, Tang, Finch, and Nishioka met in storage area to process and pack the test booklets, according to strict instructions from the District. At the outset, they discovered that the booklets were packed incorrectly. The District requires the booklets to be packed by grades and test. While processing the booklets, Tang or Finch asked Nishioka whether the booklets had been checked individually for each student. Nishioka responded no. According to Finch, at the beginning and completion of each test, the booklets are supposed to be checked individually by student name, to ensure that the same booklets distributed at the beginning of the test are also returned at the completion of the test.

All 4th and 5th grade booklets were accounted for on May 20. However, two (2) 3rd grade booklets, both boys, were missing. Finch was familiar with and had taught one of students, whose booklets were missing, FERPA (FERPA). Finch described Nishioka as leaving the storage closet and returning with FERPA's test booklet, which Nishioka found in her office. According to Finch, Nishioka did not offer an explanation why the test booklet was in her office and not in the storage area. Nishioka later found the other missing booklet on a shelf in the storage.

After the Title I department received the MSP scores, Finch's supervisor approached her about BHIS' scores, asking Finch if she thought the 2014 scores were realistic given Finch's familiarity with the school and the students. Finch did not believe the high scores reported for BHIS were realistic. Finch later compiled a sample of the students she was familiar with whose test scores were unrealistically high and provided the information to REA.

¹² As revealed later in the investigation report, this incident has several iterations, Principal Tang's version and Assistant Principal Nishioka's version in addition to Finch. See pages 23 and 24.

2. Sue Fluegal (former Teacher/House Administrator)

Fluegal worked at BHIS for several years, from 2003 to June 2014. From 2003 to February 2013, she worked as a teacher, teaching 3rd, 4th, and 5th grades during that time. In February 2013, she became BHIS' House Administrator for City of Seattle's education levy funds. She served as the House Administrator until June 2014, when she left the District to return to Minnesota. In May 2014, Fluegal was one of the persons who had an inside master key, which opened the storage closet where the test booklets were kept. She also served as a proctor for 2014 testing.

Fluegal did not observe or become aware of anyone tampering with or altering the answers in the test booklets. She did not have anything further to do with the test booklets once she turned her booklets in at the completion of the test she proctored. Fluegal was very disheartened when she learned that someone may have tampered with the test booklets, because of all the hard work she and the other teachers had put in working with the BHIS' students.

3. Michele Nishioka (former Assistant Principal)

Michele Nishioka worked at BHIS for one year, 2013-14, as Assistant Principal.¹³ She was also the testing coordinator for the school for the 2014 MSP tests. Nishioka indicated she had previously served as a testing coordinator in the Bellevue School District during her internship there. Her understanding of the duties of the testing coordinator was ensuring that the test booklets are secure and that all protocol is followed while the booklets are at the school site.

As BHIS' testing coordinator, Nishioka attended mandatory MSP training for testing coordinators on April 10, presented by Nancy Steers, the District's State Assessment Coordinator. Testing coordinators were responsible for training staff at their school using the same power point presentation Steers had used. Nishioka trained BHIS' staff on April 22.

As testing coordinator, Nishioka was also responsible for completing the 2014 MSP Documentation Form and submitting that form to the District. On April 11, she submitted this

¹³ Nishioka is currently employed as a principal in the Issaquah School District.

completed form to the District. Although Nishioka identified the locked storage location for the test booklets as “Extra Custodian Closet” on the District’s 2014 MSP Documentation Form, the test booklets were never stored in that location.

As the testing began at BHIS, according to Nishioka, the booklets were distributed and collected by name and count.¹⁴ She stated there were very few make-up tests, probably less than five (5). She described using plastic and wire containers to sort the booklets by grade and test, which she distributed to the proctors in the storage closet. The proctors returned the booklets in the same containers to the storage closet. Nishioka reported she removed the booklets from the plastic and wire containers on May 20, and thereafter placed the empty containers in her office. When asked how long the empty containers had been in office, she indicated approximately 4 or 5 hours.¹⁵

Nishioka reported processing the test booklets on Monday, May 19, and stated that all test booklets were accounted for.¹⁶ However, the next day, May 20, when she, Principal Tang, and Helen Finch counted the booklets, two (2) third grade test booklets were missing. According to Nishioka, she left the storage area, returned to her office, and found one of the missing booklets in one of the plastic containers in her office.

¹⁴ Nishioka stated she was absent one day during the testing, Wednesday, May 7.

¹⁵ This statement is illogical and does not comport with evidence from other witnesses. Nishioka stated she packed the booklets in the return boxes on May 19 and the booklets were still in the return boxes when she, Tang and Finch counted and processed the booklets on May 20 for delivery to the District. On May 19, Nishioka reported to Tang the booklets were counted and packed and asked Tang to sign the security assurance report. Tang refused to sign the document indicating that she wanted to process the booklets as scheduled for May 20 with Helen Finch and Nishioka. Sarah Lorimer, a special education teacher, described Nishioka as coming to her classroom on Friday, May 16, “super frustrated” because Tang told her [Nishioka] she could not deliver the booklets to the District on that day. According to Lorimer, Nishioka told her she had counted and packed the booklets and they were ready to be delivered to the District. During her second interview, Nishioka stated she could not recall this conversation with Lorimer.

¹⁶ On May 19, Assistant Principal Nishioka approached Principal Tang requesting Tang to sign the School Site Administration and Security Report, which Nishioka had already signed. According to Tang, Nishioka reported she had counted all the booklets and that all of the booklets for students provided accommodations were appropriately marked with SPED or ELL accommodations. Tang refused to sign and insisted that the booklets be processed the next evening with Finch’s assistance.

Nishioka denied reviewing or making changes to any of the booklets. While she initially admitted that the test booklet found in her office was that of FERPA ██████████, she later in the interview denied that it was FERPA ██████████'s booklet.¹⁷ She stated that the booklet she recovered from her office on May 20 was the booklet of another 3rd grade student who did not answer any test questions.¹⁸ Nishioka reported she was aware that the student did not answer any questions because she looked through the booklet when she retrieved it from her office.

