



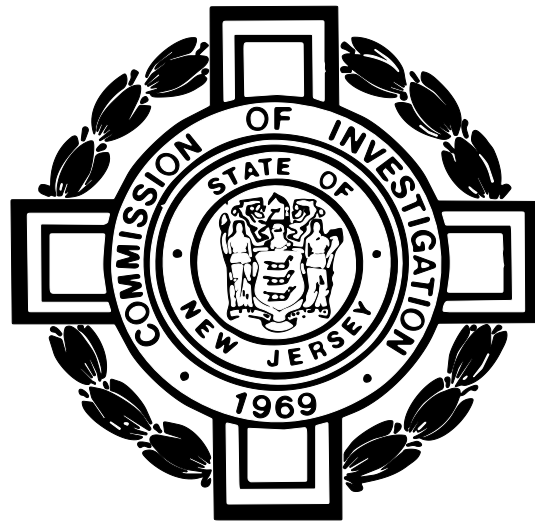
State of New Jersey
Commission of Investigation

SCHOOLS
DEVELOPMENT
AUTHORITY, PART II

**Restoring Accountability, Integrity and
Oversight to the Management
of New Jersey's School
Construction Program**

June 2021

*State of New Jersey
Commission of Investigation*



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AUTHORITY, PART II
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Construction Program**

SCI
50 West State St.
P.O. Box 045
Trenton, N.J.
08625-0045
609.292.6767

www.state.nj.us/sci



State of New Jersey

COMMISSION OF INVESTIGATION

50 WEST STATE STREET

PO Box - 045

TRENTON, NEW JERSEY 08625-0045

Telephone (609) 292-6767

Fax (609) 633-7366

Joseph F. Scancarella

Chair

Robert J. Burzichelli

Rosemary Iannacone

Kevin R. Reina

Commissioners

Chadd W. Lackey

Executive Director

June 2021

Governor Phil Murphy

The President and Members of the Senate

The Speaker and Members of the General Assembly

The State Commission of Investigation, pursuant to N.J.S.A. 52:9M-1 to -20, herewith formally submits the final report of findings and recommendations of its investigation into the construction oversight and administrative operations of the New Jersey Schools Development Authority.

Respectfully,

Handwritten signature of Joseph F. Scancarella.

Joseph F. Scancarella

Chair

Handwritten signature of Robert J. Burzichelli.

Robert J. Burzichelli

Commissioner

Handwritten signature of Kevin R. Reina.

Kevin R. Reina

Commissioner

Handwritten signature of Rosemary Iannacone.

Rosemary Iannacone

Commissioner

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Executive Summary

The New Jersey Schools Development Authority (SDA) is entrusted with upholding a noble mission: ensuring that students in the state's poorest districts have access to school facilities that are educationally adequate, safe and on par with those available to their peers in higher-income communities. To date, it has built or upgraded more than 850 schools and provided new classroom spaces for more than 70,000 students in districts across all of the state's 21 counties.

The obligation to carry out that mission is constitutionally mandated, and more than 20 years since the creation of New Jersey's School Construction Program, its necessity has not diminished. Recent estimates indicate 18,000 new seats are needed to replace outdated, overcrowded and, in some cases, crumbling schools in low-income districts where many schools are more than 90 years old.

Yet, throughout its two-decade existence as a steward of public monies designated to providing educational opportunities for the neediest school children in the state, the standalone government entity – known first as the Schools Construction Corporation (SCC) and later the SDA – has been plagued by spotty and inconsistent top professional construction leadership and management. Over that time, during both Democratic and Republican administrations, it has had nine different Chief Executive Officers, with only three having professional construction or engineering experience.

As a result, throughout its existence, both the SDA and its predecessor have lacked consistent organizational leadership and meaningful oversight to provide a system of checks and

balances for the management of public school construction projects, the land it owns and for the smooth and fiscally responsible operation of the Authority at-large.

The most recent managerial maelstrom at the SDA – the brief but tumultuous tenure of its most recent former leader – was detailed in a State Commission of Investigation report issued last fall. It revealed how breakdowns in oversight mechanisms at various junctures, or the failure to install them in the first place, enabled then-CEO Lizette Delgado-Polanco to carry out a series of questionable administrative actions, including the hiring of close friends and family members – some with little to no qualifications – for high-paying government jobs. But aside from its history of well-documented administrative foibles, little has been publicly detailed on whether the SDA has adequately fulfilled its most basic and essential function: the management and funding of educational facilities projects across the state.

To more deeply and fully understand how the SDA has executed a constitutionally-mandated responsibility, the Commission investigated its operational inner-workings, including its efforts to hold down costs. It included the examination of numerous school projects completed by the Authority, the policies and procedures dictating the construction process and its management of contractors, including architects, engineers and construction firms. The inquiry also included a review of the SDA's oversight of its expansive portfolio of real estate purchased for future projects, many of which failed to materialize, and recent dispositions of dozens of those properties.

Rather than just isolated missteps of one political appointee, the Commission found the recent failed leadership of Delgado-Polanco is illustrative of the larger problems of inconsistent

and questionable management, policies and practices at both the SDA and the SCC. Those factors have led to it posting a spotty two-decade record of:

- School contracting oversight and processes that have lacked consistency, integrity and a willingness to weed out bad contractors.
- Wasteful and neglectful management of dozens of properties that resulted in losses of tens of millions of dollars and left some communities blighted.
- Numerous shoddy school construction projects and costly construction errors scattered around the state have left long-running legacy impacts for local districts, students, and local and state taxpayers.

The findings made in this report concerning a history of uneven management, operation and fiscal stewardship by the SDA highlight and underscore the need for additional mechanisms for stronger oversight, accountability and transparency. Without further reform, the public cannot be confidently assured that the SDA can consistently and successfully serve as a capable and trustworthy custodian of public tax dollars and deliver high quality, professionally designed and constructed schools that enrich the academic learning environment for New Jersey public school students.

The Commission's revelations come as the Legislature contemplates and deliberates whether to authorize a new round of substantial public funding for the nearly broke Authority or whether it should eliminate its existence altogether. Some lawmakers have suggested the SDA be dismantled like the SCC, the troubled entity that preceded it, and its functions placed under

the purview of another government entity.¹ Currently, the SDA's resources are finite. It currently has enough cash on hand to finish the 11 capital projects committed through 2025 and make repairs to address emergent public health and safety concerns at existing facilities.

As of late, the SDA has launched reforms aimed at steering the Authority away from unprofessional practices and the distractions of its public scandals and back toward its core legislated responsibilities. Following the revelations of improper hiring practices and other mismanagement under its former CEO, the SDA Board adopted measures to strengthen its oversight of various administrative matters. While these efforts demonstrate good faith efforts by the SDA to address deficiencies and install defenses against further abuses, more formalized and far-reaching statutory and internal reforms are required to safeguard the SDA from the questionable practices and associated problems that have befallen it in the past. This will ensure the State's massive and constitutionally mandated school construction program properly functions, operates with integrity and fiscal responsibility to the public it was created to serve.

