

December 16, 2013, New York, NY—Legal Services NYC (LSNYC) and Cuti Hecker Wang LLP have filed a lawsuit on behalf of six New York City children who have all been repeatedly removed or threatened with removal from school by Emergency Medical Services (EMS) even though they were not in need of emergency medical care. The suit was filed against the City of New York and the Department of Education.

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Press coverage: [Wall Street Journal](#), [WNYC](#), [Disability Scoop](#)

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The lawsuit, filed in federal court, alleges that school personnel resort to calling EMS in response to tantrums and other behavior problems because the school system lacks procedures and its staff lacks training for appropriately assisting and calming children in those circumstances. In numerous instances, school and EMS personnel insisted on transporting the children, who were calm by the time EMS arrived, and most of whom are between five and seven years old, to hospitals against the express wishes of their families. As a result, these students have not only been removed from school against their wills, they have also been traumatized by unnecessary trips to emergency rooms and deprived of valuable instructional time.

LSNYC advocates have seen a steady 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. In each school year from 2009-2010 through 2011-2012, schools called EMS regarding over 3,000 students due to alleged disruptive behaviors. Over those three school years, the number of EMS calls due to alleged disruptive behaviors increased each year. By 2011-2012, there were over 3,600 calls from schools to EMS for students with alleged disruptive behaviors. The majority of students removed by EMS are students with disabilities.

Plaintiffs spent hours in emergency rooms and were then invariably released without being admitted to the hospital because ER staff determined that no medical emergency existed. The practice of sending children to the ER when they do not need emergency care leaves children reluctant to return to school and frightened of emergency services workers, while diverting valuable public resources from more effective methods of intervention, including school-based mental health resources.

Plaintiffs also include the parents of these students. School and EMS procedures interfere with parents' rights to direct the medical care of their children and to decide whether it is appropriate to seek an ER evaluation of their children. School and EMS practices also cause parents to incur fees for ambulance and emergency room services that the children did not need and that the families cannot afford.

"Our clients are but a few of the thousands of students who are sent to the emergency room each year for disruptive behaviors," said **Nelson Mar, Staff Attorney at Legal Services NYC-Bronx**. "We bring this lawsuit to seek remedies for our clients because these students were removed by EMS unjustly from their schools. We will seek to compel the City to end this costly practice of using hospital ERs as a 'time out room' for students who act out in school."

"I hope that this lawsuit changes the system and other families don't have to go through this," said the mother of one of the students. "It has caused a financial and emotional strain for me and my entire family. I feel that they sent my son to the emergency room as an excuse to not do their job. If my child acts up at home I cannot send my son to the hospital emergency room."

"For years, Legal Services NYC advocates have been advocating for students who are unlawfully removed from school and sent to emergency rooms," said **Staff Attorney Tara Foster of Queens Legal Services**. "This lawsuit seeks to end this damaging practice, and we hope the millions of dollars the City has expended in forcibly removing children from public schools can instead be invested in mental health resources, staff training, and additional support in the classrooms."

"As Chair of the Committee on Mental Health, I have long advocated for school-based health centers with mental health resources as an effective means of intervention for children with emotional disturbances," said **Council Member G. Oliver Koppell**. "The presence of such services would substantially reduce the number of children subjected to the trauma of being removed by Emergency Medical Services and sent to hospital settings unnecessarily."

"As a teacher for 25 years, I saw firsthand disruptive outbursts in the classroom," **Council Member Daniel Dromm** said. "Likewise, I saw trained counselors and teachers properly address and control the situation. Calling EMS is not the right way to deal with many of these incidents. Visits to the Emergency Room rack up unnecessary insurance bills for parents and taxpayers. School districts should provide detailed annual data so policy makers can better see where resources need to be applied. This will help assure more training and support systems go to at risk schools and diminish increasing EMS calls. I commend Legal Services NYC for bringing attention to this issue."

"Removing children from our schools via EMS in instances where a child is not a threat to themselves or their peers is counter-productive to our goal of creating an environment where children are properly cared for and can learn," said **Council Member Stephen Levin**. "I commend Legal Services NYC for filing suit on behalf of our schoolchildren and recognizing that the use of ambulances to remove children from classrooms is taking away valuable resources that should go towards mental-health interventions for at-risk kids."

“Somewhere along the line we have forgotten that our schools are learning institutions and not prison wards,” said **Council Member Andy King**. “It’s disgraceful that the adults in the building have shunned their responsibility in helping our youth navigate through a trying moment and opted to a convenient discriminatory practice of Martial Law in the classroom. We must remind ourselves that these are our children... and yes, they are still children.”

The lawsuit claims violations of the U.S. Constitution, the Individuals with Disabilities Education Act, the Rehabilitation Act of 1973, the Americans with Disabilities Act, New York City Human Rights Law, the Department of Education Chancellor’s Regulations, and the Regulations of the Fire Department of New York. Among other relief, the suit seeks to compel the Department of Education to provide school personnel with the training and resources they need to address disruptive student behavior without removing students from school by EMS when there is no reasonable basis for believing that they are in need of emergency medical services.

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