4. Nancy Steers (REA State Assessment Coordinator)

Nancy Steers provided training to the testing coordinators at each school using the same power point presentation for everyone. The training lasts about an hour and a half. After the training, Steers provided a copy of the power point presentation to the testing coordinators at each school to make sure same information was presented to school staff that was presented to the testing coordinators.

The first part of the training addressed proctor protocol before and after the testing. Proctors are told first and foremost never to open and read the test items unless providing accommodations for special education students. If accommodation is provided in the form of reading the test items, the readers must agree not to discuss the test items with anyone, including colleagues and family members. The second part of the training addressed a secure storage location, not opening the booklets, and processing the testing booklets. Steers emphasized that she wants everything done the same way in every school.

¹⁷ There is much conflict in the evidence regarding FERPA ██████████ and the handling of his test booklet. During the interview with Principal Tang, she volunteered that the test booklet Nishioka retrieved from her office was not FERPA ██████████'s booklet because his booklet was still missing after Nishioka returned to the storage area with a booklet from her office. According to Helen Finch, who was also present in the storage closet on May 20, to the best of her recollection, Nishioka returned from her office with FERPA ██████████'s booklet.

¹⁸ This explanation surfaced after it was explained to Nishioka that the FERPA ██████████ test booklet had a high number of erasures and after she was questioned about the erasures, and whether she had altered answers in FERPA ██████████'s booklet. FERPA ██████████'s booklet contained erasures where written answers (as opposed to multiple-choice answers) were changed. Nishioka denied altering answers in FERPA ██████████'s booklet or any other test booklet.

BHIS was scheduled to test on April 29 (4th grade writing) and May 1 (5th grade writing and science). On May 6 the MSP test for Math for grades 3- 5 was scheduled at BHIS. Reading for 3rd, 4th, and 5th grade was scheduled on May 8. The last day for make-up was May 15.

The test booklets were to be returned to the District on or before May 22. Every test booklet distributed to a teacher had to be accounted for. Testing coordinators were told to use a check-off list, and that they should maintain documentation of who received booklets, the number of test booklets each received, and which booklets by name (each booklet arrived at the school with the name and ID pre-printed on the booklet). There was one student at BHIS who did not have a pre-printed booklet containing his name and ID. In that case, the student received a special barcode, and the student's name and student demographic were filled in on the booklet by the testing coordinator. Testing coordinators are also required to provide to the District with accurate information regarding a secure locked storage location for the booklets and the names of individuals who have keys to the locked storage location. They are also responsible for mark the booklets identifying accommodations provided, if any, to each student.

When REA became aware of BHIS' scores, Steers asked Helen Finch for names of students whose scores were exceedingly high based on Finch's knowledge of and familiarity with the students. Finch had taught a number of the students at BHIS. Steers also requested the REA analyst, Brian Gabele, to provide her with a list of students who went from Level 1 to a Level 4. Some of the same students who had been previously referenced by Finch as students with unexpectedly high scores were also on the list compiled by Gabele.

REA asked OSPI to check whether there were any errors in the scoring procedures. OSPI confirmed that the tests were scored correctly.

5. Brian Gabele (REA Analyst)

As Brian Gabele was preparing materials for leadership conference in August, he pulled the data from the State student data, aggregate by grade level at the school, look at the aggregate "Met Standards by schools. BHIS stood out as the only school that met standards by 99%. BHIS went from 66% Met Standards to 99% Met Standards, a real anomaly. Gabele wanted to

determine if there was some error. The third graders had no prior level. However, he could see the prior level scores for 4th and 5th graders. Gabele put together a list of students who were level 1 in 2013 and level 4 in 2014, and submitted this sample to OSPI for review.

6. Po-yuk Tang, BHIS Principal since 2013-14 School Year

Principal Po-yuk Tang was interviewed twice and her union representative, Spencer Welch, was present during interview on both occasions. Both Tang and Welch agreed to allow the interview to be recorded. Tang has been employed by SPS for seven (7) years. She has worked in the District as a principal for two years, previously at Van Asselt Elementary School for one year. Her first year at BHIS was the 2013-14 school year. Tang designated Assistant Principal Michele Nishioka as the testing coordinator at BHIS assistant principals are usually the testing coordinator in the building.

On Monday, May 19, Nishioka approached Tang at approximately 6:30 pm asking Tang to sign the site administration security report so that Nishioka could return the test booklets to the District the next day. Tang asked whether all the books were accounted for and whether all the SPED and ELL booklets where accommodations had been provided been marked for type of accommodations provided, if any. According to Tang, Nishioka reported that all the SPED booklets had been marked as Level 2 passing, and that she had tripled checked the booklets with Sarah Lorimer, and Helen Luk, both SPED teachers.¹⁹

Tang, Nishioka and Finch were scheduled to process the booklets on Tuesday, May 20, after school. Tang told Nishioka that they would still meet the next day and double count and process the booklets for delivery to District. Tang was unsure whether Nishioka approached her on Friday, May 16, asking her to sign the security report so that she [Nishioka] could deliver the booklets to SPS.²⁰ Tang told Nishioka she wanted to wait and count the booklets with Helen Finch which was scheduled for the next day.

¹⁹ The testing coordinator appropriately marks each booklet with the accommodations provided SPED and ELL students on a page in the back of each booklet.

²⁰ According to Sarah Lorimer, Nishioka approached her on May 16, “super frustrated,” because she [Nishioka] wanted to deliver the test booklets to the District that day and Tang had said no.

On Tuesday, May 20, Tang, Nishioka, and Helen Finch met in the storage closet and began processing the test booklets. Each person counted the booklets by grade level, one person per grade. Initially seven (7) fourth grade booklets were missing. These booklets had been placed in the wrong box and were later discovered in 5th grade box. Two (2) third grade booklets remained missing after discovering the misplaced 4th grade booklets. The three staff members conducted repeated counts of third grade booklets. Nishioka indicated she would go look in her office and in the classroom. The 3rd grade student names were checked off to determine whose booklets were still missing.

Nishioka returned to the storage closet with one test booklet found in her office. Tang reported that Nishioka said she forgot about the booklet. Tang speculated that Nishioka might have said the missing booklet was a make-up test, and had left the booklet in her office.²¹ Tang did not recall the identity of the student whose booklet was found in assistant principal's office.