Vital to this end will be restoring and fortifying the public's trust with the creation of robust internal and external mechanisms that provide meaningful oversight and accountability without piling on additional layers of bureaucracy or slowing down the progress of much-needed school construction projects. A primary component of any reform must include establishing a process that keeps the appointment of its CEO free from political intrusion and ensures only the best and most qualified candidates are considered for the position. Another critical element of

¹ S.859 (2020), sponsored by Senate President Steve Sweeney, D-Camden and Sen. Kristin Corrado, R-Passaic, would eliminate the SDA and transfer its responsibilities to the Economic Development Authority. A. 1449 (2020), sponsored by Assemblywoman BettyLou DeCroce, R-Morris, and Assemblyman Christopher DePhillips, R-Bergen, would transfer the school construction duties to the Division of Property Management and Construction in the State Department of the Treasury.

any reforms should address restoring credibility to its construction oversight responsibilities to make certain accountability standards for contractors are upheld. Only with the adoption of and commitment to these and further reforms, detailed at the end of this report, can the Authority provide assurance to the Governor, members of the Legislature and New Jersey's taxpaying citizens that it is fully capable of satisfactorily delivering the mandate it is legally obligated to fulfill.

Background

The SCC was created in 2002 to carry out the state's School Construction Program started in response to the New Jersey Supreme Court's 1998 decision in *Abbott v. Burke*, which required every school building in the state's poorest districts be made safe and educationally adequate.² The landmark series of rulings that followed eventually led to the adoption of the Educational Facilities Construction and Financing Act in 2001, which authorized up to \$12.5 billion in taxpayer-funded bonds to fund remediation and construction projects across the state. Of this total, \$8.9 billion was designated for improving facilities in the 31-lowest-income school districts, with the remainder going to construction projects in regular operating districts and vocational schools.³

A mere five years after its creation, the SCC was dismantled following widespread waste, abuse and mismanagement. In its brief existence, not only had the SCC squandered hundreds of millions of dollars on cost overruns and overpayments to contractors, but it also earned a reputation as a home for the politically-connected. It was entirely out of money within its first

² *Abbott v. Burke*, 153 N.J. 480 (1998)

³ N.J.S.A. 18A:7G-1 to -30 and 57 to -71

year of operation after blowing through approximately \$8.6 billion allocated in the initial round of school construction funding.

The formation of the SDA in 2007 was effectively a new start for the administration of the statewide school construction program. On paper, the law that created the Authority infused it with enhanced governance and internal controls.⁴ However, in reality, it failed to augment any meaningful oversight of its operation. It did little to boost the Board's power or give it a true watchdog role over the CEO or executive team actions. Soon after its creation, the Legislature authorized another \$3.9 billion in funding, enabling the SDA to carry on its mission. In the next decade, despite having four different CEOs and limited internal and external supervision of its activities, it largely operated under the radar while continuing to renovate and build schools across New Jersey.

But that all changed when questionable actions inside the Authority once again became the subject of headlines soon after Delgado-Polanco became CEO in August 2018. Just weeks into her tenure, Delgado-Polanco had already fired more than a dozen long-time employees, hired unqualified friends and relatives to government jobs, and changed the entire reporting structure of the Authority. Those activities would ignite a colossal scandal at the SDA resulting in legislative hearings, two independent legal inquiries and an audit to find the underlying cause. Nine months after taking over as CEO, Delgado-Polanco's tenure at the SDA would end with her resignation on

⁴ The law increased the Board membership from seven to 11 and required members to have a background in construction, education and finance.

April 23, 2019. But the fallout from that turbulent time and the weaknesses it exposed in the internal and external oversight of the Authority's operations endure.⁵

Construction Oversight

The Authority's core responsibility is to fully fund and manage school construction projects for the 31 neediest districts, known as the SDA districts.⁶ It also provides grants and undertakes construction projects in regular operating districts under a cost-sharing arrangement set under statute.⁷ It manages every phase of the school construction process, beginning with the initial planning, acquisition of property and design stages to selecting the firms that will perform the construction work, managing construction and overseeing a project's completion. Its current portfolio of construction projects and properties across the state is worth an estimated \$2 billion.

The SDA is legally required to compare its expenses with similar educational facility construction projects built in the New York City and Philadelphia metropolitan areas.⁸ In its most recent comparison, the SDA reported its costs were close to or below those in neighboring metropolitan areas. However, the SCI's analysis of construction expenses over the past 10 years found it cost 24 percent more for the Authority to build elementary schools and 16 percent more to construct middle schools than similar projects undertaken independently by regular operating

⁵ The SDA Board appointed Manuel Da Silva, then Vice President of Construction Operations, to serve as the interim CEO in May 2019. He was elected to serve as the permanent CEO in December 2019.

⁶ These districts were previously known as the "Abbott districts."

⁷ N.J.S.A. 18A:7G-5

⁸ N.J.S.A. 18A:7G-24

districts in New Jersey.⁹ The SDA's costs for high school construction projects were 15 percent less than those built by regular operating districts.

Each year, the Authority produces a statewide strategic plan, known as its capital plan, outlining the construction projects it will undertake each year in both SDA and regular operating districts. It utilizes information submitted by all 584 operating school districts to the state Department of Education (DOE) every five years on projected enrollments, conditions of existing facilities and other data related to its student population. The DOE identifies where new or upgraded facilities are most needed from that data, prioritizing severe deficiencies related to overcrowding and aging infrastructure among the SDA districts.

All Authority projects are advertised through a public bidding process.¹⁰ Contractors or professional services consultants, including architectural, engineering, construction management, material testing laboratories, and other related consulting services, must be prequalified by the SDA for eligibility to bid on projects.¹¹ These firms must be registered with the Division of Property Management and Construction in the Department of Treasury and submit to a background check, hold a valid business registration with the State and meet other requirements set by law for public contractors. In its evaluation of bids, consideration is given to

⁹ The analysis compared the expenses for 20 SDA projects (14 elementary schools, four high schools and two middle schools) as listed on the Authority's website with public source information on eight projects undertaken by regular operating schools (three elementary, two specialty high schools and three middle schools).

¹⁰ Since 2008, the Office of the State Comptroller has performed pre-bid reviews of SDA procurements above \$10 million. N.J.S.A 18A:7G-13.1

¹¹ Any subcontractors or subconsultants who hold a contract in excess of \$500,000 must also be pre-qualified by the SDA.

price. Still, the SDA is legally permitted to evaluate other factors, including requisite experience, specialized knowledge, and evaluations based on the contractor's prior work for the Authority.

Contractor Performance Evaluations

The SDA is required by law to conduct contractor performance evaluations that, at a minimum, consider cost, schedule adherence and work quality.¹² Any contractor who receives an unsatisfactory evaluation is given an opportunity to respond to it. Under the rating system used by the Authority, any contractor or contracting firm receiving an overall score below 80 – the lowest rating considered satisfactory – faces a penalty that reduces a firm's access to more lucrative contracts.

