

## The Public Ought to Know: DOE must intervene in teacher disciplinary issues

By Corey Bearak

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Back when I served on Community School Board 26 and on C-30 committees to select principals and other school supervisors in northeast Queens, professional discipline was not even an issue.

Experienced principals and late Superintendent Irwin Altman, whose name graces my former JHS 172 in Floral Park, knew how to deal with professionals who needed help. Irwin, who should have been a schools chancellor, and his predecessors maintained a strong and effective emphasis on professional development in what remains the city's top-rated school district.

Our district had its share of rookie teachers who could benefit from in-service training, as well as the occasional transfer who benefited from the "District 26 way."

A teacher who opts not to work or not to meet the high standards of his or her colleagues might transfer elsewhere to find a situation with low expectations.

I recall perhaps one vote in favor of charges on a teacher. I do not recall it taking long at the district level. A competent district executive such as Altman and competent school-based leaders supported each other. The then central Board of Education was not about to play games. Another situation involved a teacher under the influence. Altman intervened appropriately, and the teacher got counseling and a fresh start under a strong, no-nonsense supervisor.

Where horror stories we read about occur, it goes back to a lack of central support for good practices by professional district and school-based supervisors. If the old central board and the new Department of Education provide assistance, no staff disciplinary matter will go on incessantly. It remains a matter of resources and commitment by the central education power, the chancellor and his staff.

As with other issues outside education, horror stories become the fodder to feed public outcry and influence the debate; it diverts attention from real issues. When I first decided to address teacher disciplinary issues, I was outraged to read how the schools chancellor sought to blame the teachers' contract for schools that do not work. The school staff contract hearings that took place earlier this month were not announced. I wanted to write sooner, but it took time to gather some information.

If you never attended law school or did not pick it up from the law and order shows that populate our television screens, our justice is an adversary system. It works best when both sides — plaintiff and defendant in a private matter, the accused and the state in a criminal matter — receive competent representation.

My professor, Monroe Freedman, a noted legal ethicist, stressed a lawyer's ethical duty to competently and diligently represent his or her client, even if that client is a "snake," or worse, the devil. Applied to any employee disciplinary matter, it means that a rotten teacher must receive due process and adequate representation from the teachers' union, even if union leaders would prefer to walk away. Upholding the process protects the innocent and prevents its abuse against competent and caring employees.

Education Law Section 3020-a governs teacher discipline, and its application was streamlined for charges filed on or after Sept. 1, 2002. While hearings can take up to 60 days to complete and arbitrators get up to 30 days to issue a decision, the rules also provide for expedited hearings that get completed over three consecutive days. If an investigation does not result in charges against an employee within six months, the employee gets restored to service. This does not apply in the case of investigations conducted by the Special Schools Investigations Commissioner or criminal prosecutions.

Look at the facts. There are about 74,000 teachers. Last school year, 161 disciplinary cases involved teachers assisted by union counsel. More than 60 percent, 101, got settled; about 13 percent, 20, involved a full hearing. Of 133 cases assigned to arbitration, 72 percent got completed (though 30 percent of the cases were brought in May and June). Of arbitration cases brought before the end of June, 80 percent got completed and 87 percent of cases brought before May ended got completed.

Completing arbitration averaged 65.5 days; if you do not count seven cases that took unusually long, the average case time drops to 55 days. As of July, a case waiting completion averaged 59 days, but removing four cases pending much longer drops it to 36 days. The DOE brought 62 percent of the arbitrations in October, November and June. This suggests management chooses when it works harder. Perhaps management — the Department of Education's "central command" and the chancellor — should look within, lower rhetoric and focus on their jobs.

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