

Report of the Independent Monitor

John M. Verre

For the Second Semester of 2008-09

(Plaintiff's Version)

In the matter of

D.S., et al., Plaintiffs,

vs.

NEW YORK CITY DEPARTMENT OF EDUCATION and

NEW YORK CITY BOARD OF EDUCATION, Defendants

Final Second Semester 2008-09 Report

Submitted October 21, 2009

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METHODOLOGY

Focus of Monitoring

As the Independent Monitor, I have reviewed compliance by the New York City Department of Education (“DOE”) with paragraph 7 of the Stipulation of Settlement (the “Stipulation”) in the above matter at Boys and Girls High School (“B&G”) for the second semester of 2008-09.

The provisions of paragraph 7 are:

7. a. The program cards or notices of student programs for B&G shall inform students of their right to attend school full time until they receive a High School Diploma or until the end of the school year in which they turn 21, whichever comes first, and to have a program with at least five and one-half hours of instruction designed to lead towards Graduation, unless fewer hours of instruction are necessary for Graduation.

7. b. DOE shall not exclude a Current B&G Student from school or class at B&G unless the student is afforded the procedural protections set forth in New York Education Law 3214 and DOE Chancellor’s Regulations A-443 or any successor regulations, A-450 or any successor regulations, and the due process clause of the United States Constitution.

7. c. DOE shall not transfer or discharge a Current B&G Student from B&G under discharge codes 02, 34, 35, 36, 37, 38, 39, 41, 43 as they are written on the date of the signing of this agreement, unless the Student or Parent has been provided with (1) prior notice, (2) an opportunity for a meeting, and (3) review and approval for the transfer or discharge by a DOE Senior Youth Development Director working outside of B&G, or any successor to the role provided the successor works outside of B&G.

Monitoring Activities

I received and reviewed data reports submitted to me by DOE Counsel during May and June, 2009, and contacted relevant school administrators and DOE Counsel to seek clarification where I judged this to be necessary. I conducted an unannounced inspection of the school, on June 15, 2008. During this visit, I observed in the SAVE and 3:00-5:30 programs, and I interviewed school administrators and other school personnel, including the Principal, Assistant Principals for Organization, Guidance, Security, Data/Technology: and the Dean in charge of the 3:00-5:30 Program. Following my visit to the school, I conducted telephone interviews with DOE Counsel, the Assistant Principal for Administration, and the Assistant Principal for Instructional Support Services.

Data Analysis

My second semester review has included analyses of the interviews and discussions, student line schedule, student program cards, transfer/discharge reports, OORS incident reports, SOHO reports, various school programs and services, and student complaints.

Reporting

As with the previous report, I have organized this second Report of the Independent Monitor around the three substantive issues addressed in the Stipulation: 1) attendance in school, 2) procedural protections and due process in transfers/discharges and student suspensions, and 3) complaints and resolutions. In each substantive section, I describe my findings and offer my concerns and recommendations. Finally, I discuss the implications of my findings for subsequent monitoring. In this report, I have adopted all of definitions provided in the Stipulation.

The Parties agreed that I would submit my draft report on June 15, 2009. Because of the delays in obtaining the necessary data, I actually submitted it on June 26, 2009. DOE submitted their comments to me on July 28, 2009, and the Plaintiff's followed with their comments on August 5, 2009. After analyzing these responses, I submitted to DOE a request for further information on August 14, 2009, and received their response on September 9, 2009.

In my data collection for the draft report, I pursued issues addressed in the Stipulation of Settlement as I understood them, and issues I raised in my Final First Semester 2008-09 Report. DOE responded to some of the my concerns in their response. Where I judged their response to be helpful, I included an analysis of the information they provided in this Final Report. In their response, the Plaintiff's raised questions that I had not pursued specifically in my data collection. Where I judged that further inquiry was warranted and data collection feasible, I attempted to collect additional information, and included the issues and my analysis in this Final Report. I have also noted issues that will be addressed in my investigations and reports in 2009-10

The Plaintiff's have requested that I recommend that DOE take certain actions to improve the conditions addressed in my investigations and reports. In this Final Second Semester Report, I make such recommendations to DOE. I believe that DOE may choose to follow my specific recommendations or take other action to address the conditions. During 2009-10, I will follow-up with DOE and the school to determine what actions have been taken.

The Plaintiff's have also requested that I obtain certain data broken down by race. As I read the Stipulation and understand my obligations, I am not required to include in my investigations and reporting an analysis by race. If I judge this issue to be pertinent to the matters addressed in the Stipulation, I will request such data and include it in my analysis and reporting.

ATTENDANCE IN SCHOOL

The Stipulation requires that the program cards or notices of student programs for B&G shall inform students of their right to attend school full time until they receive a High School Diploma or until the end of the school year in which they turn 21, whichever comes first, and to have a program with at least five and one-half hours of instruction designed to lead towards Graduation, unless fewer hours of instruction are necessary for Graduation.

Findings: Student Program Cards

I reviewed 10 student program cards, including the cards for randomly selected students on reduced schedules, discharged, and for whom a complaint was filed by a parent. All of the student program cards that I reviewed contained the required notice. The notice is pre-printed on the blue card stock used to print the individual student programs: "Note: Students have the right to attend school and receive a free public school education until the age of 21, and have a program with at least five and one-half hours of instruction designed toward graduation, unless fewer hours of instruction are necessary for graduation."

