



June 28, 2012 New York, NY— Legal Services NYC-Bronx and Queens Legal Services have filed lawsuits against the Fire Department of New York (“FDNY”) and the Department of Education (“DOE”) to secure the release of data on DOE’s use of hospital emergency rooms in response to student behavioral issues. (Above: Council Members Danny Dromm, Jumaane Williams and Gale Brewer with LSNYC’s Nelson Mar and supporters)

Media coverage: [NY Daily News](#)

Legal Services NYC (“LSNYC”) advocates have seen a dramatic increase recently in the number of children removed from their classrooms and taken by ambulance to ERs for emotional disturbances that do not involve the threat of harm to themselves or others. More often than not, after spending hours in a hospital emergency room, the child is released without being admitted because ER staff determines that no emergency exists. The practice leaves children traumatized—often unwilling or unable to return to school—and diverts valuable public resources from more effective methods of intervention, including school-based mental health resources.

LSNYC is working to identify the scope of the problem, including any patterns related to particular schools or school districts, and to determine how much the City spends on emergency medical services (EMS) as a classroom intervention. LSNYC filed Freedom of Information Law requests with DOE and FDNY (which oversees EMS). Both agencies denied the majority of requests for data, citing unavailability or privilege. LSNYC’s lawsuit alleges that the information is available and not subject to privilege. For instance, while DOE and FDNY declined to provide current data on the number of children removed by ambulance, DOE recently testified at a New York City Council hearing that roughly 3631 children were transported as “emotionally disturbed” during the 2010-2011 school year to hospital emergency rooms—approximately 17 children per school day.

“FDNY’s refusal to provide school emergency room data must end,” said **Nelson Mar, Education Rights Attorney at Legal Services NYC-Bronx**. “The public has a right to know the extent of this practice as each child sent to the emergency room incurs over \$1000 in medical related costs. In 2010-2011 alone, over \$3.5 million in costs were associated with students being sent to the emergency room for misconduct. The first step toward formulating effective policies to minimize this over-utilized and costly practice is for FDNY to make EMS data available to concerned organizations like Legal Services NYC.”

“Students with disabilities, immigrants and limited English proficient families are particularly at risk when it comes to EMS removals,” said **Tara Foster, Education Rights Attorney at Queens Legal Services**. “They are then forced to pay for and navigate a complicated medical system, even when there is no need for any treatment. We need to take a hard look at current practices so that we can develop more appropriate and cost efficient ways to deal with student behavioral issues. Children and families deserve better.”

“As Chair of the City Council’s Mental Health committee, I was deeply concerned to hear parents, mental health providers and advocates testify at a recent hearing that the City’s failure to provide school-based mental health services in many of our schools often results in disruptive students being sent to hospital ERs,” said NYC **Council Member G. Oliver Koppell** of the Bronx. “This inappropriate use of emergency services robs children with disabilities of classroom time, leaving them feeling shunned and punished. EMS is a vital resource for our communities and should be used judiciously. I call upon DOE and FDNY to avoid unnecessary litigation by releasing this data so the public can determine the full scope of the use of EMS to manage students’ behavior in non-medical emergencies.”

“The increased use of EMS for school discipline causes students to lose class time – often days – in school, causes parents to miss time at work, and is expensive and thus costs the City money that could go into programming to better and more effectively address behavioral problems,” said **Council Member Debi Rose** of Staten Island, Chair of the Council’s Civil Rights Committee. “Parents are also forced to pay for these expensive emergency room visits. This practice seems to be

applied most often when there is a perception that a child has a disability or mental health problem—which is a civil rights violation—and is having a disparate impact on low-income New York City students and their communities, which make up the majority of students in our public school system.”

“Students with challenging behaviors fall victim to the DOE’s ineffective and costly guidance practices. Calling the police or EMS to address students’ mental or behavioral crisis is not the answer! Yet, repeatedly these students are taken from the schools directly to the emergency room, where they are probably released without receiving the on-going care they need and return to school the next day. It just doesn’t make sense! The DOE needs to re-evaluate these practices and develop real strategies for behavioral guidance interventions, provide better access to on-site mental health clinics and other support services that foster a positive learning atmosphere for all students.” said **Council Member Robert Jackson**, Chair of the Education Committee.

“The DOE and the FDNY must cooperate with releasing their data on NYC children taken to emergency rooms unnecessarily,” said **Council Member Daniel Dromm** of Queens, himself a former public schools teacher for 25 years. “Using hospital emergency rooms to control classroom behavior is a clear example of using a hammer where a scalpel is needed. Not only does this make poor use of our City’s resources but it is unfair to our children. Effectively addressing behavior problems in the classroom requires a more nuanced intervention strategy that involves supportive parents and teachers that work together to give children the care that they need to become more productive students.”

“When parents drop their children off to school, they expect that their children will receive the highest level of care. However, the increasing prevalence of schools that have turned to emergency interventions from police and EMS calls this entire idea into question,” said **Council Member Annabel Palma** of the Bronx. “The DOE must take a hard look at the data and work with stakeholders to develop more appropriate response plans for children.”

“The NYC DOE’s policy of transporting students to the emergency room for mental or behavioral crises is demonstrative of our city’s failure to provide adequate, school-based mental health services to our children,” said **Council Member Gale Brewer** of Manhattan. “I have been an advocate of increased funding for mental health services in schools for years, as the majority of these traumatic and costly experiences could be avoided if we focused on preventive care as opposed to crisis reaction. I have received numerous reports of unnecessary EMS transports of children as young as 4 years old. The entire system needs to be reworked from the ground up, and the release of this data is a step in the right direction.”

“DOE continues to stall in responding to our Freedom of Information Law requests. Even as recently as Friday, June 22, DOE issued yet another unjustified, unilateral extension of time to compile the requested records,” said **Oroma H. Mpi, Education Rights Attorney at Legal Services NYC-Bronx**. “The use of EMS referrals by public schools is an indicator that these schools are unprepared and ill-equipped to handle the needs of students who present challenging behaviors. It is imperative that we obtain the data and analyze this issue thoroughly, so that we can arrive at effective solutions for our clients.”

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