# Investigating #corpreform lies, waste and fraud: Strategies and Lessons Learned

Leonie Haimson, Class Size Matters March 24, 2016



www.classsizematters.org info@classsizematters.org Here are some stories I helped uncover 2008-2015 showing lies, waste, subterfuge and fraud by NYC and NYS Education officials

- Chris Cerf investigation, 2007-2008
- NYC teacher evaluation system, 2009-2010
- Parthenon report, 2011
- Success charter school push outs, 2011
- The Pearson Pineapple, 2012
- inBloom saga, 2011-2014
- Custom Computer Specialists contract, 2015

# Chris Cerf investigation, 2008

- Dec 2006: Chris Cerf, former COO at Edison Charter schools, and DOE consultant, hired as Deputy Chancellor of the NYC Dept of Education.
- February 2007: Cerf asked by parent leader at a public meeting whether he owns Edison stocks.
- Cerf vociferously denies this, without revealing that he had just divested the stocks that morning, after learning that he would be asked this question. (As reported in <u>the NY Times</u>).
- I and others request the Special Investigator for Schools, Richard Condon, to investigate legality of Cerf holding onto these stocks this long, including when he was consulting.

# Special Investigator's report

- Though Condon's report is completed in August 2007, it was not publicly released until I FOILed the report more than a year later, in December 2008.
- It revealed a negative finding from the Conflict of Interest board, showing that when Cerf hurriedly divested the stock he asked Edison officials for a donation for a favored charity in return.
- "It appears that you were aware that Edison schools was likely to come before the DOE and/or to be affected by your official actions on behalf of DOE,"
- The board recommended no disciplinary action but reminded Cerf that such violations "can result in civil fines of up to \$10,000 ... and other penalties."
- Special Investigator also found that Cerf had relinquished an ongoing consulting contract with another Edison-connected firm only at the same time as he gave up the stocks, a contract that could have been worth \$2.5 million.
- These negative findings brought up later when Cerf was appointed NJ Education Commissioner by Chris Christie.

## Daily News & NY Times headlines

School board	s big eyed by	y conflict
Thursday, December	4, 2008, 9:42 PM	AAA
f Share y 1	by soliciting a \$60,000 of while the company did to Cerf asked executives f wilderness program on Richard Condon, the sp After investigators ques	ellor Christopher Cerf violated city conflict-of-interest law charitable contribution from executives of his former firm business with the school system. from Edison Schools to give the money to a nonprofit whose board of directors he sat, a probe conducted by pecial commissioner for school investigations, found. stioned him about the propriety of the donation, Cerf the executives saying: "I have now concluded that it
SECTIONS 🕃 HOME	would be the better cou	The New York Times
		<b>650 and cover your costs to switch</b> r phone. Plus get \$100 when you Verizon.
EDUCATION		
	Official Is Chi	ded About Soliciting Donati

By ELISSA GOOTMAN DEC. 4, 2008

### Cerf FOILed Report heavily redacted as Gotham Schools (now Chalkbeat) noted



#### [REDACTED]

## The investigation into a top school official that you never read

By Elizabeth Green egreen@chalkbeat.org PUBLISHED: December 5, 2008 - 11:54 a.m. EDT



A page from the investigators' heavily redacted report.

The big news of the day is this story in today's Daily News and Times, about Christopher Cerf, a deputy schools chancellor who is one of Joel Klein's closest aides. The News reports that investigators last year concluded that Cerf had violated city law, by improperly using his position to extract a \$60,000 donation from a company on contract with the city at the time, Edison Schools. The donation would have gone to a charity on whose board Cerf sat and which he told investigators he was trying to save. Ultimately, after being questioned by investigators, Cerf decided not to pursue the



#### 

# NYC Teacher evaluation system 2009-2010

- In December 3, 2008, DOE released a document justifying their pilot test-based teacher evaluation system: "<u>Teacher Data Initiative:</u> <u>Support for Schools; Frequently Asked Questions,</u> that said:
- "A panel of technical experts has approved the DOE's value-added methodology. The DOE's model has met recognized standards for demonstrating validity and reliability."
- On Feb. 23, 2009, I FOILed for the names of members of this panel and any written materials they had produced, approving the model and methodology that used by DOE.
- On May 24, 2010, more than fifteen months later, I finally received a response.