According to Tang, after checking off the name of the 3rd grade booklet found in Nishioka's office, FERPA's booklet remained missing. Tang reported she and Finch left the storage closet to greet parents who were MPR-A that evening for a school event. Later, Nishioka came out of the storage closet and said she had found the last booklet, FERPA's booklet. Tang asked where she had found the last booklet. Nishioka said it was on the shelf. Tang seemed perplexed by this response stating they looked everywhere in the storage closet for the booklet and could not find it. All the booklets were accounted for at this point.

Tang was questioned about her activities in the building on Sunday, May 18, when she spent over 5 hours in the building.²² She explained that she is in the building every Saturday. When reminded that this was a Sunday, she indicated that she is in the building every weekend.²³ She did not recall what she was doing that weekend, nor did recall seeing anyone who had

²¹ Nishioka did not report conducting any make-up tests in her office nor did she report that the test booklet found in her office was a make-up test.

²² See Section 19 of this report.

²³ The Security Logs show Tang in the building on May 11 and May 18, both Sundays. On May 11 Tang was logged into the school building about 3 hours. She indicated she was out on town attending a conference May 7-9.

keys to the storage closet present in the building on May 18. Tang denied doing anything with the test booklets and denied going into the storage closet on that occasion. She further denied having any access to the test booklets between May 8 and May 20, other than on May 19 when she and the others counted and processed the booklets for delivery to the District. Tang later admitted she might have seen some booklets but she could not remember. She denied making any changes to any of the booklets. She reported she had no suspicions of who might have changed the answers in the test booklets or why anyone would do such a thing.

Tang described the following incident relating to [REDACTED]'s booklet.²⁴

A: “We remember [REDACTED]'s booklet because when we did the test, [REDACTED] finished in like 20 minutes. Helen Finch was part of the proctor so she took that book and she came to both Michele and I in the computer lab. Helen said [REDACTED] finished in 20 minutes. Helen flipped through it and didn't see any short answers. Nothing writing on it. Just blank blank when Helen flipped through the book. Helen came and asked us should we make him finish it. We were debating. And I said, he already finished and turned in the book. If he turn it in, not supposed to do that. So I make a decision. No. Put it in...”

Q: Did you look at examine the booklet, [REDACTED]'s booklet?

A: No. But Helen has it so, yeah, we flipped through it. I kind of flipped through it together with Helen, and Michele too, the three of us were there.

Helen Finch was re-interviewed after Tang's interview. Finch did not proctor the exam that [REDACTED] completed in 20 minutes. She was very clear that it was Tang who reported to her that [REDACTED] completed the test in 20 minutes and further told Finch that there was no writing in his booklet where he was supposed to fill in short answers. Tang asked Finch if [REDACTED] should be directed to work further on the test. Finch told her no, that the test booklet should not be returned to the student after he had turned it in as completed. According to Finch, to the best of her recollection, it was [REDACTED]'s booklet that Nishioka brought back from her office. Finch could not recall the name of the other male third grader but recalled that it was a Hispanic name to the best of her recollection.

²⁴ This is a nearly verbatim transcription of excerpts from Tang's recorded statement without changes or corrections. Some words were difficult to hear.

Nishioka was also re-interviewed after Tang's two (2) interviews. According to Nishioka, the only conversation she had with Tang about students finishing the testing early had to do with students being proctored by the substitute teachers who all seemed to finish earlier than the other students. She denied having a conversation with Tang about FERPA's booklet. Nishioka recalled having a conversation with someone in the back of B pod who was concerned that FERPA had finished his test so quickly. She said it was not Tang but that it might have been Judy Eng.

Tang denied looking at or "flipping through" the test booklets of any other students.

7. Sarah Lorimer (Special Education Teacher at BHIS)

Sarah Lorimer began teaching at BHIS in school year 2013-14. She is a special education teacher for fourth and fifth graders. All of her students have individual education plans ("IEP"). In 2014, she proctored fourth and fifth grade students for the reading, math, writing, and science exams.

On May 12, Lorimer emailed Nishioka asking to review her students' test booklets to make sure they had been marked correctly for accommodations. On May 15, Lorimer, Nishioka, and Le Ngo, another special education instructor, met and reviewed the student booklets to ensure they were appropriately marked. At the time of their review, the booklets were in boxes on the shelves in the storage room. After checking the fourth and fifth grade booklets, they returned the booklets to the boxes.

The next day, May 16, Nishioka came to Lorimer's classroom. Lorimer described Nishioka as "super frustrated" because she wanted to deliver the test booklets to the District on May 16 and Principal Tang would not allow Nishioka to do so. Nishioka told Lorimer that Tang took the booklets from her at that time. Lorimer understood from Nishioka that Tang had possession of the booklets from May 16 until they were delivered to the District although she [Lorimer] never saw the booklets in Tang's possession.²⁵

²⁵ During her interview, Nishioka did not report that Tang had taken possession of the test booklets or otherwise removed the booklets from the storage closet. During her second interview, Nishioka stated the test booklets

Lorimer identified the following students whose academic performance she was familiar with and who went from a Level 1 in 2013 to a Level 4 in 2014 on the MSP:

FERPA was a fifth grader in SY 2013-14 who was both ELL and SPED. He required accommodations for the math exam. The accommodation provided to him was that the questions were read to him. Lorimer described this student as very bright and strong in math, but needed assistance in reading. In 2013, **FERPA** was reading at a Level K, which is an early to mid-second grade level. By the end of May 2014, he was reading at a Level P, the end of 3rd grade reading level. Lorimer would have guessed that **FERPA** would have moved from Level 1 to Level 2 on the MSP, but not to a Level 4.

FERPA was a 4th grader in SY 2013-14, and another ELL and SPED student. Lorimer provided accommodations during the MSP testing to this student via scribing, i.e., writing the student's responses in the test booklet. Lorimer described the student as having very low math skills. Based on the student's answers to the test questions, Lorimer described the student as "clueless" about the information the questions were seeking.