Findings: Student Line Schedule

I reviewed the School Master Schedule and the Student Line Schedule. I found no evidence of non-instructional classes or classes in which students remain for the entire day, with the exception of self-contained special education classes determined by Individual Education Plans.

The regular school day at B&G starts at 7:50 and ends at 2:32, for a total of 6 hours and 42 minutes. A regular day includes seven 45-minute instructional periods (5.25 hours), one 45-minute lunch period, and an 11-minute Academic Advisory period.

During second semester, there was an average daily enrollment of 2625 active students at B&G. I reviewed the Student Line Schedules, a spreadsheet displaying the individual schedules of all active students, arrayed across the daily class periods. The Line Schedules indicate that, among the active students, 227 (9%) have less than eight class periods in their schedules. An analysis of these students with reduced schedules indicates the following:

225 students (99% of students on shortened school days) are on track to graduate this year, and appropriately attend school less than 8 periods

2 students (1% of students on shortened school days) are attending school less than 8 periods for other reasons:

S. A., drops off daughter at child care, attends B&G periods 2 – 8, takes no lunch, and attends 7 instructional periods/day (5.25 instructional hours). In their comments, DOE clarified that all students, including this student, participate in Academic Advisory for an additional ¼ hour from 9:27 to 9:42, for a total of 5.5 instructional hours. DOE further informed me that this student “...will be a fourth-year senior in 2009-10, and is accruing credits at a rate that will be sufficient to complete credit requirements this coming school year.”

C. C., drops off a sibling at child care, attends B&G periods 2 – 8, takes lunch, and attends 6 instructional periods/day (4.5 instructional hours). In their comments, DOE clarified that this student “...earned 10 credits last year and is on track to graduate timely.”

In their comments on the draft report, the Plaintiff’s asked for a report on the case of student J. P. (#262910367), listed in my First Semester Report as a student on a “guidance schedule” who was scheduled for a 7-period day, periods 1-7, 6 instructional periods plus lunch, plus English 3 Credit Recovery, Period 9, afterschool on Mondays and Wednesdays.

DOE reported that, during second semester, this student became a “Long Term Absentee.”

I have not been able to determine why a student in need of Credit Recovery would be placed on a reduced schedule, or whether there is a link between his being placed on a reduced schedule and his ultimately becoming an LTA. I will investigate this during my first site visit this year.

I have been able to determine that this student is not the same J.P. (in the Plaintiff’s version) who is reported in this report as discharged.

Concern: Flexibility and responsiveness

Two students, who are helping their families by taking their child or sibling to child care, miss periods at B&G.

In their comments, DOE explained that, “Classes are available later in the day (9th or 10th period) should (a student) elect to stay beyond the regular school day. It is the school’s policy not to compel students to enroll in these later periods. The school is being responsive to the individual needs of these two students. In particular, given their academic success to date, the school does not want to schedule them for a 1st period class that they cannot attend. This would penalize them academically for their life circumstances.”

In their response to the first semester draft report, DOE stated, “The school is planning to change its start time for next school year. First period will begin at approximately 8:30, rather than 7:50. Students who have been unable to start school at 7:50 because of family circumstances will be able to start with the later start time.” In their comments to this

second semester report, DOE informed me that, “Due to various scheduling obligations, the school is unable to start the day at 8:30 as was reported in our comments to the last draft. The start time, however, is being moved from 7:50 am to 8:10 am.”

It remains a concern whether this shift will allow these two students, and other similarly situated students in the future, to attend on time for the 1st period classes.

PROCEDURAL PROTECTION AND DUE PROCESS

Transfers and Discharges

Findings: Prevention and intervention services

The school offers a number of programs intended to support students placed at risk:

Credit Recovery Program: A program offered during the afterschool hours and on Saturdays, to provide students opportunities to make up credit in courses that they have attempted and failed. DOE provides guidelines for this program, and the school-based criteria for this program include:

Student must have completed class seat time of the requested recovery class

Student must have received a grade of 55 in the original class

Student must not have an open 407 case (10 consecutive or 20 cumulative absences)

Student does not have an LTA (long term absence) program or a “Z” academic advisory class

3:00-5:30 Program: A program provided during the afterschool hours to provide students on Principal’s Suspensions for up to 5 days opportunities to continue instruction in basic academics. DOE provides guidelines for this program.

Exemplary Mentoring Program: A service that focuses on incoming freshman, to encourage student-teacher-family engagement, providing small group experiences, rap sessions, and structured large group activities. This program is guided by the school-based “Exemplary Mentee Handbook.”

The Planning Interview Forms for students discharged from B&G refer to tutoring and/or counseling offered prior to discharge.

Concern: Adequacy and appropriateness of prevention and intervention services

Using the numbers of discharges in the summary ATS Transfer/Discharge Report for first and second semester of 2008-09, 253 students have been discharged from B&G during the school year. This is 8-10% of the estimated 2600-2900 students enrolled this year.