The Commission found that the SDA's current contractor performance evaluation process, while more expansive in scope and frequency than required under law, was unreliable and did not always provide an accurate picture of a firm's work quality. An analysis of 138 contractor evaluations conducted between 2005 and 2020 found it was unusual for a firm to receive overall scores below satisfactory ratings, with only three percent receiving below an 80.¹³ The average rating given to contractors was 81.8. Only one firm, Tamburro Bros., the general contractor on the problem-riddled Egg Harbor Community Middle School project, received scores far below satisfactory. Other contractors received satisfactory overall scores despite serious safety problems. A general contracting firm overseeing a smoke suppression system retrofit at Paterson International High School between 2012 and 2014 received marginal safety ratings in

¹²N.J.S.A. 18A:7G-36 and N.J.A.C. 19:38

¹³ The performance evaluations were from various construction projects overseen by the SCC and SDA.

two separate evaluations, including one that noted unsafe working conditions sometimes put workers in harm's way. Despite those concerns, handwritten notes accompanying the evaluation indicate the firm's overall score was later adjusted to 80 after evaluators increased the firm's score to satisfactory levels for maintaining "a safe job site with little or no stop work orders which could cause delays in work schedules" following a challenge from the contractor protesting the findings. In another instance, evaluators found the quality of work – arguably the most important factor under consideration – performed by a firm doing construction work at a middle school in Irvington in 2014 was subpar. Still, SDA personnel later boosted the firm's overall score to satisfactory due to its higher performance in other areas.¹⁴ Further, timeliness was an ongoing concern with the evaluations. The Commission found evaluations were sometimes not completed until long after the period under review ended.

The documents bolstered allegations Commission investigators heard from SDA personnel that contractor performance evaluations were untrustworthy, were not taken seriously, and rarely resulted in consequences for poor performing contractors. Scores below 80 were unusual because they required extensive documentation from evaluators to support it. Sometimes there was internal pressure from management to elevate marginal scores to satisfactory levels to prevent pushback from contractors or, in the case of poor performance discovered during an ongoing project evaluation, there were fears that terminating a contract for cause could derail a project.

¹⁴ In addition to cost, schedule adherence, and work quality, the SDA also considers a contractor's project management, safety, management of subcontractors, and compliance with Affirmative Action and Small Business Enterprises that encourage firms to hire subcontractors owned by minorities, women and disabled veterans.

If conducted accurately and adequately, contractor performance evaluations are a valuable tool to hold contractors accountable and ensure that only firms that perform high-quality work remain eligible to secure future public contracts with the Authority. But the evaluation process required by state law has been debased, rendering the overall ratings given to contractors meaningless and leaving the SDA with damaged integrity to assure the public that it can effectively supervise contractors on its projects and safeguard limited and valuable public resources.

Construction Deficiencies

The Commission found some construction projects managed by the SDA through the years have been plagued by repeated, and sometimes avoidable, building-related problems that continue to perplex and run up costs for local districts years after the work is complete and schools opened. Most troubling are the deficiencies involving the failure of essential building systems – including heating and cooling, electrical and fire protection – that are supposed to keep the school children and staff inside the facilities healthy and safe. While the Authority often pursued and won legal claims against negligent contractors after the fact, its real-time internal review and monitoring did not always flag those that performed subpar work. Moreover, it is the districts, and ultimately local taxpayers, that often ended up – and likely will continue – shouldering expenses for workarounds, further repairs or service contracts to enable particular systems to function correctly and safely.

Egg Harbor City Community Middle School

The first winter after the Egg Harbor City Community Middle School opened its doors in January 2011, the heating system shut down whenever outside temperatures dipped slightly below freezing, making it impossible to warm the second floor above 59 degrees. That summer, there was so much humidity inside the main office that water dripped from the ceiling, the doors swelled and refused to close without force, and the wooden file cabinets warped. In the music room, mold was growing on the linings inside instrument cases.

From the moment the school welcomed students into its halls a decade ago, it has experienced a succession of construction-related problems, mostly connected to – but certainly not limited to – its heating, ventilation and air conditioning system (HVAC). Among the calamities: a bungled sewer drain installation that caused a backup and spewed sewage all over the gym floor and locker room; hot water in the toilets and water fountains and an inadequate drainage system that brought water from the school property into a neighbor's front yard.

Built under the direction of SDA, the 61,954-square-foot middle school replaced an outdated facility constructed in the 1920s. Designed to house 364 students in grades four to eight, it features modern amenities, such as a science lab, library/media center, gymnasium and a multi-purpose playing field. The total price for the school was \$24.2 million, with the SDA covering \$16.5 million and the district paying \$7.6 million under a cost-sharing agreement dictated by statute.¹⁵ But the project would end up costing the district and, ultimately, taxpayers

¹⁵ N.J.S.A. 18A:7G-1 to -30 and 57 to -71

hundreds of thousands of dollars more to fix shoddy work, botched installations and other lasting problems that stemmed from subpar construction of the school.

The SDA became aware that the state Department of Treasury had experienced problems with an absorption chiller system recommended by project architect, the Vaughn Collaborative, LLC before construction began at the school. At that point, the SDA had already authorized a contract with Broad, Inc., to build a unit for the Egg Harbor City school project and determined that canceling the order would cause significant losses of time and money. Even though Treasury had ordered the replacement of all Broad units installed to provide heating and cooling, the SDA proceeded with the contract. As a safeguard, the SDA required the manufacturer to meet specific additional terms and conditions, including that it would not make full payment until the system was tested and deemed fully functional.

There were other missteps at critical junctures during the construction process that contributed to the inability of the HVAC system to operate correctly. Among the most prominent was a design change to the air handling units – which contain fans and certain elements to help regulate temperature – that omitted routine factory-installed components, commonly known as dampers. More than 20 internal dampers – plate-shaped devices that open and close to regulate the amount of air that passes through the ducts and vents – were removed from the design after Vaughn agreed with mechanical contractor Thermal Piping that the devices were redundant and the HVAC system would function appropriately without them.

Typically, any installation hitches are discovered and addressed during the “commissioning” phase of construction when building systems undergo testing to ensure all the

elements work together correctly and conform to the design intent. However, there is no evidence that this process ever occurred according to court filings by the SDA that claimed project manager Greyhawk North America LLC did not submit commissioning records for the heating and cooling system at the school.

The inability of the heating system to regulate the indoor temperature immediately created chaos for district personnel after the school opened. As soon as cold air came across the coils in the heating system, the heat would automatically shut down. To turn it on again, school maintenance staff would have to climb up into the attic and press a button that overrode the system. Once the weather turned warmer, glitches within the cooling system left it unable to maintain a comfortable temperature and humidity level. Some days, even with the system running, it would remain as high as 78 degrees inside the school with more than 70 percent humidity.