## What the FOILed document revealed

- In response to my FOIL, DOE contradicted their earlier claim:
- "...approval of the model and methodology rested with the DOE, and not with any "panel of technical experts." As a consequence, I have been informed that there are no responsive records that will answer this aspect of item three."
- DOE sent a report <u>"Statement on the New York City Teacher Value-Added Model</u>" dated August 29, 2008, written by Tom Kane and Jon Fullerton of Harvard, Jonah Rockoff of Columbia and Douglas Staiger, Dartmouth College
- These academics wrote that they were "*not endorsing any particular use [of the model] for accountability, promotion or tenure*" and added other caveats including;
- "1) Test scores capture only one dimension of teacher effectiveness, and they are not intended to serve as a summary measure of teacher performance...
- 2) If high stakes are attached, there will be potential to game these measures by teaching to the test, selecting students, altering difficult-to-audit student characteristics, or outright cheating. ...
- 3) To calculate expected test scores...there are likely to be additional factors not yet considered that influence student achievement. ...etc. "

# I held onto this information until a propitious news hook occurred....

- In October 2010, DOE said they would release the teacher data reports to the public, with teacher names attached, after Joel Klein urged reporters to FOIL them.
- This was despite a <u>promise by Chris Cerf</u> in a letter to Randi Weingarten of the UFT 2 years before.
- Cerf had written, "DOEs' [sic] firm position and expectation that Teacher Data reports will not and should not be disclosed or shared outside of the school community, defined to include administrators, coaches, mentors and other professional colleagues authorized by the teacher in question..."
- When the DOE went back on its promise, the UFT sued in court, to block the release of teacher names, claiming breach of promise, that the data was unreliable, and the release would be a violation of their privacy.

# With this news hook, I gave the FOILed report to investigative reporter Juan Gonzalez

- Juan revealed in his column that the expert panel had not attested to the validity of the methodology used to evaluate teachers -- quite the contrary
- In an interview, one of the panel members who helped devise the rating system, Jonah Rockoff, cautioned: "We do need someone with expertise in the right to privacy of public employees to make a careful decision about whether this should be released..."
- Juan also pointed out that it had taken DOE more than a year to respond to my FOIL while now Klein was rushing to release the teacher data reports as soon as reporters had FOILed them.



NYC CRIME

NEW YORK NEWS POLITI

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#### Schools Chancellor Joel Klein wants nothing more than to release data on more than 12,000 teachers



Friday, October 22, 2010, 4:00 AM

AAA

NEW YORK

This was before the teachers' union sued in Manhattan Supreme Court and Klein agreed to halt the release of the data, pending a Nov. 24 hearing.

BRONX BROOKLYN QUEENS MANHATTAN EDUCATION WEATHER OBITUARIES

Such a hearing will undoubtedly reveal that the very consultants who designed Klein's rating system warned it should not be used to judge teacher performance.

Their support of the "value added model," those consultants said in an Aug. 29, 2008, report, was "limited to the technical quality of the work" and to its potential to assist "in teaching and learning."

They specifically refused to endorse "any particular use \[of the method\] for accountability, promotion or tenure" of teachers.

"Test scores," they warned, "capture only one dimension of teacher effectiveness, and . . . are not intended as a summary measure of teacher performance."