DOE asserted that, “Most of the discharges are of students who have been long term absent from the school.” This suggests that, during this year, the school has been clearing the rolls of students who stopped attending a while ago. If this is the case, the discharges as a percentage of the enrollment should decrease over time.

A majority of the PIF’s submitted by the school to the ISC indicate that tutoring and counseling were the “support services student received previously,” and most of these students ultimately “decided to leave current school” and were approved for discharge.

DOE explained that, “The form used by Boys & Girls is a standard form used throughout the DOE. The choices on the form for the services offered/provided to the student do not reflect all of the various program options at the school.” DOE points out that community-based organizations and Medgar Evers College provide support services to students. DOE also explained that, in establishing small learning communities at B&G in September 2009, the District expects that staff will come to better understand the students, work together to meet their needs, and more effectively connect with students, resulting in improved outcomes in student performance.

Recommendations

DOE should evaluate the effectiveness of programs, services, and approaches for students placed-at-risk: the Credit Recovery Program, the 3-5:30 Program, the Exemplary Mentoring Program, small learning communities, and other support services being offered, and make adjustments where warranted.

DOE should schedule a meeting for the Internal Monitor with the school leaders to discuss the programs, services, and approaches that are available at B&G.

DOE should revise the PIF to provide for recording more accurate information.

Findings: Numbers of discharges, by discharge codes

The three sources of data on transfers and discharges (ATS Transfer/Discharge Report, the ISC Spreadsheet, and the PIF Packets prepared by the school) indicate variability in record keeping and reporting on the number of students discharged, and in the numbers discharged under each code:

DOE defines the ATS Transfer/Discharge Report, as “the official report of discharges and transfers.” This report listed 151 cases with “Discharge Dates” or “Discharge Entered Dates” after January 31, 2009 and before May 16, 2009:

- 1 student was discharged under Code 34 (Business, trade, vocational training)
- 2 students were discharged under Code 36 (Non-DOE full-time GED program)
- 3 were discharged under Code 38 (DOE part-time GED program)
- 119 were discharged under Code 39 (20 absent days)
- 1 was discharged under Code 41 (Pregnancy)
- 25 were discharged under Code 43 (DOE full-time GED program)

The ISC spreadsheet listed 105 cases with “Date PIF received” after January 31, and before May 16, 2009:

- 1 was discharged under Code 36 (non-DOE GED program)
- 103 were discharged under Code 39 (20 absent days)
- 1 was discharged under Code 41 (pregnancy)

Among these 105 cases, 76 are identified as not having IEP’s, 9 are not identified as having or not having IEP, and 20 are identified as having IEP’s. Among these 20 cases with IEP’s, 10 are in-date, 1 has no indication of date (P. P.), and 9 are out-of-date (W. B., R. H., R. H., I. H., R. L., R. R., R. S., R. T., J. Y.)

The update to the ISC Spreadsheet provided information on 32 additional cases handled by District 79, not initiated by B&G, bringing the ISC-reported discharges to 137:

- 3 were discharged under Code 38 (DOE part-time GED program)

- 29 were discharged under Code 43 (DOE full-time GED program)

- 18 enrolled in Passages or Restart (drug rehab programs)

- 6 enrolled in a GED program through the Referral Center

- 8 enrolled in a GED program not through the Referral Center

Among the 117 cases documented by PIF packets submitted to me by the school, with “PIF completed” before May 16, 2009:

- 1 was discharged under Code 34 (vocational program)

- 3 were discharged under Code 36 (non-DOE GED program)

- 110 were discharged under Code 39 (20 absent days)

- 1 was discharged under Code 41 (Pregnancy)

- 1 was discharged under Code 97 (Unknown code) – Joshua Poe, 347529459

- 1 was discharged with no code – Talik Garcia, 244574646

In the revised ISC spreadsheet submitted with their comments, DOE has listed J.P. and T.G. as discharged under Code 39.

In August 2009, DOE provided an updated ATS Transfer/Discharge Report summary of discharges for the entire 2008-09 school year. This report indicated the following:

- 1 was discharged under Code 34 (vocational program)

- 3 were discharged under Code 36 (non-DOE GED)

- 3 were discharged under Code 38 (DOE part-time GED program)

- 215 were discharged under Code 39 (20 absent days)

- 1 was discharged under Code 41 (Pregnancy)

- 30 were discharged under Code 43 (DOE full-time GED program)

A total of 253 were discharged under these codes

DOE has clarified, “Enrolled students are always permitted to attend school. If a discharge has not been effectuated, the student remains on the roster of the school and remains obligated to attend.

Concern: Variability in the numbers

Across the three sources of data on transfers and discharges – ATS Transfer/Discharge Report, the ISC Spreadsheet, and the PIF Packets prepared by the school – I found considerable variability in record keeping and reporting on the number of students discharged, and in the numbers discharged under each code.

In their comments, DOE explained that, “It appears to us that the discrepancies cited in your report may be due to the fact that reports from different offices were run at different times using different date parameters.” With their comments, DOE submitted “An updated report from the ISC that shows that the ISC received PIFS for 20 additional discharges that are listed on the DIIT report.”

DOE further asserts that, “...the information that appears in the ATS (the official transfer/discharge report) is the official documentation of the reason for a discharge.” While I have understood this point for some time, I continue to be concerned that it appears that the school and the ISC disagree in a number of cases, and the ATS data is collected and report generated does not confirm either.

