

Comments to SMMUSD school board, June 5, 2008  
Michael Chwe

As a parent of two children at Lincoln Middle School, I am grateful that the SMMUSD school board is revising its policy on Child Abuse Prevention and Reporting in the light of the recent arrest of Lincoln teacher Thomas Beltran on 14 counts of sexual molestation, and the revelation that a Lincoln student made a written complaint about Mr. Beltran two years ago, in March 2006. Her complaint was investigated by the SMPD but apparently no record of her complaint was kept anywhere at Lincoln or the SMMUSD offices.

This lack of reporting and recordkeeping is shocking. Equally disturbing is the fact that the SMMUSD has yet to give a coherent explanation for it. In its May 7, 2008 press release, Assistant Superintendent Mike Matthews stated that in March 2006, the SMMUSD "investigated the matter and took appropriate action." SMMUSD Board President Oscar de la Torre stated on May 9, 2008 that there was a "breakdown in communication." We have yet to publicly hear from Ms. Kathy Scott, principal of Lincoln in March 2006, or hear about what the SMMUSD has learned from her. The policy revision discussed tonight adds the requirement that a principal must inform the superintendent of suspected child abuse. Thus this requirement must not have been part of SMMUSD policy in March 2006.

On May 21, 2008, a group of ten Lincoln parents, including myself, wrote a letter to Lincoln Principal Tristan Komlos and Superintendent Talarico, asking fourteen questions, including whether the lack of recording of the March 2006 complaint was consistent with or violated SMMUSD policy. Ms. Talarico replied on May 30 that the SMMUSD is consulting with its attorney in preparing a response. But many of these questions are simple policy matters, such as whether Lincoln keeps its outgoing correspondence, or whether there exists a systematic record of student complaints against teachers. The SMMUSD must balance its legal exposure with its responsibilities to be accountable to the community. Otherwise it faces further erosion of trust and credibility.

Because of the absence of a coherent explanation, we have looked for SMMUSD policy documents. SMMUSD policy on complaints against teachers is contained in its agreement with the Santa Monica-Malibu Classroom Teachers Association. The policy states that if a student or parent makes a complaint against a teacher, the teacher may request a meeting including the teacher, the complaining party, and an administrator. But "if the complainant refuses to attend the meeting, the complaint shall neither be placed in the unit member's personnel file nor utilized in any evaluation, assignment, or disciplinary or dismissal action against the unit member."

Very few children, or even adults, would be courageous enough to make a complaint against a teacher knowing that they would have to then meet the teacher face to face. Even now, Lincoln students and parents who complain about teachers are told that the student must first confront the teacher, and otherwise there is no recourse. This policy is a license for intimidation. This policy goes against the California Code of Regulations, which in Title 5, Section 4621, states that "local policies shall ensure that complainants are protected from retaliation and that the identity of a complainant alleging discrimination remain confidential as appropriate." The SMMUSD has yet to take responsibility for this policy or answer questions about how it worked in the case of Mr. Beltran. This policy is outrageous and has placed, and continues to place, our children at risk.

Finally, the revised policy discussed tonight makes no mention of recording requirements or the exact procedure of how a student complaint against a teacher is handled. In fact, it does little more than restate existing state law and is thus inadequate.

For all of these reasons, my confidence in the ability and willingness of the SMMUSD to be publicly accountable for the current crisis and to create effective policies in response is rapidly diminishing. I would encourage the SMMUSD board to answer basic questions on what happened in March 2006, to immediately drop the policy that allows a teacher to completely silence a student's complaint unless the student agrees to meet with him, and to try harder to come up with a detailed policy which clearly specifies procedures for receiving and recording student complaints.

Documents are enclosed which make these arguments in more detail. All of them are available at the web site [lincolncommunity.googlepages.com](http://lincolncommunity.googlepages.com).

Sincerely yours,

Michael Chwe

Comments on SMMUSD's proposed revision to its Child Abuse Prevention and Reporting Policy, June 5, 2008

Dear Members of the SMMUSD school board,

The SMMUSD school board during its meeting on June 5, 2008 is discussing the revision of its policy 5141.4 - CHILD ABUSE PREVENTION AND REPORTING. I am a parent of two children at Lincoln Middle School. These are my comments on the proposal. I sent a version of these comments by email to members of the SMMUSD Ad Hoc Policy Review Committee on June 2, 2008.