In October 2018, more than seven years after its opening, the school finally obtained a final certificate of occupancy after the HVAC system was deemed sufficient. Soon after, the SDA filed a legal claim seeking damages of more than \$1.5 million against Greyhawk, Vaughn, Thermal, and Broad Inc., the manufacturer of the HVAC system, for contract breaches, negligence and lax workmanship on the project.¹⁶

Meanwhile, Egg Harbor City school officials still grapple with the fallout of the various construction deficiencies and the unexpected associated expenses. Financial records provided by the district indicate it paid \$84,247 to correct construction-related problems at the school from

¹⁶ As mentioned earlier, the SDA gave unsatisfactory ratings in contractor evaluation of Tamburro Bros., the general contractor on the project.

September 2012 to April 2018. The Broad chiller – initially touted as an efficient solution for air-conditioning – costs the district approximately \$30,000 annually in maintenance fees alone. And for the foreseeable future, despite all the remedial work, the school still must run de-humidifiers around the clock during the warmer parts of the year and use space heaters as needed when it's cold outside.

Phillipsburg High School

It took 14 years from the time the SDA approved the construction of a new high school in Phillipsburg in 2002 until the facility was finally ready to open its doors to students. In that time, the \$127 million project encountered numerous obstacles that slowed its progress. The challenges included weather-related damage that set back earlier work, a major redesign, loss of project funding and a temporary shutdown of all SDA-related construction after Gov. Chris Christie ordered a statewide review of all school building projects in 2010.

Yet all the delays, cost overruns and other complications seemed like long ago concerns at the building's September 21, 2016, ribbon-cutting ceremony, when school officials joined Gov. Christie, whose administration ultimately put the project back on track in celebrating the long-awaited opening. The former Governor took credit for its completion, stating: “With the opening of Phillipsburg High School, this Administration has delivered what past administrations could only promise. Through sweeping reforms, we have made sure that the inefficiency and wasteful spending habits of previous administrations would not be repeated....”¹⁷

¹⁷ Despite its name, the school is located in Lopatcong. The high school serves students from Bloomsbury in Hunterdon County; and Alpha, Greenwich, Phillipsburg, Pohatcong and Lopatcong in Warren County. Phillipsburg is the only SDA district, while the others at the regional school are regular operating districts.

However, the enthusiasm would be short-lived. As soon as it opened, the school endured continuing problems that have frustrated district officials for years, saddling the district with unexpected expenses to repair and replace broken, inefficient or unsuitable systems and equipment.

Built on a hilltop in Warren County, the 330,000 square-foot school was designed to house 2,170 students in grades nine through twelve. In the five years of its existence, the facility has contended with flooding issues, sewer back-ups and electrical issues stemming from the faulty installations of pipes, wiring and other materials during the construction phase. Even some of the most basic requirements for a building, such as switching the lights on and off, were not functional when the school opened, leaving it unable to obtain a permanent certificate of occupancy for another three years.

The school's convoluted path began in 2002 when the SCC purchased 122 acres of former farmland on the town's border with Lopatcong to build Phillipsburg High School. After constructing the athletic fields, the site sat idle for years after the SCC ran out of money. Six years later, after the SDA replaced the SCC and new funding was authorized, the project was revitalized and expanded to accommodate more students. Construction resumed in 2009, but the project would stall yet again, this time for nearly three years after Gov. Christie ordered the revaluation of school construction projects statewide. After considering alternative concepts, including renovations and building an addition to the existing high school, the project was finally relaunched in 2012.

The extensive delays and the expansion of the project's scope caused expenses to rise beyond the amount initially approved by the SDA. Additional funds were needed for architectural redesigns, expanded construction services and other site work. More than \$11.6 million in change orders and construction change directives were approved during the project – including \$1.2 million to update the information technology infrastructure that had become outdated by the time contractors were ready to install it.

The extensive catalog of construction-related troubles would also lead to wasteful practices – including running electrical and ventilation systems in empty buildings – not to mention causing significant inconveniences for the school staff responsible for maintaining the facility. Despite the many construction-related problems on the project, general contractor Epic Management received ratings above 80 on its initial, interim and final contractor evaluations conducted by SDA personnel between 2014 and 2017.

When the school first opened, it was illuminated 24 hours a day due to a dysfunctional lighting control system. The only way to control the lighting was by switching the circuit breakers on or off. Some of the control boxes for large area lighting were built near the ceilings, requiring school personnel to climb ladders to make adjustments. While an automated system now controls most of the lighting, the interior hall lights still cannot be manually controlled.

School personnel remain unable to regulate the heating and air conditioning in the facility. A proprietary software program controls the school's HVAC system, and a certified vendor must maintain it based on requirements set by the manufacturer. Without the ability to make adjustments from inside the building, the system sometimes runs when the facility is empty,

wasting energy. Simply to operate its heating and air conditioning system, the district pays an outside vendor \$70,000 a year, on top of its expected energy costs.

Another recurring problem is the plumbing. A sanitary refuse line servicing restrooms and showers has bellied out under the floor in one part of the school. Anytime there is increased usage of the facilities, such as when the school hosts an athletic event, janitorial staff must flush water through a neighboring sink to prevent sewage from backing up in the toilets and spilling out onto the floor. Remediation of the problem will require jackhammering a section of the hallway to reach the blockage, an undertaking that school officials expect will be costly and disruptive.

During the construction phase, there were also occasions when the SDA or its contractors failed to heed warnings from school personnel to avoid installing certain materials or to not engage in certain practices. For instance, according to school personnel, both district officials and the flooring manufacturer objected to the SDA's plan to install tile under the seating area in a retractable theater space. Despite the opposition, the tile flooring was installed and subsequently damaged. The district now will have to undertake the replacement of the flooring at its own expense. School personnel also objected to pouring concrete in cold weather because low temperatures can inhibit it from setting properly. Within 18 months, the concrete spalled, a term for the flaking and pitting caused by improper installation.

Newark Science Park High School

The SDA has spent more than \$2 million to fix a malfunctioning element of the fire protection system at Science Park High School in Newark that has not operated correctly since

the building first welcomed students and staff in 2006. Despite hiring new contractors to redesign, rebuild and test the system multiple times over the last 15 years, its functionality remains unclear because a final system-wide inspection has not yet been conducted.

Building inspectors maintain the \$70 million school is safe to occupy because the smoke evacuation element is one of many redundancies built into the fire safety system. Nevertheless, the inability to correct the problem – affecting a significant safety system – raises legitimate questions about why it has taken so long to resolve this matter and how it occurred in the first place. In the meantime, Science Park remains stuck in temporary occupancy status with the SDA retaining some responsibility for the facility until inspectors give the system final approval.

The 275,000 square-foot facility, located on a six-acre site situated on two city blocks in the University Heights section of Newark, is a magnet school where students with interest and aptitudes in Science, Technology, Engineering and Math – disciplines known collectively as STEM – compete for admission. The school offers state-of-the-art experiment-based learning under a rigorous curriculum for up to 1,200 college-bound students in grades seven to 12.