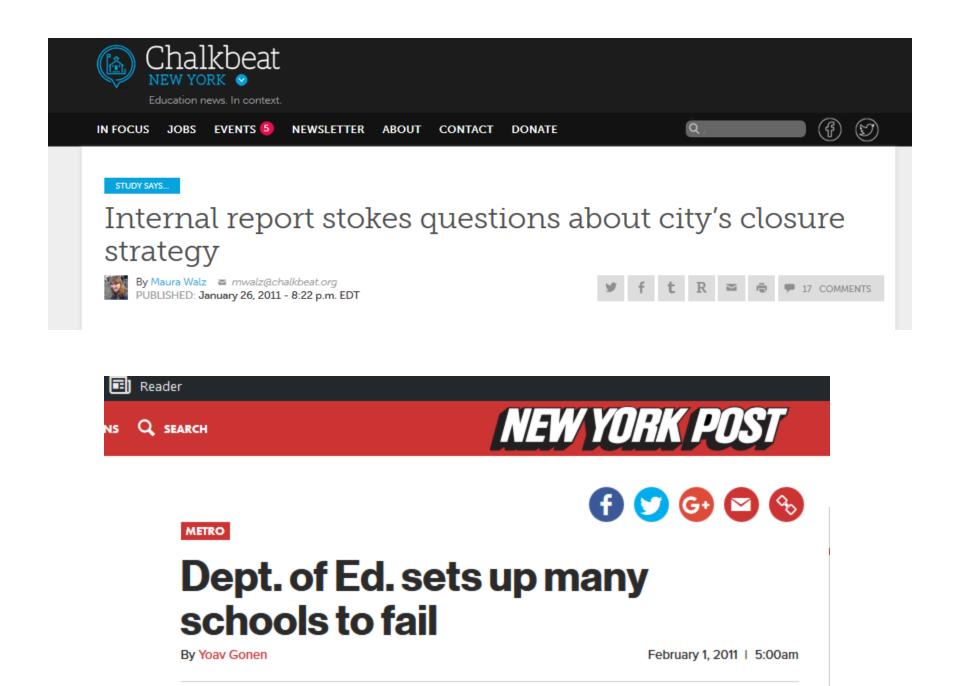
The consultants' report was supplied to the Daily News by Leonie Haimson, director of Class Size Matters, who obtained it under a Freedom of Information Request that Klein's people took 15 months to answer.

# Parthenon report and closing schools - 2011

- In 2008, the Parthenon Group, consultants for the Gates Foundation, wrote a confidential report for the DOE
- I along with several others received a draft copy in late 2009 by an someone outside DOE.
- Parthenon consultants concluded that the graduation rates of NYC high schools were determined largely by the number of over-age 8<sup>th</sup> graders who were sent there by the DOE HS enrollment office
- "Should we consider constraints on the HS admissions process that take into consideration the predicted graduation rate of the school? (e.g. "don't allow any school to have a predicted rate less than 45%")
- I shared it to one reporter in Jan. 2010 who wasn't interested; but then filed it away for the future.

# In 2011, DOE was engaged in mass closures of struggling high schools

- I remembered the Parthenon report, and sent it to GothamSchools reporter Maura Walz.
- She immediately saw the significance of the analysis and wrote about it.
- The Parthenon report was widely cited as showing DOE's own complicity in concentrating struggling students in certain HS & dooming them to failure.



# In 2011, I met a former charter school parent

- Karen Sprowal, whose son along with several other boys were kicked out of Harlem Success charter school within a few weeks of entering Kindergarten
- She had an amazing story to tell, and had documentary evidence including emails with Success staff
- I knew Mike Winerip of the NY Times was looking into charter schools
- I introduced her to Winerip, who wrote a column about this
- His was one of the first of many articles to expose the push-out practices of Success charters

### <u>NY Times</u>, July 10, 2011



Matthew Sprowal and his mother. Katherine. He left a charter school for a traditional public school,

# The Pineapple: 2012

 In April 18, 2012, NY gave the second year of Common Core aligned exams produced by Pearson .

 As I had the previous year, I blogged about what I'd heard about these error-full, confusing, and product-laden exams and asked people to leave comments

### **NYC Public School Parents**

Independent voices of New York City public school parents

#### Wednesday, April 18, 2012 NYS educators agree: Flawed, confusing and misleading ELA exams

This week, NY students in grades 3-8 are in the midst of taking lengthy ELA exams, which in NYC, will help determine whether they will be held back, and what schools they will attend in the future, as well as what grades their schools receive and how their teachers will be evaluated.



## Someone did leave a comment.

71 comments:

🖪 Anonymous said...

Apparently the New York State 8th Graders thought the story about "The Hare and the Pineapple" was so ridiculous that they have started a Facebook page about it. 8th Graders from across NYState are weighing in with comments.