Recommendations

DOE should develop and implement an approach to this record keeping and reporting that provides for the regular monitoring of data collection and entry, and on-going reconciliation of reports from the various sources. Furthermore, we should agree, in advance, on the timing and the parameters for all reports.

Findings: Review and approval by official outside B&G

Paragraph 7.c. of the Stipulation requires, “Review and approval for the transfer or discharge by a DOE Senior Youth Development Director working outside of B&G, or any successor to the role provided the successor works outside of B&G.” The purpose of this provision appears to be to provide external oversight of the process to prevent inappropriate transfers and discharges by the school.

The Stipulation requires that discharges be reviewed and approved by a DOE Senior Youth Development Director working outside of B&G, or any successor to the role provided the successor works outside of B&G. This person is currently Marsha Matthews-Friday, Sr. Youth Development Manager, Brooklyn ISC CBO Liaison, NYC Department of Education, Brooklyn Integrated Service Center.

In many of these cases, there were significant delays between the dates on which the PIF’s were completed by the school, and the dates they were received by the ISC. Among 100 cases on which date information was available, I found the following approximate delays:

Up to 2 weeks	9 cases
1 month	11 cases
2 months	4 cases
3 months	7 cases
4 months	51 cases
5 months	15 cases
6 months	2 cases
7 months	1 case

The Assistant Principal for Data and Technology explained these delays as follows:

Before we physically submit a PIF to the ISC for approval, we enter it into the PIES screen, and then that student's name appears in DPRD as a discharge awaiting approval.

There are cases where we complete and submit the PIF, only to find that something is missing, like a signature or an IEP. Other are incorrect for other reasons and have to be redone. The names are already entered into the system and show up as 'awaiting approval,' and stay that way until any errors are corrected or further documentation is supplied and the PIF is resubmitted and approved by the ISC.

If a PIF needs to be redone entirely, it is cancelled and then re-entered with new dates.

Finally, there have also been some that have been completed and signed at the school, but then got filed incorrectly, and ended up being submitted for approval at a later date. We are working on smoothing that process out, and it will get better as the numbers of students who are long-term truants decreases.

Among the 105 cases listed as received between 2/1/09 and 5/15/09 on the ISC spreadsheet:

52 were approved on the same day or within 1 day of receipt at the ISC

40 were approved within approximately 1 week of receipt at the ISC

9 were approved within approximately 2 weeks of receipt at the ISC

2 were approved within approximately 6 weeks of receipt at the ISC

M. A. – Received at ISC 4/1/09, date approved 5/12/09 – Reason for return: “School sent the PIF but they didn’t enter the request for discharge into ATS. (MF) approved the PIF when the request was entered into ATS.”

A. S. – Received at ISC 4/1/09, date approved 5/12/09 – Reason for return: “School sent the PIF but they didn’t enter the request for discharge into ATS. (MF) approved the PIF when the request was entered into ATS.”

2 remain open and not approved within 2 months of receipt at the ISC

D. P. – Received at ISC 3/17/09, returned to the school 3/24/09 – Reason for return: “Student has an IEP awaiting for the school to resubmit PIF

K. R. – Received at ISC 3/17/09, returned to the school 4/1/09 – Reason for return: “Student turned 17 after the school year. Please resubmit an updated PIF in June.”

DOE provided further clarification on this last case: “K. R.’s date of birth is 7/17/1991. She turned 17 on 7/17/2008. Ms. R. was discharged as of the end of the school year in which she turned 17, because she informed school officials that she was pregnant and would be dropping out of school. When Ms. R. indicated that she would be leaving school, B&G staff properly used the planning interview form and conducted a planning interview. Ms. R. still elected to be discharged at the end of the 2008-09 school year. As part of the Planning Interview process, Ms. R. was informed of her right to return to school until age 21.”

Concern: Delays in the external review and approval process

Among approximately 100 discharge cases, I found significant delays – ranging from 1 to 7 months – between the dates on which the PIF’s were completed by the school, and the dates they were received by the ISC.

In their comments, DOE explained that the “Date Completed” on the first page of the PIF, “...is not actually the date on which the planning interview process or all of the sections of the form are actually completed. Rather, the form itself is completed on an on-going basis.” They clarified that, “The ‘completed’ date on the front page of the form reflects the date on which the form is initially prepared,” and explained that there is also variability in how and when different guidance counselors fill out the forms. They offer that a more appropriate date for monitoring the external review process timeline would be the date on which, “the school has signed off on the form.”

DOE requested that I revise my analysis to examine, “...the time between when the school actually completes the planning interview process and when it submits the packet to the ISC.” For future reports, if DOE revises the PIF and the process to identify and record the actual PIF completion/submission date, I will carry out the analysis using that date.

Recommendations

DOE should make appropriate changes in the PIF, develop and implement guidelines for completing and submitting the PIF’s, and insure the timely external review of PIF’s prepared by the school.