1. The policy covers reporting of suspected child abuse. It does not cover inappropriate touching, intimidation, suggestive comments, etc., which might not meet the criminal threshold but are still grounds for action and might be indicative of other criminal behavior.
2. The policy makes no mention of recording requirements. It does not say anything about what records, if any, would be placed in an employee's personnel file, for instance. It does not say anything about when such records might be reviewed to detect patterns of behavior over time.
3. The section in the policy which covers parent complaints, "Parent/Guardian Complaints Regarding Suspected Child Abuse," contains almost no specific information about what procedure is followed if a parent complains. For example, it does not specify if a parent or student must meet with the teacher after making a complaint if the teacher requests a meeting, as is specified in the SMMUSD- SMMCTA agreement.
4. The policy is largely an assemblage of material from existing state law, such as the Penal Code and Education codes. I haven't gone through it line by line to compare it to existing codes (which are all available on the web), but the only substantive material which seems to be added in addition to existing state law is the section on Internal Reporting, which basically says that the principal has to inform the superintendent of suspected child abuse. It's good to include state law as part of SMMUSD policy, but presumably the SMMUSD already follows state law. The policy contains little more than what is already legally required.
5. Without knowing more about the March 2006 complaint, it is difficult to know what difference this proposed policy would have made in that case. We don't know whether the March 2006 case was suspected child abuse. In her letter, Ms. Scott said that the student felt uncomfortable because of the way Mr. Beltran touched her, and Ms. Scott contacted the SMPD, so it seems likely that it was. The fact that the new policy requires that a principal notifies the superintendent implies that the old policy did not require it, and thus even if the March 2006 complaint was child abuse, Ms. Scott did not violate SMMUSD policy when she did not report it to the SMMUSD offices.

In sum, the proposed policy is very inadequate. It's not really much of a proposal since it says little more than what is already required by state law.

Sincerely yours,  
Michael Chwe

Letter to the editor, Santa Monica Mirror, June 6, 2008

On May 2, 2008, a twelve-year-old student at Lincoln Middle School in Santa Monica went with her parents to Santa Monica Police Department headquarters and told detectives that Thomas Beltran, a teacher at Lincoln, had molested her during school hours. [Police interviewed Mr. Beltran's other students and three other students alleged that they also had been victimized. On May 3, Mr. Beltran was arrested. On May 6, Mr. Beltran was arraigned on 14 counts of sexual molestation.]

The twelve-year-old Lincoln student who first went to the police showed great courage. But she was not the first to complain about Mr. Beltran. On March 14, 2006, an equally courageous eighth grade Lincoln student made a written complaint about the way that Mr. Beltran had touched her. Ms. Kathy Scott, principal of Lincoln at the time, informed the SMPD, which investigated the complaint but found insufficient evidence for criminal charges. Ms. Scott then wrote a letter on March 30, 2006 to the SMPD explaining that she had removed the student from Mr. Beltran's classroom and had told Mr. Beltran to stop touching female students.

This student's complaint was serious enough to warrant a police investigation, and serious enough that she is now considered a fifth victim in the charges against Mr. Beltran. But apparently no record of her complaint was kept anywhere at Lincoln or at the Santa Monica-Malibu Unified School District offices. [According to its public statements, the only reason the SMMUSD now knows about her complaint, two years after the fact, is because on May 6, 2008, the SMPD gave the SMMUSD a copy of Ms. Scott's March 2006 letter. Oscar de la Torre, SMMUSD school board president, said that "the school board was never alerted to the allegations in 2006" and that there was no record of the complaint and investigation in Mr. Beltran's personnel file. Assistant Superintendent Mike Matthews said that "this was all new to us." Lincoln Principal Tristan Komlos, who replaced Ms. Scott in the summer of 2006, said that she saw Ms. Scott's letter for the first time on May 7, 2008.

Why did Ms. Scott, in her capacity as principal, write a letter to the SMPD but not the SMMUSD district offices? Why was there no record of the March 2006 complaint anywhere in the SMMUSD? On May 21, 2008, ten Lincoln parents wrote a letter to Ms. Komlos and Superintendent Dianne Talarico asking, among other questions, whether Ms. Scott's actions were consistent with or violated SMMUSD policy. On May 30, Ms. Talarico replied to us saying that the SMMUSD is consulting with its attorney in preparing a response to our questions.]