Good for them

<u>April 18, 2012 at 5:34 PM</u>

- I Googled "Hare and the Pineapple", searched Facebook and within twenty minutes, found out that students, parents and teachers had been complaining about a ridiculous passage in Pearson-designed exams about a race between animals and a talking Pineapple, with absurd questions in at least six states since 2006.
- I also asked my 8<sup>th</sup> grade son when he arrived home if he'd had this passage on his ELA exam ; he confirmed it and said he'd argued with his best friend about the right answers.

# The next day, April 19, 2012

The next morning on my way to a meeting in DC, on the train, <u>I blogged about this</u> and posted the link to the post on my NYC Ed list serv

### **NYC Public School Parents**

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#### Thursday, April 19, 2012

### The Pineapple and the Hare: Pearson's absurd, nonsensical ELA exam, recycled endlessly throughout country

There was a ridiculous passage on Tuesday's 8<sup>th</sup> grade NY State ELA exam about a Pineapple and a Hare, along with some equally absurd questions. Here is a comment about the passage from a student:

> I had this same story for my 8th grade ELA New York state test! Everybody was talking about it afterward & how it didn't make any sense. I read the story at least 5 times over because i was so confused and the story made no sense to me! Also, the questions that came after it was confusing!

Apparently, the same reading passage and associated questions have been recycled by Pearson for standardized exams in Florida, Illinois,



# When I was in DC I got a call from a Daily News reporter

Rachel Monahan asked me a few questions and said she was doing a story on the question which appeared that night

DAILY NEWS	NEW YORK	NEWS POLITICS	SPORTS ENTERT.
NYC CRIME   BRONX   BROOKLYN   QUE	ENS   MANHATT	AN EDUCATION WEAT	HER OBITUARIES I

### Talking pineapple question on state exam stumps ... everyone!

#### Students, teachers, principals - no one has any idea what the deal is

BY BEN CHAPMAN, RACHEL MONAHAN / NEW YORK DAILY NEWS / Thursday, April 19, 2012, 11:18 PM

## Firestorm!

- Lots of reporters followed up, both print and TV
- Commissioner John King held a press conference and <u>released the full Pineapple passage</u> and its associated questions.
- After claiming that a committee of NYS teachers had reviewed and approved this section of the exam, King said he would remove it from the scoring of the exam.
- But the controversy went on for weeks, with a Pearson memo "leaked" to Time Magazine, and stories in the national and international media

### Directions Read this story. Then answer questions 6 through 11.

### The Hare and the Pineapple

by Daniel Pinkwater

In olden times, the animals of the forest could speak English just like you and me. One day, a pineapple challenged a hare to a race.

(I forgot to mention, fruits and vegetables were able to speak too.)

A hare is like a rabbit, only skinnier and faster. This particular hare was known to be the fastest animal in the forest.



hare to a race, it must be that the pineapple knows some secret trick that will allow it to win."

"The pineapple probably expects us to root for the hare and then look like fools when it loses," said a crow. "Then the pineapple will

win the race because the hare is overconfident and takes a nap, or gets lost, or something."



N.Y. / REGION

### When Pineapple Races Hare, Students Lose, Critics of Standardized Tests Say

By ANEMONA HARTOCOLLIS APRIL 20, 2012

## Story goes on for weeks ...

Talking pineapple question on state exam stumps ... everyone! www.nydailynews.com/.../talking-pineapple-questi... 
 New York Daily News 
 Apr 19, 2012 - Do you need ears of corn to hear a talking pineapple? Maybe testing ... Maybe testing company Pearson has the answer. Students across the ...

What Everyone Missed on the Pineapple Question | TIME.com ideas.time.com/.../what-everyone-missed-on-the-pineapple-question... 
Time 
May 4, 2012 - Test-takers were asked: Why did they eat the pineapple? ... slipped me a memo from Pearson about the section on the pineapple and the hare.

#### [PDF] The Hare and the Pineapple

usny.nysed.gov/.../the-hare-and-the-... ▼ University of the State of New York ▼ Directions. Read this story. Then answer questions 6 through 11. The Hare and the Pineapple by Daniel Pinkwater In olden times, the animals of the forest could ...

#### Pineapple Question - Huffington Post

www.huffingtonpost.com/news/pineapple-question/ ▼ The Huffington Post ▼ The "Wisdom" of Pearson's Pineapple Passage. Alan Singer | Posted ... Ridiculous Talking Pineapple Question On 8th-Grade State Exam Confuses Everyone.