FERPA was a 4th grader in school year 2013-14, and was also an ELL and SPED student. Lorimer described her as one of the worst impacted student she had. However, Lorimer stated the student was a good guesser and could have guessed her way to a Level 2. The student qualified for SPED on May 19, 2014, after the MSP tests. When Lorimer first met the student, she was reading at a level D, kindergarten level. By the end of May 2014, she was reading at a Level O, which is the mid-third grade reading level. Lorimer stated **FERPA** may have tested in another room or with a small group, not in the class she proctored. She predicted that this student was more likely to have received a Level 2 on the 2014 MSP.

FERPA was a SPED and ELL 4th grade student. Lorimer described the student as having very low math skills and particularly weak comprehension in reading. In checking his reading scores, this student went from a level JK, which is reading at the beginning of second grade, to a level N, which is beginning of third grade reading level in May 2014.

remained in the storage closet until they were loaded in her car on May 22, immediately prior to leaving BHIS to return the booklets to the District.

8. Natalie Long, BHIS Family Support Worker

Natalie Long is the Family Support Worker at BHIS. She has been employed at BHIS for approximately eighteen (18) years. Long denied having any knowledge of anyone changing student answers on the test booklets or otherwise tampering with the test booklets. Long also denied entering the storage closet during the time the test booklets were stored in the closet.

9. Jennifer Clifford, Former BHIS Substitute Teacher

During school year 2013-14, Clifford worked as a substitute third-grade teacher at BHIS. Clifford proctored the MSP 3rd grade Reading test. Clifford reported that BHIS teacher, Judy Eng, was scheduled to proctor the student [REDACTED]. However, on the day of the test, Eng told Clifford that she [Eng] was unable to proctor the test for [REDACTED] because another student needed her services more. It was arranged that during the exam, [REDACTED] would sit at a table in the middle of the two third grade classrooms proctored by Clifford and 3rd grade teacher, Beth Alexakos.

Clifford reported that [REDACTED] completed the test very early and turned the test booklet in to her, which she placed in the same basket the booklets were in when she picked them up from Nishioka. All of the students in Clifford's class completed their tests before lunch. Clifford returned the test booklets to the storage closet where she originally picked up the booklets. She described the procedure used to pick up and return the booklets. Former Assistant Principal Nishioka and Clifford counted the number of booklets given to Clifford for the test. When Clifford returned the booklets at the end of the test to the storage closet, Nishioka was present and they counted the booklets being returned. Upon counting Clifford's booklets, they discovered the extra test booklet in the basket, which was [REDACTED]'s test booklet. Clifford described Nishioka flipping through [REDACTED]'s booklet, whereupon she [Nishioka] looked upset and stated, "This is unacceptable." When Clifford left the storage area, Nishioka was still holding [REDACTED]'s booklet in her hand.

Later that day, Judy Eng approached Clifford. Visibly agitated, Eng told Clifford that she and Nishioka had looked at [REDACTED]'s test booklet and that he had not completed 1/3 of the test.

Clifford responded to Eng by stating she would not know that because she did not look at the booklet.²⁶ Eng replied, “I did.”

During her second interview, Nishioka did not deny the statement and conduct attributable to her by Clifford. She said she could not recall talking to Clifford or whether Eng was originally scheduled to proctor FERPA’s test on that occasion.

During her second interview, Eng denied telling Clifford that she and the assistant principal had looked through FERPA’s booklet, stating she did not recall how she knew that FERPA had finished very quickly or who told her that.

10. Beth Alexakos, 2nd and 3rd Grade Literacy Teacher

Beth Alexakos has been employed by the District for approximately twelve years. She has worked at BHIS for approximately eight years, where she teaches 2nd and 3rd grade literacy. Alexakos served as a proctor during the 2014 MSP tests where she proctored the 3rd grade reading test, along with substitute teacher Jennifer Clifford. FERPA was initially scheduled to be proctored by Judy Eng. On the day of the exam, Alexakos and Eng decided it would be better to have FERPA tested in the area near Alexakos, sitting at a table alone so that he would not disturb other students. Eng would proctor another student whom they determined needed more attention than FERPA. FERPA’s test booklet was not among the booklets distributed to Alexakos for her class. She believes it was provided to Clifford.

Alexakos reported that a large number of the students being proctored by Clifford completed the test much sooner than the students being proctored by her. She noted that FERPA finished very quickly and she assumed Clifford collected his test booklet. She did not collect or turn in FERPA’s test booklet. Some of Alexakos’ students finished the test before lunch and she turned those booklets in as soon as possible. She could not recall exactly whom she gave the earlier completed test booklets to, but believes that she gave them to either Helen Finch or Michele Nishioka after counting off the completed booklets. The remainder of her students who

²⁶ Clifford explained that she attended the 2014 MSP Proctor Training taught by Nishioka at BHIS. She stated the training was clear that staff was not to read the test items.

had not completed the test before lunch remained in the room and had lunch at the table where [REDACTED] previously had been taking his test.

Alexakos described a conversation she had with teacher Judy Eng who approached Alexakos the day after the test. She indicated that Eng was upset and told Alexakos that she [Eng] and former assistant principal Nishioka had looked through [REDACTED]'s test booklet and that [REDACTED] had answers that were blank. Eng told Alexakos that she was supposed to watch [REDACTED] and take care of him. Feeling attacked, Alexakos told Eng she [Alexakos] understood that she was not supposed to read the test items and reminded Eng that she should not have been reading the student's test booklet. Alexakos later shared with Jennifer Clifford her conversation with Eng. Clifford indicated she earlier had had a similar conversation with Eng.

Eng reported she did not recall having the above described conversation with Alexakos.

Alexakos reported that she did not have any communications with either Principal Tang or Assistant Principal Nishioka about [REDACTED]'s test booklet or any other student's test booklet. She did not observe or hear anything about the test booklets until the information about the testing irregularities were reported to BHIS staff in August 2014.

11. Judy Eng, BHIS ELL Teacher

Judy Eng has worked at BHIS for approximately nine years. She has taught ELL's for the last six years. Eng does not have a dedicated classroom. Rather she goes into the classrooms for half-hour periods to teach English. Eng stated she proctored one large group of students for MSP tests although she could not recall which tests she proctored.