The SMMUSD policy on complaints against teachers is contained in its agreement with the Santa Monica-Malibu Classroom Teachers Association, available at the SMMCTA web site. (This agreement, and all documents mentioned here, are available at [lincolncommunity.googlepages.com](http://lincolncommunity.googlepages.com).) This policy is unusual and, in the absence of any explanation given by the SMMUSD, can help explain Ms. Scott's actions. The policy states that if a student, parent, other employee, or member of the public makes a complaint against a teacher, the teacher may request a meeting including the teacher, the complaining party, and an administrator. But "if the complainant refuses to attend the meeting, the complaint shall neither be placed in the unit member's personnel file nor utilized in any evaluation, assignment, or disciplinary or dismissal action against the unit member."

Very few children, or even adults, would be courageous enough to make a complaint against a teacher knowing that they would have to then meet the teacher face to face. [This policy makes it almost impossible for student complaints to be investigated or even recorded. This policy discourages especially the most serious complaints, about teachers which intimidate, bully, or abuse the trust of students. Even now, Lincoln students and parents who complain about teachers are told that the student must first confront the teacher, and otherwise there is no recourse. In Ms. Scott's letter about the March 2006 complaint, there is no mention that Mr. Beltran met with the student, and thus under SMMUSD policy, Mr. Beltran could veto any record of her complaint.

This policy is at variance with common practice and common sense. Thankfully, the SMPD did not require the student who came to police headquarters in May 2008 to meet with Mr. Beltran before investigating. This policy goes against the California Code of Regulations, which in Title 5, Section 4621, states that "local policies shall ensure that complainants are protected from retaliation and that the identity of a complainant alleging discrimination remain confidential as appropriate." Policies concerning complaints against teachers are available on the internet for school districts in Burbank, El Segundo, Long Beach, Manhattan Beach, Plumas, Redondo Beach, San Diego, Santa Barbara, and Upland, California, and not one of these districts unconditionally requires that a student or parent must meet with the teacher after filing a complaint if the teacher requests it. This policy is at variance with reporting practices common in the private and public sector; at UCLA, for example, all allegations of sexual harassment against a professor are recorded, regardless of whether they are investigated, for at least five years and even as long as the professor remains employed.

When children are understandably fearful of speaking up, it is essential that their complaints be taken seriously and recorded. A complaint of inappropriate touching which does not merit action taken by itself might be part of a pattern over several years which definitely requires action. Without records, it is impossible to detect such patterns. The Los Angeles district attorney's office is now questioning at least five additional people who alleged that Mr. Beltran sexually molested them, as far back as 1998.]

Why did the SMMUSD adopt an unusual policy on complaints against teachers which makes it almost impossible for a student's complaint to even be recorded, especially for the most serious matters? The SMMUSD has yet to take responsibility for this policy or answer questions about how it worked in the case of Mr. Beltran. This policy is outrageous and has placed, and continues to place, our children at risk.

Michael Chwe  
UCLA Associate Professor in Political Science  
Parent of two Lincoln Middle School students

[The text in brackets was included in the original version, but not in the version published in the Santa Monica Mirror.]

Policy on Public Complaints, Agreement Between Santa Monica-Malibu Unified School District and Santa Monica-Malibu Classroom Teachers Association, July 1, 2006-June 30, 2008.

**ARTICLE XIII**

**PUBLIC COMPLAINTS**

- A. No negative and/or unsatisfactory evaluation, discipline, dismissal, or other adverse action shall be predicated upon complaints, information or material of a derogatory or critical nature which has been received by the District from pupils, parents, District employees, public agency, and/or the public unless the following procedures have been followed:
1. Any public complaint about a unit member shall be reported to the unit member by the administrator receiving the complaint, within five (5) working days of receipt. The complainant shall be encouraged to resolve concerns through verbal communication with the unit member or the unit member's immediate supervisor. Every effort shall be made by the supervisor to refer the complainant to the unit member first. However, nothing in this section is intended to preclude the administrator from addressing complaints without notifying the unit member provided that such complaints are not later referenced by the administrator or used adversely against the unit member.
  2. The unit member may request, or the administrator shall attempt to convene, a meeting among the unit member, the complaining party, and the administrator in order to attempt to resolve the problem. At the request of the unit member, Association representative(s) may be present at the meeting. If the complainant refuses to attend the meeting, the complaint shall neither be placed in the unit member's personnel file nor utilized in any evaluation, assignment, or disciplinary or dismissal action against the unit member.
  3. If the matter is not resolved at the meeting to the satisfaction of the complainant, the complainant may submit the complaint in writing. The original copy shall be given to the unit member with a copy to the unit member's immediate supervisor. The unit member shall be given time during the duty day, without salary deduction, to review the complaint and prepare responsive comments. If no written complaint is received, the matter shall be dropped.
  4. Complaints which are withdrawn or shown to be false, shall neither be placed in the unit member's personnel file nor utilized in any evaluation, assignment, or disciplinary or dismissal action against the unit member.
  5. Complaints that are found to be substantive may result in some follow up action by the immediate supervisor, even if resolved. All information or proceedings regarding any complaint shall be kept confidential.