Findings: The discharge of students to GED programs

According to the recently-submitted ATS Transfer/Discharge Report summary of discharges for the 2008-09 school year, of the 253 students discharged in 2008-09, 36 (14%) were discharged to GED programs:

- 3 were discharged under Code 36 (non-DOE GED)
- 3 were discharged under Code 38 (DOE part-time GED program)
- 30 were discharged under Code 43 (DOE full-time GED program)

Concern: Challenges in the process for discharge to GED programs

Paragraph 7(c) of the Stipulation does not specifically require the planning interview before discharge, but does require that the student or parent be provided with (1) prior notice, (2) the opportunity for a meeting, and (3) external review and approval of the discharge. When used, the Planning Interview Form (PIF) serves as a formal record of this process. When the PIF is not used, however, there is no formal record of the process.

DOE has clarified that a planning interview may not be held if the following conditions exist:

- The student self-refers to a GED program, and
- The student does not engage in any discussion with any B&G personnel about his/her intentions, and
- B&G has no advance knowledge that the student is considering enrolling in a GED program, and
- The student is not otherwise scheduled for a planning interview.

Transfer to a DOE GED program is accomplished when a student goes to the GED program and enrolls in that program.

If a student self-refers to a non-DOE GED program, B&G would only learn of this if the student informs B&G. In most of these cases, the student actually becomes long term absent, is then offered a planning interview for this reason, and in the process informs B&G of his/her enrollment in, or intention to enroll in the GED program. When this occurs, the PIF is completed and submitted to the ISC for review.

If a student goes to a Referral Center to enroll in a DOE GED program, a counselor in the center meets with the student to review his/her academic history, consider his/her school options, and provide a the “Know Your Rights” packet.

When there is no planning interview, DOE has asserted that central DOE staff send out a packet of information advising the student of his/her right to remain in or return to school until the end of the school year in which the student turns 21 and who to contact if the student or parent wants to meet.

Recommendations

DOE should develop written guidelines and a record of the process utilized when the planning interview is not held, and include these records in the regular semester reports under the Stipulation.

Findings: The discharge of students with disabilities

The updated ATS Transfer/Discharge Report summary of discharges for the entire 2008-09 school year submitted in August 2009, indicated that of the 253 students discharged, 79 (31%) were students with disabilities (IEP/y), 4 had been students with disabilities who were decertified (IEP/d) and returned to general education, and 1 was a student referred for evaluation whose case was closed because of parental non-response (IEP/c).

1 was discharged under Code 34 (vocational program)

3 were discharged under Code 36 (non-DOE GED)
IEP/y – 1

3 were discharged under Code 38 (DOE part-time GED program)
IEP/y – 1

215 were discharged under Code 39 (20 absent days)
IEP/y – 64
IEP/d – 3
IEP/c – 1

1 was discharged under Code 41 (Pregnancy)
IEP/y – 1

30 were discharged under Code 43 (DOE full-time GED program)
IEP/y – 12
IEP/d – 1

During second semester, among the cases of students with disabilities for which the school submitted PIF's, many of the IEP's were out-of-date.

In their comments regarding students with disabilities discharged during second semester, DOE clarified that of "...20 students for whom the ISC received planning interview packets had IEPs ...9 of these IEPs were out of date." DOE provided a list of the 9 students, indicating that 6 of them last attended school in 2007, and 3 last attended in 2006.

DOE explained that, "Current DOE practice does not require an IEP to be up to date before a planning interview takes place. We have checked the history of each of these

students and confirmed that each student has been a long term absent student since well before the 2008-09 school year.”

DOE argued that, “An annual review is intended to assess the student’s progress towards the goals in the existing IEP and whether adjustments are needed. Where a student has not been attending school, it is difficult for such an assessment to be done. Under the circumstances of each student, the school would have been unable to do a meaningful annual review of these students prior to proceeding to discharge them.”

Concern: The potentially inappropriate discharge of students with disabilities

The number of students with disabilities being discharged from B&G may be disproportionately high among students from the school.

The fact that a discharged student’s IEP is out of date brings into question the appropriateness of the discharge. The explanation offered by DOE regarding the reasons for IEP’s being out of date raises additional questions:

Why would the discharge process be taking place so long after the attendance problem developed?

Could the attendance problems have been addressed more successfully with more powerful interventions and/or more appropriate IEPs and services?

Recommendations

DOE should investigate these cases, and report on the individual histories of special education planning and the interventions and services that were provided,

Student Suspensions

Findings: Removals and Suspensions

I reviewed the documents relating to student suspensions. These include:

Online Occurrence Reporting System (OORS) Reports, a year-to-date daily record of all Grade 6-12 Level 1 – Level 5 infractions, as described in Citywide Standards of Discipline and Intervention Measures, pp. 18-24.

SOHO Reports, a monthly and year-to-date summary of Principal's and Superintendent's suspensions, listing each suspension by student name, and including student id, grade level, type of suspension, infraction code, control #, start and end dates of suspension, number of days, and conference/hearing date.

