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July 7, 2010

Dr. Zollie Stevenson, Jr., Ph.D.
Director
Student Achievement and School Accountability Programs
United States Department of Education
Washington, D.C. 20202-6132

VIA: US mail delivery, facsimile, e-mail delivery

RE: U.S. Department of Education's EPISD investigation

Dear Dr. Stevenson:

We are in receipt of your letter dated June 28, 2010. We appreciate your prompt attention to this critical matter and further ask that the U.S. Department of Education together with the civil rights division of the Department of Justice undertake this important investigation, instead of the Texas Education Agency (TEA).

During Governor Rick Perry's tenure, TEA has demonstrated little interest in promoting quality education and no interest in defending civil rights. Recently, news columns in El Paso have stated that TEA found the Bowie allegations "unsubstantiated" even though TEA Commissioner Robert Scott admitted to me by phone that the agency had done no investigation on Bowie at all. We have enclosed that El Paso Times column for your review.

During the last session, our office led an effort by Democratic Senators to restore the \$3.2 billion in stimulus money that TEA had used to supplant deficit gaps instead of delivering monies directly to Districts as contemplated by the law. More recently, TEA has refused any participation in "Race to the Top" even though the Houston Independent School District (HISD) and other districts expressed keen interest in participating in the program. All of this is to say we have no faith that TEA will subpoena witnesses, expend the resources, and do the patient, professional, investigative work that a thorough investigation of systemic violations in the El Paso Independent School District (EPISD) TAKS testing will require.



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There is also reason to believe that TEA's own lax enforcement of NCLB rules and regulations gave EPISD administration the idea that "desaparecidos" was possible.

The Bowie model has already spread to several other District "priority high schools" including Austin and El Paso. Our request is to investigate the entire "priority school division" including related contracts, not just Bowie. When 55% of incoming freshman at high LEP schools like Bowie are "disappeared" before taking the sophomore TAKS tests, we are witness to a systematic, institutional denial of the quality public education that the U.S. and Texas constitutions guarantee. On its face, the data establishes that more students at Bowie are now "disappeared" than educated.

Over recent weeks our office has received credible reports and evidence to establish that:

- at certain schools, squads of truant officers were dispatched at 5:00 a.m. during TAKS testing week to guarantee that targeted students would not take TAKS tests;
- research and evaluation personnel notified District administrators that reclassifying LEP students to avoid the TAKS violated federal and state law, then were removed from the district committee;
- special education teachers were asked to re-classify students so as to avoid TAKS test results;
- certain principals changed attendance records so as to graduate seniors who did not have necessary credits;
- administrators utilized "turbo-mesters" to provide minimal education coaching, not class time, to have certain students skip the 10th grade entirely and go directly to the 11th grade; and,
- administrators utilized online "accredited" companies to avoid TAKS altogether and grant degrees without the necessity of reporting TAKS scores.

We ask that you simply review the macro leaver data on Bowie at the TEA website to see what we see—the reports from witnesses align with what we believe to be pervasive, district sponsored denial of equal protection standards guaranteed by law under No Child Left Behind. We believe that the "desaparecido" system deployed at EPISD is a systemic denial of equal protection for an entire class of students in my Senate district which has effectively gutted NCLB, and thus request that your office along with the Civil Rights Division subpoena witnesses to do the work that TEA will not.

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We request a face to face meeting with your Dallas office next week to make our case prior to your final decision. What is happening at EPISD is too important to the future of Texas to do otherwise.

Very truly yours,



Eliot Shapleigh

cc: Mr. Juan Sepulveda, Director, White House Initiative on Educational Excellence for Hispanic Americans

Enclosures: *El Paso Times* newspaper article
Correspondence sent to Secretary Arne Duncan

ES/eh

FG/StevensonZEPISDInvestigation