Judy Eng admitted discussing [REDACTED]'s test booklet with Jennifer Clifford in Clifford's classroom. She stated she knew that [REDACTED] had completed the test very early but did not recall how she knew that. She also did not recall whether or not she was scheduled to proctor [REDACTED]'s test. She expressed concern about [REDACTED] completing the test so quickly and wondered if he had done his best. She said she told Clifford that [REDACTED] "probably" only completed about a third of the test because he had finished so early. She denied reading the test items in [REDACTED]'s booklet and denied telling Clifford she had read the test items in [REDACTED]'s booklet, stating she was just

guessing that FERPA had only completed about a third of the test items. Eng recalled having a discussion with assistant principal, Michele Nishioka, about FERPA completing the test quickly. However, she denied observing Nishioka reading the test items in FERPA's test booklet.

Eng stated she did not recall speaking to teacher Beth Alexakos about FERPA completing his test quickly. She denied telling Alexakos that she had read the test items in FERPA's test booklet. Eng could not recall why she was in the building on Saturday, May 10, or what she did while she was in the building 2 ½ hours on that occasion. Finally, Eng denied having any knowledge of anyone altering the test booklets and denied any involvement in changing test answers in the booklet.

The investigator credits Clifford's and Alexakos' versions of their discussions with Eng, where Eng admitted to them that she and Nishioka read the test items in FERPA's test booklet. Eng was not a credible witness in that she continuously evaded the questions and gave nonresponsive answers to the questions. Moreover, teacher Beth Alexakos corroborated Clifford's version of the conversation with Eng. Alexakos confirmed that Eng had approached her in a similar manner (Eng appeared upset), and that Eng had a similar conversation with Alexakos about FERPA's test booklet. She confirmed that Eng also told her that she [Eng] had read the test items in FERPA's booklet.

12. Susan Currier, Former Substitute Teacher

Sue Currier worked as a full-time third grade substitute teacher at BHIS from April 4 to the end of the school year. She also worked the year before at BHIS as an instructional aide. Currier proctored the Math test. She did not observe or hear of any irregularities regarding the test booklets. She did not have a key to the storage closet where the test booklets were stored. Currier denied changing any test answers and denied having any knowledge of anyone changing the test answers or otherwise tampering with the test booklets.

13. Christopher Hopper, BHIS Head Custodian

Hopper has only been a custodian at BHIS since December 2013. He works the day shift and referred to himself as the head custodian at BHIS. Hopper stated he never saw or handled

the test booklets. He further stated he did not observe anyone moving the test booklets, reviewing the test booklets, or otherwise handling the test booklets. Hopper noted that he had spoken to the Principal and Assistant Principal that BHIS had distributed more than the required number of inside master keys, seven (7) versus the customary three (3).

According to Hopper, other than the custodians, only the principal, assistant principal and head secretary should have inside master keys as he understands SPS' policy. To his knowledge, the following nine (9) individuals were distributed inside master keys which opened the storage closet where the test booklets were kept: Principal Tang, Assistant Principal Nishioka, Main Secretary Cheryl Nitta, Attendance Secretary Diana Furuta, Family Support Worker Natalie Long, Head Teacher Helen Finch, House Administrator Sue Fluegal, and the two (2) custodians.²⁷ Hopper stated he seldom, if ever, entered the storage closet in MPR-A, including entering the closet to clean it.

Hopper was interviewed a second time. During the second interview, he was asked about documentation confirming staff members who left at the end had turned in their inside master keys which had been previously distributed to them. Although Hopper did not have documentation of receiving of the keys, he was certain that he received keys from Sue Fluegal, Helen Finch, and Michele Nishioka. The keys that were previously distributed to Michele Nishioka were redistributed to the new assistant principal. The keys previously distributed to Finch and Fluegal have not been redistributed to anyone.

This SY Hopper began a system of documenting each key that is distributed to staff members. He maintains an envelope for each staff member containing a key log where he records each key number, a listing of the doors each key opens, the date the key was issued, the date the key was returned, the name of the staff person, and a signature line for the staff member to sign the log.

All teachers have a key to the recess doors, a key that opens two sets of doors leading outside to the playground. The recess keys only open those doors and anyone using a recess key

²⁷ During the second interview, Hopper reported he had recently learned that a tenth person a teacher, Mary Logel, also had a key that opened the storage closet in MPR-A, although it was not an inside master key.

to enter the building after hours or on week-end will activate the building alarm. By way of contrast, the outside master key opens the recess doors, the front door, the security door (also on the front of the building), the outside door to the custodian area, and the outside door to CDSA (day care area). The principal, assistant principal, head secretary and the custodians have outside master keys.

Hopper reported that he and the Principal decided during the investigation to change the locks to the extra custodian closet near the front security door and the storage closet where the test booklets were stored in April 16 – May 22. The custodians and the principal have a key to the new locks. Hopper acknowledged that he pushed to change the lock on the extra custodian closet. However, his responses were vague and unresponsive when asked who first raised the issue of changing the lock on the closet door. He repeatedly stated it was a “collaborative” decision between him and the principal. The new keys to the two areas were effective as of October 14.

14. Kevin Snoddy, BHIS Custodian

Snoddy is the evening custodian. He has worked at BHIS also since December 2013. Snoddy reported he had no information pertinent to the investigation, stating he had never seen the test booklets or anyone handling the test booklets. He further stated he never goes into the storage closet where the test booklets were kept before they were returned to the District.

15. Cheryl Nitta, Administrative Assistant (Head Secretary)

Nitta acknowledged that she has an inside master key that fits the storage closet where the test booklets were stored. However, she stated that she had not observed or heard anything regarding anyone tampering with the booklets. She further reported that other than the short period of time the booklets were stored in the back office behind her sitting area, she never saw the booklets again.

16. Diana Furuta, Secretary

Diana Furuta works as an elementary assistant in the main office. She has been employed at BHIS since 2006. Former principal Susan Murphy distributed the inside master key to Furuta about two years ago. Regarding the MSP booklets, Furuta reported that she never saw or handled the test booklets. She stated she never had a reason to enter the storage closet in MPR-A where the booklets were stored. Furuta further reported she never saw anyone in possession of the test booklets or anyone who appeared to be reading or writing in the test booklets. Furuta did not have an outside master key to the building in May 2014.