I reviewed the reports and found data on teacher removals, Principal's suspensions and Superintendent's suspensions placed online in OORS and SOHO. Based on these reports, during the second semester, 2/3/09 through 5/15/09 (61 school days), the following actions were taken:

OORS Reports: 257 (approximately 4 per day)

Teacher Removals: 1

Principal's Suspensions: 263 (approximately 4 per day)

75 students with disabilities

MDR scheduled for 1 student () **REDACTED**

Superintendent's Suspensions: 30 (approximately 1 every 2 days)

10 students with disabilities

MDR's scheduled for 9 students

No MDR scheduled for 1 student () **REDACTED**

The SOHO report for second semester indicates that MDR's were scheduled in 10 cases, 9 on Superintendent's suspensions, and 1 on Principal's suspension:

In 7 cases, the MDR was "cancelled." DOE Counsel reported that this is done when the number of days of suspension falls below the threshold requiring an MDR.

In 2 cases (M.C. and T.M.), the MDR was held, the determination was the "misconduct is not a manifestation of disability," and copies of the documentation of the MDR were provided.

In 1 case (A.B.), the MDR was held but no outcome was reported and no documentation was provided.

In my first semester report, I described the processes that are followed for removals and suspensions at B&G:

Teacher Removal Process

Referral by the Teacher to the Assistant Principal for that subject area

Referral by the Assistant Principal to the Dean

OORS and SOHO reports entered by the Dean

Placement by the Dean in the SAVE Room for the remainder of the class period

Student returned to his/her regularly scheduled class at the beginning of the next period.

I observed in the SAVE Room in preparation for this report. There were no students placed in the room during my observation. According to the SOHO reports, only one student was placed on Teacher Removal in the SAVE Room during second semester. The school does not keep a log of students attending the SAVE Room.

Principal's Suspension Process

Incident

Decision by Dean to recommend Principal's suspension

Call to parent by Dean to inform of incident

OORS and SOHO reports entered by Dean

If the incident did not involve dangerous behavior, the student remains in class for the remainder of the day.

If the incident involved dangerous behavior, the parent generally comes to school, discusses the incident with the Dean, and voluntarily takes the student home; or the parent does not/cannot come to the school and student remains in class

Parent conference scheduled for next day

Up to 5-day suspension begins and the student attends the "3:00-5:30 Program" of instruction on days of suspension

In preparation for this report, I observed in the 3:00-5:30 Program and interviewed the Dean in charge of the program. There were no students attending the program during my observation. The Dean showed me the log that is maintained, and explained the approach to providing students with appropriate class work on their days in the program.

Superintendent's Suspension Process

Incident

Decision by Dean to recommend Superintendent's suspension

Infraction reported by phone by Dean

OORS and SOHO reports entered by Dean

Call to parent by Dean to inform of incident

Parent generally comes to school, discusses the incident with the Dean, and voluntarily takes the student home; or the parent does not/cannot come to the school and student remains in class

Placement by DOE in "pending hearing" site within 2 days, usually an ALC, or return to school/class

Notices sent to parent by DOE

Suspension hearing and disposition by DOE within 5 days

Placement by DOE in short or long-term suspension site, or return to school/class

I reviewed the Brooklyn Integrated Service Center Student Discipline Procedures. This document defines due process as follows: "Every student has the right to be treated fairly in accordance with the rights set forth in the Citywide Standards of Discipline and Intervention Measures." (p. 2) These rights include, in part, certain specific actions that must be taken by school staff:

The school must provide students with the *Discipline Code* and rules and regulations of the school

Members of the professional staff must provide *counseling* to students in matters related to their behavior as it affects their education and welfare within the school

The school must provide students with *written notice* of the reasons for disciplinary action taken against them in a timely fashion

School staff must be present in situations where there may be police involvement

The Assistant Superintendent for Security indicated that these features of due process are provided as a regular part of operations:

Discipline Code: The Boys and Girls High School Student Handbook contains a chapter entitled "Student Code of Conduct." This chapter contains the materials from the Citywide Standards of Discipline and Intervention Measures that describe the five levels

of infractions, the range of possible disciplinary responses, and the range of possible guidance interventions. The Student Handbook is given to every student at the beginning of the year, or when they first enroll in the school during any given year.

Counseling: Counseling relating to student behavior is provided primarily by Guidance Counselors on an as-needed, scheduled, and/or incident related basis. Guidance services are always the preferred interventions when these are appropriate and feasible.

Written notice: A copy of the OORS report is provided to the parents in the cases of Principal's and Superintendent's suspensions. In addition, DOE provides other notices in the cases of Superintendent's suspension.

Presence of school staff in police situations: Whenever the police are involved in a school-related incident, the Assistant Superintendent for Security is present and involved.

The Assistant Principal for Guidance indicated that the school implements numerous approaches to behavioral support other than teacher removals, Principal's suspensions, and Superintendent's suspensions. These include individual interventions by guidance counselors, student advisors, and social workers to assist students in managing social-emotional-behavioral challenges. I will attempt to interview individual staff and students on this matter for my next report..

The Assistant Principal for Security indicated that the school does not keep copies of documentation of due process notifications. The Principal reported to DOE Counsel that, "The school communicates with parents by phone on principal's suspensions, so confirmed that there is no paperwork" (*relating to notifications to parents*).

Concern: Manifestation Determination Reviews

MDR is not included in the school's description of the disciplinary process. In 2 out of 11 cases in which MDR's were warranted, the process was not completed or not reported.

In their comments, DOE indicated that, "As part of the annual training, we will review with the school the circumstances under which an MDR is required."