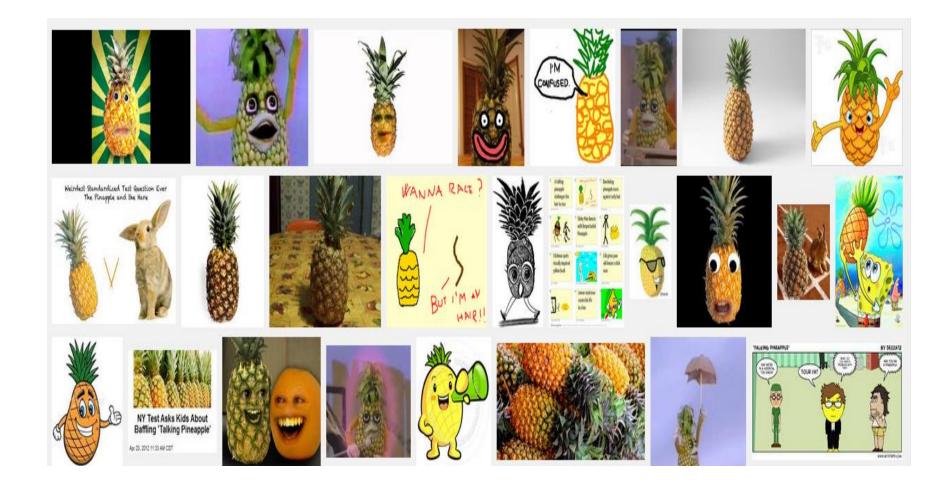
#### The Pineapple And The Hare: Can You Answer Two Bizarre ...

www.npr.org/.../the-pineapple-and-the-hare-can-you-answer-two-bizar... NPR \* Apr 20, 2012 - The story — titled The Pineapple and the Hare — was included in a New York Daily News story about the consternation the questions have ...

John Oliver's take on standardized tests, Pearson, talking ... laschoolreport.com/john-olivers-take-on-standardized-tests-pearson-talki... • May 5, 2015 - The pineapple test question was among 30 produced by Pearson that have now been declared invalid in New York. One student told a local ...

'Talking pineapple' question on standardized test baffles ... https://www.washingtonpost.com/...pineapple.../glQA... The Washington Post \* Apr 20, 2012 - A question about a "talking pineapple" on a standardized test given to ... Pearson and has "confused students in six or seven different states.".

Pearson Defends Use of Pineapple Story on State Test ... www.wnyc.org/.../302954-pearson-defends-use-of-pineapple-stor... ▼ WNYC ▼ May 4, 2012 - Pearson, the testing company, says it stands behind the math and The talking Pineapple became a symbol for incompetence & absurdity of standardized testing



## John Oliver's <u>takedown on testing</u> May 3, 2015 HBO show "Last Week Tonight" featured the Pineapple and showed my original blog post



## January 2016 Report on testing from Center for American Progress reveals the continuing impact of this story



#### Implementing the Every Student Succeeds Act

Toward a Coherent, Aligned Assessment System

By Catherine Brown, Ulrich Boser, Scott Sargrad, and Max Marchitello

January 2016

WWW.AMERICANPROGRESS.ORG

## Excerpt from <u>CAP report</u>: Results of surveys of parents in several states asked about their attitude towards testing

When it comes to district and school communication about tests, some surveyed parents half-jokingly said that they got more information about the state tests from comedian John Oliver during a segment on standardized testing on his "Last Week Tonight" show.<sup>80</sup> In fact, six parents in our survey mentioned the May 3, 2015, episode, saying that it provided them with crucial details. As one parent wrote, "As silly as it sounds, I am pretty influenced by the fact that John Oliver made a show on the tests …This makes me better understand how controversial these tests are."

# inBloom saga 2011-2014

 In August 2011, Vicki Phillips of the Gates Foundation wrote about a project called the Shared Learning Collaborative, which she described as a state-led suite of online tools shared with 9 states and districts, operated in conjunction with Rupert Murdoch's Wireless Generation & aligned with the Common Core.