17. John Shaw, Playground Supervisor

John Shaw is the Playgroup Supervisor at BHIS. He reported that he had a key to the storage closet in MPR-A but he turned in the key in spring 2014, before the MSP testing.

18. Mary Howard Logel, Art Teacher

Mary Howard Logel is an art teacher at BHIS. She reported she has a key to the supply closet in one of the other multi-purpose rooms. Unknown to her, that key also opened the storage closet in MPR-A. She stated she was unaware of that fact until recently. Logel indicated she never had occasion to go into the storage closet in MPR-A. She did not observe any suspicious activity surrounding the test booklets.

19. Bruce Skowya, Facilities Director

Bruce Skowya is SPS' Facilities Director. Custodial services reports to him. He discussed SPS' policy regarding building security and keys. Skowya explained that there is no master master key that opens all doors to SPS' facilities. He indicated that he and the Safety Manager, Ed Liebel, have a security key or an S-1 key which allows them entry into the building through one outside door. The outside door at BHIS which the S-1 key opens is the front security door near the extra custodian closet. Skowya did not use the S-1 key to enter BHIS during school year 2013-14 nor was the key loaned to anyone else in the department during that period. He indicated that he keeps the S-1 key along with other keys on his person.

20. Bob Westgard, Maintenance Manager

Bob Westgard, Maintenance Manager, and Gary Dietz, Supervisor, provided information regarding the warehouse personnel. Seven (7) employees work in the warehouse and 11-13 truck drivers have access to the warehouse between 6 a.m. and 3:30 p.m., Monday through Friday. No one works past 3:30 p.m. No warehouse employee worked past 3:30 p.m. on May 22, the day the test booklets were delivered to the warehouse. A night custodian has a key to the warehouse. However, his entry into the warehouse is monitored by the Security Office.

21. Larry Dorsey, Safety Manager

Safety Manager Larry Dorsey provided security logs from May 8 through May 19, 2014 documenting persons entering school buildings after hours and on week-ends. Dorsey clarified the log entries for May 17 reflecting the activity of Michele Nishioka on that day. He confirmed that Nishioka, according to the log, was in the BHIS building for over 4½ hours on Saturday May 17.

SPS' security log reflects the following activity by Nishioka on Saturday, May 17: Nishioka entered the BHIS building at 8:19 and left at 10:27 (a little over 2 hours). Upon leaving the building at 10:27, Nishioka turned the building alarm back on. She indicated to security that she would be returning at 13:00. However, she returned at 14:56 and advised security that she left her keys in her office. A security personnel (#1405) met her at BHIS and opened the front security door. Nishioka entered the building and returned to her car with her keys at 14:59. However, before returning to her car, she turned off the building alarm. The security personnel left and Nishioka reentered the building where she remained until 17:39 (approximately 2 ½ hours). The building alarm was turned on again at 17:40. Nishioka spent over four and a half (4½) hours in the building on Saturday, May 17.

Attempts to reach Nishioka to question her further about this activity and allow her an opportunity to respond to other items that were reported by other witnesses were unsuccessful.

22. Other Evidence

SPS's Security Department Daily Log Reports show the same three (3) staff members, Principal Tang, Assistant Principal Michele Nishioka, and BHIS Teacher Judy Eng in the school on week-ends after the administration of the tests on the following days:

Saturday	May 10	Judy Eng	2.5 hours
Sunday	May 11	Po Tang	3 hours
Saturday	May 17	Michele Nishioka	@ 4 hours, 47 minutes
Sunday	May 18	Po Tang	5 hours

All denied altering the test booklets at any time but no one offered an explanation of what she was doing in the building on the dates and during the times indicated above. When asked, Tang responded that she is in the building every Saturday.

VI. CONCLUSION

Due to the length of this document and the issues reviewed, the conclusions are briefly summarized in Section III and are discussed in more detail within the analysis section of this report.

EXHIBIT 2

Hannah McFarland

CERTIFIED DOCUMENT EXAMINER

2023 E. Sims Way, #263, Port Townsend, WA 98368

Phone/Fax: 206 526-1941 & 360 379-4062

hannah@writeexam.com www.writeexam.com

DRAFT

March , 2015

Document Examination Report

RE: Examination of Student Test Booklets for Seattle Public Schools

1. Professional and Educational Experience. I am a Certified Document Examiner through the National Association of Document Examiners. I have testified as an expert witness over 60 times in many venues and jurisdictions including Federal and State courts in Washington, Oregon, Idaho and Alaska. Currently, I serve on the Executive Board of Directors of the National Association of Document Examiners.

2. My professional address is 2023 E. Sims Way, #263, Port Townsend, Washington, 98368. As a document examiner, I frequently examine documents for determining authenticity. Most cases involve handwriting identification. My resume is attached as Exhibit A.

3. Reading Test Booklets. I conducted an independent examination of 47 original Grade 4 and 5 Reading - Form A test booklets for Spring 2014 in order to determine if any of the answers in the booklets had been altered by someone other than the student who took the test. After careful examination of these test booklets I found no indications that someone other than the student taking the test altered any of the answers in the test.

4. Math Test Booklets. I conducted an independent examination of 82 original Grade 3, 4, and 5 Math Form A Spring 2014 test booklets in order to determine if any of the answers in the booklets had been altered by someone other than the student who took the test. After careful examination of these test booklets I found indications in the answers of three students that their answers may have been altered by someone other than the student taking the test. Following are these three students.

1) FERPA

2) FERPA

3) FERPA

5. Included in the 82 Grade 3, 4, and 5 Math are 18 students where I conducted a limited examination of a certain section of the test booklets only.

6. When I was last in Olympia on Feb. 27, 2015 to examine original test booklets I requested that I receive a copy of the test booklets of FERPA and FERPA in order to re-examine these booklets. I have not received these test booklets.

7. I compared the test booklets of the three students listed above to original employee files of the following Seattle School District employees.