Recommendations

At the beginning of the 2009-10 school year, DOE should provide professional development on this matter for the Principal, the Assistant Superintendent for Security, and the Deans.

Concern: Lack of appropriate record keeping and documentation

Paragraph 7. b. of the Stipulation requires that DOE not exclude B&G students from school or class without affording procedural protections and due process. This requires appropriate structures and processes at the school.

When a student receives a Teacher Removal at B&G, he/she is placed in the SAVE Room. The school does not keep a log of students attending the SAVE Room.

In their comments, DOE agreed that the school should keep a log for the SAVE Room, but did not agree with my suggestions for the content of the log, citing the existing documentation requirements described in Chancellor's Regulation A-443

The school does not keep hard copies of disciplinary notices sent to students and parents. In their comments, DOE indicated that, "The schools current practice is to provide the parent with a copy of the OORS report concerning the incident at the time it schedules the principal's conference."

In their comments, DOE indicated that, "We will provide additional training to the schools at the start of the school year to clarify what written materials must be provided, consistent with Chancellor's Regulation A-443, in connection with a principal's suspension." Further, DOE clarified that, "The school does not have copies of the letters and materials that are sent to parents in connection with a superintendent's suspension. All written materials concerning a superintendent's suspension are sent centrally, not from the school."

Recommendations

Given that Teacher Removals are allowed at B&G and involve excluding students from class, DOE should develop and implement an approach to logging the placements of students placed in the SAVE Room on Teacher Removals. These logs should include a description of the behavior, the context, prior interventions, and student outcomes.

Given the requirement for procedural protection and due process, DOE should develop guidelines for record keeping relating to suspensions, including copies of all relevant records, reports, and notices.

Concern: Parents taking students home after incidents

It appears to be a common practice at the school for parents to take their children home for the remainder of the day after disciplinary incidents.

In their comments, DOE indicated that that, "The school will continue to explore other ways to keep students in school on the day of an incident to continue to provide instruction, while maintaining safety."

Recommendations

DOE should develop and implement a structured in-school alternative to this practice.

RELEVANT COMPLAINTS AND RESOLUTIONS

Findings: Complaints and Resolutions

To provide any information for this report, on March 24 and May 26, 2009, DOE Counsel made specific requests of a number of complaint sources for copies of complaints, responses to the complaints and status reports. These sources included:

311/Office of Family Engagement and Advocacy (OFEA): Melissa Harris
Office of Student Enrollment (OSE): Elizabeth Sciabarra
Integrated Support Center (ISC): Kathleen Petrycki and Zoe Calix
Integrated Support Center Counsel (ISC Counsel): Susan Dombrow and Lisa Becker
Chancellor's Strategic Response Unit (SRU): No named agents
Brooklyn High School Superintendent: Isabel DiMola
Community Learning Support Organization (CLSO): Elaine Goldberg, CEO
Boys and Girls High School (B&G)

At Boys and Girls High School, many various kinds of complaints are received by a number of different people: the Principal, various Assistant Principals for Administration, and various Assistant Principals for Subject Areas. There is currently no standardized or centralized complaint management system in place at the school, and no records are kept by the school on the complaints, actions taken, or resolutions.

Reports were received from OFEA, OSE, ISC, Brooklyn HS Superintendent, ISC Counsel, and CLSO. OSE, ISC Counsel, and CLSO reported that they had received no complaints during second semester. No report was received from the Chancellor's SRU.

I examined the reports on 10 complaints filed during second semester, relevant to the issues addressed in the Stipulation, and shared with me.

Student: C. C.

Source: ISC and Brooklyn HS Superintendent

Complaint: Improper suspension procedures

Actions: Appeal of the suspension by parent, appeal heard by Chief Executive Officer, Office of School and Youth Development

Resolution: Based on procedural errors, the suspension was overturned, the records were expunged, the school was reminded of procedural requirements, a meeting was held by Principal with parent, and a guidance plan put into place.

Student: A. (No last name)

Source: Brooklyn HS Superintendent

Complaint: Improper suspension procedures and mistreatment by a Dean

Action: No report provided

Resolution: No report provided

Student: Y. M.

Source: 311/OFEA

Complaint: Rude and hostile treatment of a parent by a Dean at a meeting at the school

Action: No report provided

Resolution: No report provided

Student: D. C.

Source: 311/OFEA

Complaint: Harassment of a student by a Dean, always trying to throw him out of school without helping him

Action: Case referred to the Principal

Resolution: “Complete – Principal”

In their comments, DOE provided additional information, “The student regularly cuts classes. The deans respond. The mother meets regularly with the guidance counselor.”

DOE indicated also, “At this time, in light of the departure of the former principal, we cannot obtain further information.”

Student: D. C.

Source: 311/OFEA

Complaint: Harassment of a student by a Dean, calling him “gay,” criticizing his family, threatening him. Disrespect by this same Dean toward the mother at the school. Parent has been trying to get a meeting with the Dean, the Guidance Counselor, and the

Principal to no avail. Student has been restricted to a suspension room, not allowed to go to class. Student is now out of school.

Action: Principal met with the complainant/grandmother. OORS report completed.

Resolution: “Complete – Principal”

In their comments, DOE provided additional information, “The school disputes the allegations in the complaint.”

Student: T. J.