The defining architectural feature of the building is a three-level atrium that is the primary area where the smoke suppression system has failed. The system designed by project architects Einhorn Yaffee Prescott, Inc. (EYP) was feasible for a gym or large instructional areas but was later found unsuitable for an area that must balance the airflow from three different floors, such as the one at Science Park. The smoke evacuation apparatus requires a balance between the air coming into and going out of the evacuation system to vent smoke from a building effectively. If not enough air comes into the system, it does not work. While simple in concept, getting the system to work correctly has been far more complicated.

Apart from the smoke suppression system problems, Science Park has also experienced construction-related issues that other districts with SDA-built schools have also suffered. Concrete poured for flooring during frigid weather ended up damaged. School personnel raised concerns about the feasibility of pouring concrete when the outside temperature was low, but contractors disregarded those objections. The flooring failed within a year of the facility's opening. The use of proprietary equipment and systems has also caused unexpected expenses for the school as it has in other districts. Newark must contract with an outside vendor to service the elevator at Science Park due to product specifications that mandate only manufacturer-approved vendors can service the machinery. Those specifications preclude the vendor that currently services other elevators in the district from maintaining it.

As a direct result of the continuing problems with the smoke suppression system at Science Park, the SDA has stopped designing schools with the type of atrium at the school. Further, the SDA recovered some of its financial losses on the project after reaching a \$1.4 million legal settlement with EYP in response to the Authority's allegations that the firm's work at Science Park project was negligent and in breach of contract provisions.¹⁸ Yet school personnel still deal with inconveniences and unexpected expenses resulting from the Authority's decisions and actions on matters in which they had no or limited input.

¹⁸ As part of the settlement, EYP made no admission of wrongdoing.

Real Estate Losses

A dilapidated Camden row house crashes down in the middle of the night. A once functional commercial building in Asbury Park becomes nothing more than an empty shell after years of neglect. A former industrial site in Trenton incurs clean-up and demolition costs exceeding the value of the land where it sat crumbling.

These properties were among 49 parcels sold by the SDA between 2017 and 2019, incurring more than \$27.5 million in losses following years of inadequate upkeep and a decline in the real estate market, which caused their value to drop precipitously. The properties, purchased in the early to mid-2000s, had been intended for five school projects in Asbury Park, Camden, Newark and Trenton that were never built. In subsequent years, neither the SCC nor the SDA appropriately maintained the properties aside from mitigating hazardous conditions at the sites. But in some instances, such as the collapsed Camden row house, the run-down properties were legitimate safety hazards. Others fell into such disrepair they became eyesores that blighted local neighborhoods.

The SDA lost more than \$4 million in the 2017 sale of the two-story 52,000-square foot building in Asbury Park that was a viable property as recently as 2007, with a medical clinic operating inside, but was vandalized and boarded up when it was sold. It lost another \$3.2 million – the total amount paid for the property in 2006 – after the SDA determined that clean-up and demolition costs exceeded the fair market value of the Trenton site, once owned by steel manufacturer John A. Roebling & Sons. In March 2017, the SDA transferred ownership of the property to the City of Trenton for \$1. Another \$500,000 was lost on a dozen Camden properties

– including the row house that local building inspectors recommended demolishing and later collapsed in 2017 – sold to the Camden Redevelopment Agency for \$6,500 in June 2018.

In the initial years of its existence, the SCC had acquired real estate at a rapid pace, often without concern for the cost, the suitability of its location, or any associated expenses required to remove existing structures or prepare the school site for school construction. Under the process once used to acquire property for a new school, a local district first identified the need for it and selected a site. At that point, the SCC's Board typically authorized the land purchase absent consideration of alternate sites and without any information on actual acquisition costs beyond the property's fair market value. Later, some properties were found to be environmentally contaminated, requiring substantial additional expenditures for remediation. Others had relocation costs that were nearly triple the price of the land itself, according to the Office of the Inspector General, which documented in 2005 that the SCC had spent more than \$328.8 million to purchase land intended for schools but lacked sufficient guidelines for determining appropriate sites.¹⁹

Soon, the SCC became the owner of hundreds of properties across the state as parcels were often acquired for multiple projects, even though it might be months or years before the construction of the schools would begin.²⁰ As the landowner, the SCC, and later the SDA, was responsible for maintaining the sites. Mostly that meant nothing more than mowing grass and removing snow, but over the years at some properties, it also included tasks such as boarding up

¹⁹ Starting in April 2005, the Office of the Inspector General issued a series of reports examining practices at the New Jersey Schools Construction Corporation.

²⁰ The Office of the State Auditor conducted an audit of the New Jersey Schools Construction Corporation for the period of July 18, 2000, to January 5, 2006, that found the SCC acquired, by agreement or condemnation, 359 properties at the cost of \$225 million.

windows and doors or patching roofs as buildings gradually deteriorated or became targets of vandals after remaining on the SDA's untaxed property rolls for sometimes a decade or more. There were no efforts to preserve or improve any structures on the sites because demolition would have to occur before any new construction began.²¹

Ideally, demolition should have occurred soon after acquiring the properties. Then construction should have commenced, but that did not always happen, SDA Director of Property Management Jaqueline Howard told the Commission under sworn testimony. The problem, said Howard, was the SCC purchased the real estate without a management plan – sometimes with little more than a district's identified need for a school – and held it for too long. Howard, who began working for the SCC in 2003, acknowledged the dilapidated condition of many of the Authority-owned properties had a detrimental impact on the surrounding neighborhoods.

So, we blighted areas maybe that didn't need to be blighted because it was poor planning.

Starting in 2005, the SDA developed guidelines to assist districts in determining appropriate locations for schools, adopted procedures for land acquisition and scaled back its buying activities to focus on real estate needed for ongoing projects. The Authority further expanded and refined those policies in 2009 when it developed a real estate practices manual. Among the requirements were that a local municipality and local board of education must have identified at least three potential sites and reviewed the overall feasibility of the locations based

²¹ The SDA contracts with a private property management firm to maintain the properties and conduct weekly inspections. Annual upkeep costs for each property are between \$10,000 and \$20,000.

on environmental, financial and other considerations before any school construction project could advance. It also required the DOE to authorize the plan before the SDA initiated any pre-construction activities. Finally, the SDA conducts a study of the estimated real estate and environmental costs involved before presenting a project charter to the SDA Board for a vote to authorize it.

While it stopped buying properties before it had a firm plan to build a school, the Authority still had to address what to do with the dozens of properties it owned and was responsible for maintaining. Following changes to their projected enrollment, some local districts decided they no longer needed specific properties for schools. No strategy existed for the future of those properties until 2010 when Marc Larkins became CEO and requested SDA staff to begin the process of identifying Authority-held properties with structures to be demolished, as well as land that should be sold or conveyed. Howard testified she was responsible for compiling a list of eligible properties and drafting a set of procedures for handling dispositions. But that effort would barely get off the ground – resulting in the demolition of only two properties – before it was sidelined after Larkins departed the SDA in 2013. It gained momentum again approximately two years later when the SDA’s planning unit took over the process of acquiring and disposing of SDA properties.