1) Kevin Snoddy

2) Christopher G. Hopper

3) Natalie Long

4) Diana Furuta

5) Michele Nishioka

6) Susan M. Fluegel

7) Po-Yuk Sarah Tang

8) Helen A. Finch

9) Cheryl Nitta

8) I did not find significant similarities between the handwriting of any of the nine employees and the possible altered sections of the test booklets of the three students listed above. The handwriting samples of each employee provided a satisfactory amount of comparison material for examination of the test booklets of the three students. Therefore, based upon the available evidence it is my professional opinion that the possible alterations of the three student test booklets was not executed by the nine employees listed above.

7. Declaration and Signature.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge. Executed this day of 2015, in Port Townsend, Washington.

HANNAH McFARLAND

EXHIBIT 3

Carl Blackstone

From: Means, Sue <sumeans@seattleschools.org>
Sent: Wednesday, May 27, 2015 9:32 PM
To: Carl Blackstone
Subject: FW: booklets examined

Here is the email I mentioned.

From: Hannah McFarland [hannah@writeexam.com]
Sent: Tuesday, May 12, 2015 3:59 PM
To: Means, Sue
Subject: booklets examined

Dear Sue,

Following is a brief summary of what I did last week at OSPI.

I spent 3 days at OSPI and found 4 booklets that appear altered. I examined 108 Math booklets. However, 18 of these I had previously examined a small section of the books only. I examined 27 Reading books. Of these 126 books I found 4 were likely altered and they were all Math books. I compared all altered books from the examination last week and prior to that to Judy Eng exemplars and my opinion remains the same that there are "indications" she may have written some of the alterations. This is a weak opinion.

Along with time spent in April on this case and this months work I spent 22 hours that I will bill for. My hotel, etc. expenses are \$650 for 2 nights.

Not sure if an authorization for this additional 22 hours work and expenses was obtained. I recall we discussed it before I went to Olympia.

Sincerely,

Hannah

Hannah McFarland, CDE
Certified Document Examiner
2023 E. Sims Way, #263
Port Townsend, WA 98368
Phone/Fax: 206 526-1941 & 360 379-4062
hannah@writeexam.com

EXHIBIT 4

Robert Westinghouse

From: Michele Nishioka [RCW 42.56.230(3)@hotmail.com]
Sent: Tuesday, June 23, 2015 7:22 PM
To: Robert Westinghouse
Cc: Carl Blackstone
Subject: Re: Seattle Public Schools Investigation

Hello,
I didn't receive an e mail, but I did get your phone message yesterday evening. Sorry for the delayed response. I answered questions in October about the events around testing that happened at Beacon Hill. I will call you.
Michele

On Jun 23, 2015, at 4:58 PM, Robert Westinghouse <rwestinghouse@yarmuth.com> wrote:

Michele:

I am following up on an earlier email that we sent to you. We are conducting an investigation for the Seattle Public Schools that is focused on testing events at Beacon Hill Elementary School. We would like to speak with you. Please contact us either by email or at my cell phone (206 718-4542). Thank you.

Bob Westinghouse

<image001.gif>

818 STEWART ST, STE 1400 SEATTLE, WA 98101

T 206.516.3800 F 206.516.3888

D 206.516.3835

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Robert Westinghouse

From: Robert Westinghouse
Sent: Tuesday, June 23, 2015 8:38 PM
To: Michele Nishioka
Cc: Carl Blackstone
Subject: Re: Seattle Public Schools Investigation

Michele:

Thank you. We are aware of the previous interview. The school district has asked us to conduct a separate inquiry, so we would like to speak with you. Please call me. My cell number again is 206 718-4542.

Bob Westinghouse

Sent from my iPhone

On Jun 23, 2015, at 7:21 PM, Michele Nishioka <[RCW.42.56.230\(3\)@hotmail.com](mailto:RCW.42.56.230(3)@hotmail.com)> wrote:

Hello,
I didn't receive an e mail, but I did get your phone message yesterday evening. Sorry for the delayed response. I answered questions in October about the events around testing that happened at Beacon Hill. I will call you.
Michele

On Jun 23, 2015, at 4:58 PM, Robert Westinghouse <rwestinghouse@yarmuth.com> wrote:

Michele:

I am following up on an earlier email that we sent to you. We are conducting an investigation for the Seattle Public Schools that is focused on testing events at Beacon Hill Elementary School. We would like to speak with you. Please contact us either by email or at my cell phone (206 718-4542). Thank you.

Bob Westinghouse

<image001.gif>
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T 206.516.3800 F 206.516.3888
D 206.516.3835
www.yarmuth.com

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EXHIBIT 5

Carl Blackstone


From: Robert Westinghouse
Sent: Monday, August 17, 2015 1:48 PM
To: Michele Nishioka
Cc: Carl Blackstone
Subject: Beacon Hill Investigation

Ms. Nishioka:

As I have explained in an earlier email, I am an attorney in private practice who has been retained by the Seattle Public Schools to conduct further investigation into allegations that standardized tests administered to third, fourth, and fifth grade students at Beacon Hill International School during the 2013-2014 academic year were altered to artificially inflate the passing rate. An earlier investigation was conducted by Curman Sebree, but she was unable to reach any conclusions as to the person or persons responsible. Our investigation has pursued the matter in greater detail. As a result, we have significant concerns regarding your role as the Testing Coordinator. We can only resolve these concerns by speaking with you. If you are unwilling to meet with us, we will reflect this lack of cooperation in our final report. Our report will be provided to the District, but may later be the subject of a public records request.

Please contact me as soon as possible so that we can arrange a meeting. Thank you.

Bob Westinghouse

 **YARMUTH WILSDON PLLC**
818 STEWART ST, STE 1400 SEATTLE, WA 98101
T 206.516.3800 F 206.516.3888
D 206.516.3835
www.yarmuth.com

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EXHIBIT 6

Hannah McFarland

CERTIFIED DOCUMENT EXAMINER

2023 E. Sims Way, #263, Port Townsend, WA 98368
Phone/Fax: 206 526-1941 & 360 379-4062
hannah@writeexam.com www.writeexam.com

August 12, 2015

Sue Means Labor/Employee
Relations Manager, HR
MS 33-180 - PO Box 34165
Seattle, WA 98124-1165

RE: Examination of Math and Reading Test Booklets

Dear Ms. Means:

1. Professional and Educational Experience. I am a Certified Document Examiner through the National Association of Document Examiners. I have testified as an expert witness over 60 times in many venues and jurisdictions including Federal and State courts in Washington, Oregon, Idaho and Alaska.