Impatient Optimists	
UGUST 03, 2011	🗛 FONT SIZE 👘 PRINT
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here are few times in life when we are fortunate enough to be part of something	🎔 Tweet 👔 👉 47

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amazing. I believe this is one of those times, and I am especially excited because the "something amazing" is being led by states.

As a former state chief, it has been a pleasure to see states take the lead on issues that will make such a difference for students and teachers, first on the <u>Common Core State Standards</u> and now on the Shared Learning Collaborative.

So what is the Shared Learning Collaborative?

The Shared Learning Collaborative is a new, state-led project the foundation is helping to fund. Think of it as a huge app store—just for teachers—with the Netflix and Facebook capabilities we love the most. It's something that enables teachers to communicate with each other, to share applications and tools, and to give their students differentiated instruction—all aligned to the Common Core State Standards.

### I blogged about this six days later on HuffPo...

### Gates, In Alliance with Murdoch's News Corp, Builds a **New App for Corporate Education Reform?**

f Like < 39

() 08/09/2011 12:21 pm ET | Updated Oct 09, 2011





Executive Director, Class Size Matters

On Aug. 3, Vicki Phillips of the the Gates Foundation announced the creation of an
"amazing" new software program that will be like a "huge app store — just for
teachers — with the Netflix and Facebook capabilities we love the most."

"There are few times in life when we are fortunate enough to be part of something amazing," she wrote. "I believe this is one of those times, and I am especially excited because the 'something amazing' is being led by states."

Really? This was led by states, and not by the Gates Foundation? Hmm... we've heard that one before.

### TURN A CAREER SERVING OT / 3 3 4 5 5 6 6



The announcement continues:

## 5 months later...

- December 2011: NY Board of Regents approves NYSED's plan to share personal student and teacher data with the Shared Learning Collaborative LLC, as reported in the <u>Wall St Journal</u>.
- The Gates Foundation initially awards \$76.5 million to this LLC, with \$44 million going to Wireless Generation, to design and operate the system.
- Eventually the Gates Foundation will spend over \$100 million on this effort.

### For more than a year –

### December 2012- February 2013: frustration!

- I start blogging about this and asking NYS Ed Dept for the contract, and get no response.
- Diane Ravitch blogs about this several times as well.
- I hold press conferences , and reach out to NY elected officials , Superintendents, and school board members, none of whom know anything about this
- I contact parents in the 8 other states and districts participating in this project, who have been told nothing about it.
- I email and call many national reporters including several on the NY Times, none of whom are interested in the story
- The Gates Foundation spins off inBloom as a separate corporation on February 6, 2013.

# Finally in March 2013

- After months of trying, I finally contact the first national reporter to realize the importance of this story --Stephanie Simon, then of Reuters, later of Politico.
- Simon publishes a bombshell article in <u>Reuters</u> on March 3, 2013, which is also the first day of SXSW Edu conference in Austin Texas, co-sponsored by Bill Gates and inBloom Inc. The story causes a huge buzz.
- Her story is followed up by <u>Hechinger Report</u>, <u>Politics</u> <u>365</u>, <u>The Denver Post</u>, and <u>The Answer Sheet</u>, and eight months later in October 2013, in a New York Times <u>article</u> by one of their technology reporters.



Technology | Sun Mar 3, 2013 7:11am EST

Related: U.S., TECH

# K-12 student database jazzes tech startups, spooks parents

BY STEPHANIE SIMON

An education technology conference this week in Austin, Texas, will clang with bells and whistles as startups eagerly show off their latest wares.

But the most influential new product may be the least flashy: a \$100 million database built to chart the academic paths of public school students from kindergarten through high school.

In operation just three months, the database already holds files on millions of children identified by name, address and sometimes social security number. Learning disabilities are documented, test scores recorded, attendance noted. In some cases, the database tracks student hobbies, career goals, attitudes toward school - even homework completion.