Under its current practices, the SDA holds onto properties until the local district decides it does not need the parcels for schools anymore. That is why it remains the owner and caretaker of another 16 properties mainly acquired during the same period, with no current construction plans, but must remain in the Authority's inventory. The majority of those properties are vacant

lots requiring only minimal maintenance but nonetheless have cost the Authority upwards of \$130 million for the acquisition, demolition, upkeep and other associated expenses.

Under the disposition procedures now followed, once a local district determines it has no educational need for the property and the DOE agrees with that finding, the Authority checks to see if another school district can utilize it. If there is no interest, the SDA then initiates the disposition process by obtaining appraisals of the property by an in-house appraiser and an outside company to determine its market value. Based upon those numbers, the SDA Board sets the property's minimum disposition value – the lowest amount the SDA will accept from a buyer. This amount may be below the appraisal if the real estate has environmental contamination or other conditions that could influence the ability to sell it at market value. Once the Board approves the disposition, the property is deemed surplus and is available to be sold.

The SDA may sell real estate through auction, bid solicitations, or requests for proposals, notification to other public entities or individuals that have expressed a prior interest in buying a property or by placing a "For Sale" sign on the property. Any proposed sale must be reviewed by both the Office of the Attorney General and an outside bond counsel to ensure any proceeds from the sale do not invalidate the tax-exempt status of the bonds sold to finance the property.²²

The disposition process followed by the SDA is set out under administrative guidelines first created in 2007.²³ These rules provide a general overview of the procedure, emphasizing the legal steps necessary for property sales conducted through public bid solicitations. While the SDA still follows the same process for the disposition of surplus property, the guidelines actually

²² N.J.A.C. 19:35-1.1

²³ N.J.A.C. 19:35

expired in 2014. At the time of the publication of this report, the SDA was in the process of updating the regulations.

Referrals and Recommendations

The Commission refers the findings of this investigation to the following agencies of government for whatever action is deemed appropriate:

- Office of the Attorney General of New Jersey
- New Jersey Department of Education
- New Jersey Department of the Treasury

• • •

The findings of this investigation confirmed the breakdowns in oversight that enabled former CEO Lizette Delgado-Polanco to engage in a series of questionable management decisions were more than just one-off events or the isolated missteps of a political appointee. Instead, these events indicated more significant issues inside the Authority resulting from years of inconsistent and questionable management, policies and practices. Those problems extended beyond its administrative operations to encompass its management of construction projects and an expansive portfolio of Authority-owned real estate.

The Commission recognizes that the SDA serves a vital public good by helping to deliver school construction projects across New Jersey for both low-income and regular operating districts that collectively have impacted more than a million students. To its credit, the SDA has worked with local school personnel and contractors to address faulty construction, streamlined some parts of the building process – particularly in the design phase – and eliminated the use of certain building practices or systems deemed inefficient or no longer appropriate. But it must act

and do more in a consistent and rudimentary way to ensure that in the future negligent contractors are held accountable, working relationships with the local school districts it serves are improved, and project costs remain contained.

In fairness, the SDA inherited many of the problems it continues to contend with from its predecessor, the SCC. Some construction projects with ongoing issues and the majority of the questionable real estate purchases occurred during the SCC era. While the SDA has taken concrete steps to resolve and move away from impractical policies and wasteful actions implemented by the SCC, it has not entirely escaped its shadow. Only with time and a continued commitment to replace policies and practices that are impractical, inappropriate and ineffective with sensible remedies that put the needs of students and taxpayers first will the remnants of that tarnished legacy finally disappear.

If the SDA is permitted to move forward and continue functioning as a standalone Authority, it is essential that elected State officials, the SDA Board, and its internal leaders consider and create sound mechanisms to ensure that dollars designated for educational facilities construction in New Jersey go to that intended purpose, that proper governance is provided and that appropriate oversight and accountability are established and preserved. The Commission makes the following recommendations for statutory and regulatory reform:

1. Establish Effective Oversight

The Governor and Legislature should consider the appointment of an outside monitor to oversee the SDA's fiscal, administrative and construction operations on a full-time basis. This monitor would make sure the Authority carries out and complies with reforms established by

both its governing Board and those outlined later in these recommendations. This monitor could be a representative from the Office of the State Auditor or the Office of the Comptroller, which already conducts pre-bid audits of SDA procurements above \$10 million.²⁴ As part of the oversight duties, the monitor would provide periodic public reports to the Governor's Office and the Legislature detailing progress on reforms, cost-saving measures and updates on construction-related matters.

Within one year of the effective date of the monitor's appointment, a review would be undertaken to determine whether the arrangement should continue or if long-term oversight of the Authority would be better served through the appointment of an autonomous internal monitor – akin to an inspector general – from within the SDA itself, or through an outside entity specifically responsible for oversight of its activities. The legal mechanism to provide enhanced external oversight of school construction in New Jersey through the Comptroller's Office – beyond the audit function it currently provides – already exists but is not currently being utilized.²⁵ Under the law, the Office of Fiscal Integrity in School Construction, established in 2000 within the Office of the Attorney General, may investigate, examine, and inspect the activities of the Authority and school districts related to the financing and construction of school facilities. The Fiscal Integrity Office operated for several years, but it ceased operations sometime in 2008. Many of the tasks overseen by that entity, such as performing contract reviews, audits and background checks on contractors have since been assumed by the Comptroller's Office or other

²⁴ In 2006, personnel from the New Jersey Office of Inspector General fulfilled a similar function at the SDA to improve oversight and accountability at the Authority. The Office of the Inspector was consolidated into the Office of the Comptroller in the FY2011 state budget.

²⁵ N.J.S.A. 18A: 7G-43

government agencies. Still, the legal authority to reactivate the office and utilize it for whatever oversight function is deemed appropriate remains a viable option.

Further, the Commission recommends an outside entity should conduct, or at the very least, review the comparison the SDA is required to make between its own construction costs for projects against similar school facilities projects constructed in the New York City and Philadelphia metropolitan areas. The statutory language that mandates the comparison should be expanded to include examining the contrast between the SDA's expenses and costs for school construction projects built independently by regular operating districts in New Jersey.

2. Improve the Process for Selection and Appointment of the CEO

The Commission recommends the Legislature amend the Authority's enabling statute to insert explicit and legally-defined guidelines for the CEO's selection, appointment, and employment. Over the past decade, mainly through practice than any written law or rule, the Governor has typically chosen the CEO with the SDA Board serving as little more than a rubber stamp. Without additional legal language specifically assigning the responsibility for this process to the Board, the risk remains that a candidate for this key role could be chosen based on political considerations rather than the individual's professional qualifications.

To fill a vacancy at the CEO position, the Board should hold the responsibility for conducting a search for qualified candidates that align with the Authority's job description for the position. That document, created in 2011, requires the CEO to hold at a minimum, a bachelor's degree with an emphasis in construction management, finance, law, or public administration, with preference for someone with an advanced degree. Further, it requires the

SDA's top leader to have 10 to 15 years of experience in construction management and/or demonstrated leadership in a multi-faceted organization or public sector environment. Once it has completed a search and vetting process for qualified candidates, the Board should nominate one or more of those individuals for consideration by the Governor. After receiving gubernatorial approval for a particular nominee, the Board should authorize the appointment with a vote.