2. My professional address is 2023 E. Sims Way, #263, Port Townsend, Washington, 98368. As a document examiner, I frequently examine documents for determining authenticity. Most cases involve handwriting identification. My resume is attached as Exhibit A.

3. Assignment. I conducted independent examinations of the following original documents.

1) 208 Mathematics Form A Test Booklets for Spring 2014 for Grades 3, 4 and 5

2) 74 Reading Test Booklets for Spring 2014 for Grades 3, 4 and 5

4. I examined these Test Booklets in order to determine if there were spurious test answers in that they had been altered by someone other than the student who took the test.

5. When examining the Test Booklets I studied the writing habits of how students' wrote numbers and letters. I became acquainted with the specific handwriting habits of each student. When I saw a number, for example, that was erased and replaced with a number that was formed differently than how a specific student habitually wrote that number, I then concluded that someone other than the student wrote the alteration. My examinations of handwriting include examination of speed, fluency, pressure, spacing, alignment and shape of characters.

6. Examination of Math Tests. I found 8 Math Test booklets that may have spurious alterations. Below is a graph of my findings. The degrees of opinions expressed such as "conclusive" or "probably" utilize standard terminology for expressing conclusions of handwriting examinations. An explanation of this terminology is attached as Exhibit B.

1	FERPA	page 12	FERPA probably not by FERPA FERPA
		page 17	FERPA probably not by FERPA FERPA
		page 28	FERPA conclusive not by FERPA FERPA
2	FERPA	page 15	FERPA probably not by FERPA FERPA
3	FERPA	page 28	FERPA conclusive not by FERPA FERPA
4	FERPA	page 27	FERPA probably not by FERPA FERPA
5	FERPA	page 15	FERPA conclusive not by FERPA FERPA
6	FERPA	page 14	FERPA indications not by FERPA
7	FERPA	page 15	FERPA probably not by FERPA FERPA
8	FERPA	page 25	FERPA indications not by FERPA FERPA

7. Many of the opinions expressed above are not conclusive. This is because some tests did not have a lot of instances where a specific number was repeatedly written. For example, my opinion that FERPA "probably" did not write the FERPA in the answer FERPA on page 15 is because there were only three other instances of FERPA in FERPA's test for comparison. The differences between the questioned FERPA on page 15 and the other three FERPA (exemplars) in his test were very persuasive. However, no one writes exactly the same way all of the time. In order to have a solid basis for a conclusive opinion that the questioned FERPA was not by FERPA more than three exemplar FERPA are needed. Thus, my qualified opinion that FERPA "probably" did not write the FERPA on page 15 reflects the low number of exemplar FERPA's".

8. It is quite possible that there are many more alterations in addition to what I detected in the Math Test Booklets. Many test answers consist of only one or two numbers. For example, a test answer that was erased and replaced with a number "1" often did not have many or any features that vary from the norm. Thus, I could not identify who did or did not write this "1". Undetectable spurious multiple-choice test answers also could have been easily made because of the simplicity of filling in a circle when answering a multiple-choice question.

9. Examination of Reading Tests. I found no evidence that the Reading Test Booklets were altered by someone other than the student taking the test.

10. Answers for the Reading Test Booklets are often many sentences long. Identifying who wrote a word, sentence or paragraph is much more feasible because a sentence or paragraph provides many more handwriting characteristics to compare than one or two numbers do. This presents a much greater challenge for someone spuriously attempting to alter a test answer than an answer that is one or two digits long. A person making spurious alterations may have intentionally avoided making alterations in the text sections of the Reading Test Booklets in order to avoid being detected.

11. As with the Math Test booklets many undetectable spurious alterations could have been easily made in the multiple-choice sections of the Reading Test booklets.

12. After examining 74 Reading Test Booklets and finding no evidence of alterations, it was decided that it was not useful for me to examine additional Reading Test Booklets.

13. Illustrations. I prepared two exhibits that graphically illustrate the bases for some of my findings. They are attached as Exhibit C and D. These exhibits are not exhaustive in that they do not illustrate all of my findings. More exhibits could be prepared if requested.

14. Comparison with Seattle School District Employees. I compared the 8 Math Test Booklets spurious alterations with original personnel files of the following employees. Most of these files were randomly selected.

- | | |
|-----------------------------|-----------------------|
| 1) Alexakos, Elizabeth A. | 17) Landretti, Jill |
| 2) Black, Julie | 18) Lewicki, Patricia |
| 3) Chen, Stephanie | 19) Li, Jingwen |
| 4) Daniel, Nisha | 20) Logel, Mary |
| 5) Duncan, Ashley | 21) Long, Natalie |
| 6) Eng, Judy | 22) Lorimer, Sarah |
| 7) Finch, Helen A. | 23) Luk, Helen |
| 8) Fluegel, Susan | 24) Matsuda, Sheila |
| 9) Foster, Shannon | 25) Nishioka, Michele |
| 10) Furuta, Diana | 26) Nitta, Cheryl |
| 11) Grau-Rodriguez, Guiomar | 27) Okada, Kyle |
| 12) Graves, Heather | 28) Pickard, Andrew |
| 13) Hayes, Trish | 29) Poux, Katherine |
| 14) Harvey, Rachel | 30) Ritzer, Katherine |
| 15) Hopper, Christopher G. | 31) Snoddy, Kevin |
| 16) Kim, April | 32) Tang, Po-Yuk |

33) Thompson, Mary

15. Results of Examination. I was not able to identify an employee as having written the spurious alterations. I found some similarities between some employees' handwriting and the spurious alterations but they were woefully inadequate to conclude that a specific employee wrote any of the alterations.

16. Unusual handwriting characteristics occurred in some of the student handwriting. This provided evidence to conclude that some student test answers had been erased and the answer written by someone other than the student taking the test. If unusual handwriting characteristics had occurred in the spurious alterations then it would have been much more feasible to identify who wrote the alterations.

17. Declaration and Signature.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge. Executed this 12th day of August, 2015, in Port Townsend, Washington.


HANNAH McFARLAND