Source: 311/OFEA

Complaint: District 23 refusing to approve a safety transfer of the student because the school is refusing to provide information on the harassing student

Action: DFA contacted the father and reported that two transfers are in process: a safety transfer and a D75 transfer. The D75 transfer has been approved.

Resolution: “Information provided”

Student: Unnamed Student

Source: 311/OFEA

Complaint: Over-age, long-absent student was reinstated, automated calls to the home continued, Guidance Counselor told parent that the student needed a GED program, and that they should wait until September for a school program.

Action: Messages left on the parent’s voicemail, no contact with the parent

Resolution: “No contact”

Student: K. W.

Source: 311/OFEA

Complaint: After an assault on the student at school, in a meeting at the school, a Dean implied the student is a “bad kid” and at fault for the assault

Action: Case referred to the Principal

Resolution: “Complete – Principal”

Student: Unnamed Student

Source: 311/OFEA

Complaint: Man at school front desk refused to assist the parent of a student who had been suspended, and that the school was not helpful

Action: Pre-suspension meeting with the Principal and Vice-Principal, Principal and Network Leader informed of the parents feelings

Resolution: “Complete – Principal”

Student: Student Unnamed in an OFEA Report

Source: 311/OFEA

Complaint: Dean informed parent by phone call of student suspension, his concern for the student’s safety, and the student’s right to attend the 3:00-5:00 program. When the student appeared for the program, staff were not aware of her suspension. The Dean failed to send the suspension letter and set up the suspension meeting because he has too much work to do during his regular work day

Action: Spoke to the grandparent and the mother, and referred the case to the Principal and the Network Leader

Resolution: “Complete – Principal”

DOE Counsel reported that she had requested that the B&G Principal provide updates on the matters that had been referred to the school. In their comments, DOE provided updates on 3 out of the 10 complaints.

In my first semester report, I reported that, according to DOE Counsel, to address the inadequacy of current processing, record keeping, and reporting of complaints and resolutions, DOE had designed a new, on-line reporting system and made it available in March 2009. I have since learned from DOE Counsel that this is not accurate, and that, in fact, what DOE put in place is, “a more formal process for people to make complaints to the Office of Family Engagement and Advocacy,” accessed through the DOE website.

Concern: Delays in collection of information on complaints

The various complaint sources do not make regular or automatic reports on complaints. DOE Counsel made numerous requests in order to obtain the information.

In their comments, DOE asserted that, “It is not the DOE’s general practice to aggregate reports or to mandate that offices gather and track complaints in any particular manner.” At the same, DOE recognizes that, “The collection of complaints from various sources is solely a function of this settlement agreement.”

Recommendations

Regardless of past practice, in light of the Stipulation, DOE should develop and implement guidelines for all of the B&G complaint sources requiring regular and automatic reports. These reports should contain information on the complaint, the actions taken in response, and the status of resolution of the complaint.

Concern: Lack of complaint management system at the school

There is currently no standardized or centralized complaint management system in place at the school, and no records are kept by the school on the complaints, actions taken, or resolutions.

In their comments, DOE explained, “We are concerned about creating a system by which all ‘complaints’ are tracked. Complaints can range from issues about how a teacher grades a student to discipline and exclusion issues. By way of corrective action, the principal will instruct staff that he must be notified about complaints about suspensions or exclusions.”

Recommendations

Given the requirement in the Stipulation for a review of all relevant complaints, and current inadequacy of complaint management for B&G, DOE should develop and implement a more appropriate approach at the school, designating one administrator at the school as the manager responsible for the system.

Concern: Inadequacy of actions taken or reports on actions taken, and in resolutions or reports on resolutions

In 5 out of the 10 reported complaints, the reports on actions taken toward resolution are inadequate:

- No report provided – 2
- Case referred to Principal – 2
- Messages left for parent, no contact – 1

In 8 out of the 10 reported complaints, the reports on the status of resolution are inadequate:

- No report provided – 2
- Complete/Principal – 5
- No contact – 1

Recommendations

DOE should 1) develop and provide training for all relevant parties in how to appropriately investigate and address complaints at the school level and at other levels, 2) standardize the format for how complaints are recorded and reported by the various sources, and 3) implement a process for regular, on-going monitoring of the complaint management system.

IMPLICATIONS

During this second cycle of data collection and analysis, I have investigated in greater detail the provisions of the Stipulation, and pursued issues that were identified in the first semester report. In preparation for this second semester report, I prepared and refined a list of specific data reports needed and identified the timelines for the submission of these reports. In the end, it proved difficult to collect all of the information needed in time to prepare my report by June 15, 2009.

Most of the data needed for my reports are generated on a daily basis at the school and in other offices, and the formats for much of the data reporting are either developed for other purposes or not quite fully developed yet. Given this, for the 2009-10 school year, I recommend that data be reported and provided to me on a monthly basis. This will allow me to review the data in a more timely fashion, seek clarification and/or additions in a more appropriate timeframe, and follow-up on the data reports through interviews and observations.

To capture more complete and accurate information for my reports in 2009-10, I recommend that data collection and reporting cover the entire first semester, September 2009 through January 2010, and the entire second semester, February through June 2010. My reports would be due two weeks after the close of each semester.