3. Strengthen the SDA Board

A crucial component of establishing and maintaining more effective institutional governance, oversight and accountability at the Authority is through fortifying its Board. To bolster reform efforts already implemented, additional measures should be adopted to provide the Board with greater oversight capabilities.

- The Board's membership should be restored to its full complement of members. For years, the SDA Board has functioned with only seven of its eleven members. In March, Gov. Phil Murphy appointed a new member to fill one of the vacancies on the Board, but three unoccupied seats remain.²⁶ These vacancies should be filled as soon as possible to enable the panel to uphold and carry out its watchdog role effectively.
- To assist the Board in overseeing hiring and staffing, it should create a personnel committee. Currently, the Board refers matters related to those issues to its audit committee, which is charged with, among other things,

²⁶ Daniel Gumble was appointed to the Board on March 25, 2021.

overseeing the Authority's financial statements, its annual audit and its compliance with legal, regulatory and ethical matters. Administrative matters, such as personnel and compensation practices, that now come under the audit committee's responsibilities remain outside its core focus area. They should be reviewed by a committee specifically designated to review Human Resources-related issues. The personnel committee should review the SDA's quarterly staffing plan, ensure its personnel manual is updated, and apply its policies fairly and consistently. Further, the committee should oversee a performance evaluation process for staff and the CEO and make sure it is fair, accurate and equitable.

4. Improve the Contractor Performance Evaluation Process

By law, the SDA must conduct contractor performance evaluations that, at the very least, assess certain factors, such as cost, schedule adherence and work quality. However, the Commission found the evaluation process used by the SDA was inconsistent, unreliable and did not always provide an accurate picture of a firm's overall work. An SCI analysis of 138 contractor evaluations conducted between 2005 and 2020 found it was rare for a firm to receive a score below 80, the minimum rating given for satisfactory work. Only three percent of the firms reviewed received an overall score below the satisfactory level. These findings bolstered allegations Commission investigators heard during the investigation from SDA personnel, who claimed the contractor performance evaluations were untrustworthy, were not taken seriously, and rarely resulted in consequences for poor performing contractors.

Beyond the legal obligation on the SDA to conduct the evaluations, if utilized properly, they should also serve as an essential tool to hold contractors accountable and make sure that work sites are safe and protect the public purse. However, if the evaluations are not taken seriously, fail to present an accurate assessment of a firm's performance and deliver no meaningful consequences for poor performers, they are worthless. The Commission recommends a wholesale redesign of the contractor performance process to ensure assessments are conducted consistently, accurately and objectively. Further, it should be expanded to include evaluations of professional services firms, such as architects. The Commission's investigation revealed instances where flawed design concepts caused significant problems at some schools. While the SDA has successfully secured legal settlements after filing claims against certain architectural firms there should be an apparatus that allows for evaluation of design work in real-time rather than seeking restitution after the fact.

5. Review Construction Practices

A Commission analysis found the SDA's construction costs on certain construction projects were higher than similar projects undertaken independently by some New Jersey school districts. That finding raised questions about whether eliminating wasteful practices, streamlining processes and adopting cost-effective measures could help the Authority save additional funds.

The Commission recommends further examination of these issues by forming a task force, created by the Governor and Legislature, to study the SDA's current construction practices and policies to evaluate their effectiveness and determine if greater efficiencies and cost savings may

be realized through improvements. Members of the task force should include industry professionals with specialized knowledge and expertise, such as principals in major contracting and professional service firms, representatives of trade associations and other stakeholders qualified to undertake a detailed review of existing building and design-related procedures and to develop best practices to improve the Authority's construction processes.

Among the areas deserving further scrutiny is an SDA practice that enables outside contracting firms to serve as both construction managers and general contractors. The Office of the Inspector General first flagged this potentially problematic practice during its investigation of the SCC more than 15 years ago when it found an inherent conflict in allowing Project Management Firms (PMFs) to also act as prime contractors because there could be occasions when firms could be supervising each other on collateral projects and could find it difficult to appropriately manage and evaluate each other. When the powers of the SCC were transferred to the SDA, the Authority slightly modified this arrangement, including now referring to the PMFs as construction managers. But the fact remains the SDA still permits outside firms to serve in both roles, thus leaving the current system vulnerable to abuse.

6. Fortify Relationships with Stakeholders in Local Districts

SDA leadership told the Commission that district personnel are involved in every element of the Authority's construction process. However, those statements were in stark contrast to what the Commission repeatedly heard during the investigation from school officials and staff in various districts who felt excluded from the building process and claimed their role was limited to little more than selecting colors and styles for classroom furniture.

In the interest of constructing schools designed and built to meet students' various educational, technological and social needs in the communities where its facilities are constructed, it is incumbent upon the Authority to work in close partnership with local district officials and school personnel. District representatives should have a meaningful seat at the table during every phase of the school building process. They are the experts who best know the needs of the student population and community-at-large and have to live with the facility once it is completed.

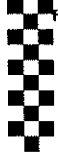
Bolstering these relationships could also be beneficial in heading off construction-related problems that, in some cases, led to long-term headaches and often avoidable additional costs to districts. On some projects reviewed by the Commission, contractors used inappropriate materials or installation methods despite concerns raised by school personnel that later malfunctioned and sometimes required the district to fund the repairs. The SDA needs to also clearly communicate its obligation to district personnel once the construction phase is over, provide instruction for the operation of contractor-installed systems and explain how warranties work for special equipment or materials.

APPENDIX

N.J.S.A. 52:9M-12.2 provides that:

- a. The Commission shall make a good faith effort to notify any person whose conduct it intends to criticize in a proposed report.*
- b. The notice required under subsection a. of this section shall describe the general nature and the context of the criticism, but need not include any portion of the proposed report or any testimony or evidence upon which the report is based.*
- c. Any person receiving notice under subsection a. of this section shall have 15 days to submit a response, signed by that person under oath or affirmation. Thereafter the Commission shall consider the response and shall include the response in the report together with any relevant evidence submitted by that person; except that the Commission may redact from the response any discussion or reference to a person who has not received notice under subsection a. of this section.*
- d. Nothing in this section shall be construed to prevent the Commission from granting such further rights and privileges, as it may determine, to any person whose conduct it intends to criticize in a proposed report.*
- e. Notwithstanding the provisions of R.S. 1:1-2, nothing in this section shall be deemed to apply to any entity other than a natural person.*

The following material was submitted pursuant to those statutory requirements.



WE, MAY 26 2021 AM 10:28

POST POLAK, P.A.