# Boom!

- Almost immediately after the Simon's article is published, parents start protesting in the all nine inBloom states and contacting their school boards, Superintendents and state officials.
- These officials get upset and react to parent outrage
- One by one, every state and district pull out of inBloom in eight months between April November 2013 except for NY
- Finally, the NY Legislature passes a bill to block any data-sharing with inBloom on March 31, 2014.
- April 21, 2014: inBloom closes its doors

# 2015-2016: \$1.1 billion contract going to corrupt contractor

- February 2014: I am looking over proposed contracts to be voted on that week by our appointed school board, the Panel for Education Policy
- Though little info is provided, I notice that a huge contract \$1.1B over five years, extendable to \$2B over 9 years is to be awarded a company called Custom Computer Specialists for internet wiring and equipment.
- I Google the name and find my own <u>NYC Council testimony</u> from 2011 on wasteful and corrupt NYC DOE contracts.
- I am amazed to find this same company was implicated in a kickback scheme that defrauded the DOE of millions of dollars just a few years before, in cahoots with a consultant who had been convicted and gone to jail.

# I blog about this immediately and contact reporters...

### **NYC Public School Parents**

Independent voices of New York City public school parents

Sunday, February 22, 2015 Is the company due to receive a \$2 billion contract from the DOE the same as implicated in a huge 2011 scandal?

# NY Post & Daily News follow up...





### DOE hiring tech firm linked to kickback scheme

By Yoav Gonen

February 24, 2015 | 1:38am

New contract from city's Department of Education to questionable technology firm does not compute



BY JUAN GONZALEZ

NEW YORK DAILY NEWS / Tuesday, February 24, 2015, 11:07 PM

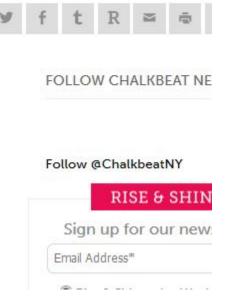
## As does Chalkbeat

#### WHO RULES THE SCHOOLS

# Ahead of vote, a tech contract raises questions c transparency, oversight

By Geoff Decker a gdecker@chalkbeat.org PUBLISHED: February 25, 2015 - 5:00 a.m. EDT





## After reporters inquire....

 The DOE hurriedly "renegotiates" & lowers the price of the contract to \$637 M, instead of \$1.1 B, revealing how inflated the contract was in the first place

 Despite the bad press and outraged comments at the PEP meeting, the Panel approves the contract 10-1 The next month, City Hall kicks back and cancels the contract ...first time this has ever occurred

### Department of Education does an about-face, cancels firm's \$637M contract to provide computer services to public schools



NEW YORK DAILY NEWS / Thursday, March 19, 2015, 9:17 PM

# In December 2015, DOE rebids the internet contract to several companies for \$472 M

- This saves \$163 million over the renegotiated "reduced" price.
- Or nearly \$627 million less than the initial price of \$1.1 billion it was supposed to cost originally
- I estimate the savings at \$727 million, because now DOE has a chance to gain \$100 million in federal E-rate funds that it was cut off from since the original scandal that the company was involved in.
- DOE announces that they will now post more details of contracts at least 30 days before the PEP vote – as elected officials demanded ---- instead of the night before, as previously.

### Gonzalez: Big school contract revealed, spurring NYC to seek new deal that saves millions



NEW YORK DAILY NEWS / Wednesday, December 23, 2015, 4:00 AM

Tweed will even post information on all bids on its website 30 days before the scheduled vote by the panel, and has committed to do the same with other contracts.

"Thank goodness City Hall heeded our concerns" Rosenthal said. "They're taking the lesson of this seriously, and have promised more transparency."

Public Advocate James praised the result, but warned, "We must ensure this never happens again. New Yorkers have the right to know where their tax dollars are going."

As for Haimson, the parent advocate who blew the whistle on this, her shoe-string organization gets no finders fee for bringing the issue into the open. Here's hoping Chancellor Fariña uses some of that money to at least reduce class size at a few schools.

AAA

## Lessons learned

- Use FOIL , peruse budget documents and read blog comments
- Analyze, dissect and figure out in advance what is important and newsworthy
- When you obtain interesting info, pitch the story to a reporter – who are usually looking for good stories
- If you can, wait for a relevant news hook
- If no reporter bites, blog about it yourself, be persistent and never give up!

# Sample Freedom of Information Act letters

- Sample federal FOIA letters here:
- <u>http://www.nfoic.org/sample-foia-request-letters</u>

- Sample state FOIA letters here:
- <u>http://www.nfoic.org/state-sample-foia-</u> <u>request-letters</u>