Letter from Lisette Bauersachs, Michael Chwe, Bette Fruchtman, Wendy Kamenoff, Phyllis Katz, Michael Keller, Namhee Lee, Karl Rumburg, Lisette Toppel, and Helen Weary, Lincoln parents, to Principal Tristan Komlos and Superintendent Dianne Talarico. Response from Ms. Talarico.

May 21, 2008

Dear Ms. Komlos and Ms. Talarico,

Thank you for your letter of May 14, 2008 to the Lincoln Middle School community concerning the arrest of Lincoln teacher Thomas Beltran. Thank you also for the meetings for parents held on May 5 and May 8, 2008 at Lincoln. We appreciate all of the efforts of the administration, faculty, and staff of Lincoln and the Santa Monica-Malibu Unified School District during this difficult time. The meetings and the letters have given us much important information. However, several questions still remain, and we would be much obliged if you could answer them. We will post your answers on the website [lincolncommunity.googlepages.com](http://lincolncommunity.googlepages.com), so that parents with similar questions can refer to them. The various articles and documents mentioned below are also on this website.

Most of these questions concern the handling of the complaint of inappropriate touching by a Lincoln student against Mr. Beltran in March 2006. On May 7, 2008, the SMMUSD issued a press release which included a letter detailing this complaint and Lincoln's response to it. This letter was written on March 30, 2006 by Kathy Scott, Principal of Lincoln at the time, and was sent to Detective Gladden of the Santa Monica Police Department. According to the press release, the SMPD gave the letter to the SMMUSD on May 6, 2008. According to an article by Melody Hanatani on May 8, 2008 in the Santa Monica Daily Press, Assistant Superintendent Mike Matthews said that "this was all new to us."

1. Is there any systematic recording of student complaints against teachers at Lincoln? When a student at Lincoln, or any other SMMUSD school, makes a written complaint against a teacher, and this complaint is serious enough to be investigated by police, as occurred in March 2006, is it official policy for a record of this complaint to be kept? Was the recording (or lack of recording) of the student's March 2006 complaint consistent with Lincoln policy or a violation of it?
2. If a student and his or her parents make a complaint against a teacher at Lincoln, in order to create a record of the complaint, should they involve the Santa Monica Police Department?
3. In a statement on the Lincoln List on May 7, 2008, Principal Tristan Komlos writes that she and Assistant Principal Francis Costanzo saw Ms. Scott's letter for the first time when they met with Superintendent Dianne Talarico on May 7, 2008. Is there any record of any kind of the March 2006 complaint against Mr. Beltran in any file at Lincoln? Does Lincoln keep copies of its outgoing correspondence?
4. In a Los Angeles Times article on May 8, 2008 by Tami Abdollah, Mr. Matthews states that Ms. Scott's letter was not in Mr. Beltran's personnel file. Is the absence of this letter in Mr. Beltran's personnel file consistent with SMMUSD policy, a violation of SMMUSD policy, or a matter of individual discretion? Under what SMMUSD policy did Ms. Scott write her letter to the SMPD but did not write a letter to the SMMUSD district offices?