COUNSELLORS AT LAW

425 EAGLE ROCK AVENUE - SUITE 200
ROSELAND, NEW JERSEY 07068-1717

(973) 228-9900
FAX (973) 994-1705

www.postpolak.com

Writer's Email: fpolak@postpolak.com

REPLY TO ROSELAND OFFICE

JOHN N. POST
FREDERICK B. POLAK *
ROBERT A. GOODSSELL
DAVID L. EPSTEIN
STEVEN C. ROTHER
DOUGLAS J. SHERMAN *
MITCHELL H. PORTNOI †*
CLYDE L. OTIS III *
MARSHA M. MOORE *
JEFFREY A. WARSH
RAUL GARCIA *
SIOBHAN BEERE *
KYLE S. REED
KATHRYN A. KOPP *

PRINCETON OFFICE
134 NASSAU STREET
PRINCETON, NJ 08542

(609) 651-6211

NEW YORK OFFICE
SUITE 1006
575 MADISON AVENUE
NEW YORK, NY 10022

(212) 486-1455

OF COUNSEL

ELLEN C. KIM ▶
JERRY FISCHER
ANNE L.H. STUDIOLME
SCOTT H. NOVAK *
J. WESLEY GEISELMAN
MICHELE JAKER
BAYE ADOFO-WILSON

† CERTIFIED BY THE
SUPREME COURT OF NEW
JERSEY AS A CIVIL TRIAL
ATTORNEY

* NJ AND NY BAR
■ NJ, NY AND PA BAR
▶ NY BAR ONLY

PAUL D. STRAUHLER (1951-2016)

May 25, 2021

VIA FAX 609-633-7366
& REGULAR MAIL

Michael Mink, Esq. Counsel
State Commission of Investigation
50 West State St. 14th Floor
P.O. Box 045
Trenton, NJ 08625-0045

RE: Delgado-Polanco: SCI Investigation
Post Polak File No. 6368.00004

Dear Mr. Mink:

WE, MAY 26 2021 AM 10:28

You have informed my client Lizette Delgado Polanco that she has the right to submit a statement in connection with SCI Investigation 21-05-001. Attached please find the Statement of Lizette Delgado Polanco to the SCI. Should you have any questions, please feel free to contact me.

Very truly yours,

POST POLAK, P.A.

ISI FREDERICK B. POLAK

FREDERICK B. POLAK, ESQ.

FBP/kag
Enclosures

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May 25, 2021

cc: Lizette Delgado-Polanco (via e-mail)

POST POLAK, P.A.

FREDERICK B. POLAK (028911980)
425 EAGLE ROCK AVENUE, SUITE 200
ROSELAND, NEW JERSEY 07068-1717
973-228-9900
ATTORNEYS FOR RESPONDENT, LIZETTE DELGADO-POLANCO
OUR FILE NO. 6368.00001

**IN THE MATTER OF THE INVESTIGATION OF
THE NEW JERSEY SCHOOLS DEVELOPMENT
AUTHORITY**

**STATE COMMISSION OF INVESTIGATION
RELEASE # 21-05-001**

**AFFIDAVIT OF LIZETTE
DELGADO-POLANCO**

Lizette Delgado-Polanco, of full age, hereby affirms as follows:

1. The State Commission of Investigation ("SCI) has forwarded to me selective excerpts (or five paragraphs) of the "Executive Summary" of a second Investigation into the New Jersey Schools Development Authority, Release #21-05-001. The SCI has elected not to provide me with the entire Executive Summary. Pursuant to N.J.S.A. 52:9M-12.2, I have the right to respond to what the SCI has sent to me, and, accordingly, I submit this response to the excerpted and heavily redacted "Executive Summary" of the proposed Commission Report. I do so with the caveat that without access to the full report, or at least the complete Executive Summary, I am unable to adequately respond.

2. This latest report continues the tactics of dramatization and fiction writing that appeared in the prior report issued in or around September 2020, 20-09-005. For one, this latest report continues the storyline that I, "[j]ust weeks into [my] tenure, . . . had already fired more than a dozen long-time employees, hired unqualified friends and relatives to government jobs, and changed the entire reporting structure of the Authority." However, none of these allegations are true.

3. I never made any decision, whether it be hirings, firings, reorganizations, or raises, without the consultation of upper management at the SDA. It was SDA employees (many who continue to work at the SDA), not me, who essentially determined who would be fired. My involvement in large part was limited to signing the paper. It is noteworthy that nowhere in this excerpted Executive Summary is there any mention of the fact that a "deadwood list" was prepared by the former HR Director Maribell Osnayo-Lytle prior to my arrival at the SDA. Any terminations made "just weeks into [my] tenure" were determined by the Executive Vice Presidents along with the former HR Director. The Executive Vice Presidents also made recommendations as to which employees should be put on probation and which employees should receive raises. As I recall it, included among those who made that list of those who should receive raises were the Vice Presidents, the then HR Director and the Chief Operating Officer. The Executive Vice Presidents were also involved in aspects of the reorganization and made recommendations thereto.

4. Upon my appointment at the SDA, I became aware of the necessity to re-organize in order to enhance the likelihood that the SDA would be able to secure reauthorization from the New Jersey Legislature for the SDA's funding, as the SDA had no money to provide for new projects. Importantly, I also became aware of the reputation of the SDA and of complaints about certain employees and their interactions with members of the communities which SDA served. Basically, certain SDA employees had a condescending attitude, and looked upon the communities it served with pity and charity. Therefore, it was of utmost import that the SDA re-organize and hire new employees. Those new hires that I recommended had previous experience in community organizing and fostering relationships within the community. It was also of import that the Legislature be encouraged to continue their trust in the SDA and approve

its funding. I worked closely with the former HR Director and upper management staff on the re-organization to ensure reauthorization. Again, decisions were not made "in a vacuum."

5. I acknowledge recommending people for hiring, but deny that I recommended any "unqualified friends and relatives" to government jobs. The people I recommended for hiring were those that I had worked with previously in public outreach and community engagement/external affairs, with experience that cannot be taught in the college classroom. I also prepared and submitted Ethics Recusal forms related to any hirings where I perceived there may be a conflict of interest and that I (along with the HR Director) consulted the Kinship Chart before I made recommendations regarding hirings that might implicate allegations of nepotism. Once I provided the resumes to the HR Director, it was up to the HR Director and then Chief of Staff to do the interviewing and processing.

6. It is unclear from this Executive Summary what it is that the State Commission of Investigations is still investigating with regards to the SDA. The SCI already published an extensive (albeit somewhat disingenuous and incomplete) report on the SDA in September 2020. It is evident that neither my prior testimony nor prior affidavits have been considered in any meaningful way by the investigators. This Executive Summary adds nothing to the September 2020 report but only repeats both the dramatization of events at the SDA and the narrative that I was solely responsible for hirings, firings, and the reorganization. This narrative is belied by the findings of other third party investigations and even testimony from others that were employed at the SDA. The SCI's obsession with the SDA does nothing to assist the people of this State and these reports are a colossal waste of money.

I hereby affirm that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Signed and sworn to before me this
25th day of May 2021

Harshad Patel

NOTARY PUBLIC
STATE OF NEW JERSEY

Lizette Delgado Polanco
LIZETTE DELGADO POLANCO

HARSHADKUMAR PATEL
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 2/5/2024



*State of New Jersey
Commission of Investigation*