5. If the absence of Ms. Scott's letter in Mr. Beltran's file was the result of individual discretion, who made the decision to not include this letter in Mr. Beltran's personnel file? Is there any record of any kind of the March 2006 complaint against Mr. Beltran in any file anywhere in the SMMUSD?
6. In her letter, Ms. Scott writes that in March 2006 the student "came to assistant principal, Mr. Costanzo's office to report that [the student] felt uncomfortable being in Mr. Tom Beltran's class because of the way he touched her" and that the student had made a written statement describing what she had experienced. Since Mr. Costanzo took the report, did he know that the student's complaint was about inappropriate touching? Did Mr. Costanzo read the student's written statement? During the May 8, 2008 meeting at Lincoln, Mr. Costanzo stated that he did not know the full contents of Ms. Scott's letter. What was the extent of Mr. Costanzo's knowledge of the student's complaint and how it was resolved?
7. After Mr. Beltran was publicly arrested on May 3, 2008, is it reasonable to expect that Lincoln administrators, given that at least one of their members, Mr. Costanzo, had knowledge, however incomplete, of the March 2006 complaint, would have quickly located all Lincoln records concerning this complaint and also contacted Ms. Scott to ask of her knowledge of it, as part of their responsibilities as administrators and also to fully cooperate with the police investigation? How is this consistent with the May 7 Lincoln List statement saying that Mr. Costanzo and Ms. Komlos saw Ms. Scott's letter for the first time on May 7, 2008?
8. During the May 8, 2008 meeting at Lincoln, a member of the audience asked if Ms. Scott, when she was leaving Lincoln, ever informed Ms. Komlos about the March 2006 complaint against Mr. Beltran. This question was not answered at the meeting. Did Ms. Scott and Ms. Komlos ever talk about Mr. Beltran and the March 2006 complaint?
9. In the May 8, 2008 Los Angeles Times article, Mr. Matthews states that there is no other complaint in Mr. Beltran's personnel file. Given that the March 2006 complaint was not in his personnel file, is it possible to conclude that there were no other complaints about Mr. Beltran during his thirty years teaching in the SMMUSD?
10. In a Los Angeles Times report on May 9, 2008 by Tami Abdollah, it is reported that the police are interviewing five additional people who alleged they were sexually molested by Mr. Beltran, as far back as 1998. Given reporting practices at Lincoln and the SMMUSD, is it possible to determine whether any of these five people, or any other person, had ever made a complaint about Mr. Beltran?
11. During the meeting on May 5, an audience member asked whether there had been previous complaints about Mr. Beltran. Mr. Costanzo replied that he could not answer because of confidentiality of personnel records. If the SMPD had not given Ms. Scott's letter to the SMMUSD, or if Ms. Scott had not written such a letter, would Lincoln administrators ever have made public the fact that there had been a previous complaint against Mr. Beltran?
12. The May 7, 2008 SMMUSD press release states that in March 2006, "the Santa Monica-Malibu Unified School District investigated the matter and took appropriate action to ensure the protection of the complainant while also providing the employee an opportunity to respond to the complaint." If the SMMUSD took appropriate action in March 2006, how is it possible that Mr. Matthews, speaking for the SMMUSD on May 8, 2008, could say that "this was all new to us"?



13. Should the recording (or lack of recording) of the March 2006 complaint be considered part of the "appropriate action" which the SMMUSD took in March 2006?

14. The May 7 SMMUSD press release states that "The District was informed that law enforcement authorities investigated the matter, but ultimately determined that there was insufficient evidence to initiate criminal action." Is it SMMUSD policy that insufficient evidence for initiating criminal action against a teacher absolves the district from considering whether the teacher should be investigated by the district itself or possible job actions such as temporary leave or reassignment?

Thank you very much for your consideration and for taking the time to answer these questions.

Sincerely yours,

Lisette Bauersachs  
Michael Chwe  
Bette Fruchtman  
Wendy Kamenoff  
Phyllis Katz  
Michael Keller  
Namhee Lee  
Karl Rumburg  
Lisette Toppel  
Helen Weary

From: [dianne.talarico@mail.smmusd.org](mailto:dianne.talarico@mail.smmusd.org)  
Subject: Response to your email dated May 21, 2008  
Date: May 30, 2008 8:14:11 PM PDT  
To: [michael@chwe.net](mailto:michael@chwe.net)  
Cc: [tristan.komlos@smmusd.org](mailto:tristan.komlos@smmusd.org)

Hello Mr. Chwe,

Please forgive me for the delay in responding to your email dated May 21, 2008. You presented a series of questions regarding the Beltran case. Our attorney is assisting us in reviewing and preparing a response. The active investigation status of this case prohibits the district from responding to many of your questions at this time.

A joint letter from Tristan Komlos and I that provides updates to the community is being sent home with the students today and via Lincoln list.

Sincerely, Dianne Talarico  
Superintendent  
Santa Monica-Malibu Unified School District  
World Class Public Schools  
310.450.8338 (ph)  
310.581.1138 (f)