



NYCLU

NEW YORK CIVIL LIBERTIES UNION

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BY FACSIMILE AND FIRST CLASS MAIL

June 16, 2009

Mayor Michael R. Bloomberg
City Hall
New York, NY 10007

DOE Chancellor Joel I. Klein
52 Chambers Street, Room 320B4
New York, NY 10007

Police Commissioner Raymond W. Kelly
1 Police Plaza
New York, NY 10038

Dear Mayor Bloomberg, Chancellor Klein, and Commissioner Kelly:

We write regarding the recent revelation that a Memorandum of Understanding (MOU) governing the role of police personnel in city schools remains in effect and to address the apparent failure to comply with the terms of the MOU.

In 1998, the Board of Education (BOE) entered into an MOU with then-Mayor Rudolph Giuliani transferring school safety responsibilities from the BOE to the Police Department (NYPD). The MOU established a "Joint Committee" to be staffed by appointees of the Mayor and Chancellor charged with ensuring the effectiveness of school safety practices, as well as with preparing annual evaluations of school safety programs. By its terms, the MOU was set to expire in 2002 unless the Joint Committee recommended its extension.

For the past six years, the leadership of the DOE and NYPD has repeatedly stated that no formal governance document exists regulating police activities in the schools, and that the 1998 MOU had expired and was not renewed:

- On May 4, 2007, NYCLU staff met with NYPD Chief Douglas Ziegler and Deputy Chief James Secreto to discuss school safety. At the meeting, Chief Ziegler stated that the 1998 MOU expired in 2002, and that with the advent of mayoral control of city schools, no new agreement was necessary to replace the expired MOU.

- On October 10, 2007, Deputy Chancellor Kathleen Grimm testified at a City Council hearing on school safety: “To the best of my knowledge there was no joint committee that met and recommended a renewal of that MOU... there is no written MOU.” In October 2007, the City Council issued a briefing paper on school safety, stating, "It should be noted that the MOU, which expired in 2002, has not been renewed..."
- In June 2006, the NYCLU filed a public records request with the NYPD and DOE for documents governing the relationship between the two agencies in school safety matters. The NYPD responded with a copy of the 1998 MOU and related documents, but did not provide a copy of the 2003 extension. The DOE did not respond to the FOIL request.

Contrary to the above comments and actions by the DOE and NYPD, the New York Civil Liberties Union (NYCLU) recently learned that in fact, Mayor Bloomberg and Chancellor Klein reauthorized the agreement in 2003. A copy of that agreement is included with this letter.

These misstatements by top officials from the DOE and NYPD are indicative of a confused and misguided approach to the most basic governance procedures for overseeing police activities in schools. This confused state of affairs has led to the inconsistent exercise of authority by police personnel in schools. In many schools, particularly schools with metal detectors—which are disproportionately attended by low income children of color—school discipline is handled by the ever-growing number of police personnel in the schools (from 3,200 in 1998 to 5,200 today), and as a consequence, minor disciplinary matters become instead the impetus for police action. For example, five-year-old Denis Rivera was handcuffed by police for throwing a temper tantrum in his Queens Kindergarten class. Chelsea Fraser was arrested for writing the word “okay” on her desk. Principals are not immune from falling victim to the confusion surrounding school safety. The police arrested and handcuffed Principal Mark Federman in front of his students for trying to convince the police to refrain from subjecting one of his honor roll students to a “perp walk” when they arrested her.

Moreover, it appears that the DOE and NYPD have failed to meet the obligations imposed on both agencies by the Memorandum of Understanding. According to Deputy Chancellor Grimm, the Joint Committee did not meet or make a determination to extend the MOU, and it is unclear as to whether the Joint Committee has prepared annual evaluations of school safety practices. Finally, it is also unclear as to whether the city has complied with the MOU’s mandate that principals be given a role in training school safety officers, and that “the imposition of school-based discipline shall continue to be a pedagogical function.”

Our school children are entitled to a learning environment that is conducive to the development of basic educational skills and competencies and supportive of their personal growth and achievement. Safety and security are, of course, necessary to the fulfillment of that mission. However, overly aggressive policing of the schools disserves

those interests and, instead, fosters an inhospitable school environment that diminishes the educational experience for many children. That is why limits must be imposed upon police conduct in the schools and an appropriate balance must be struck between the role of educators and those of the police. The MOU represents a foundational document with respect to these matters. In our view that document is flawed in important respects, most particularly, in failing to place school safety agents under the day-to-day management and authority of the principals and educators in the schools to which the SSAs are assigned. But flawed as it may be, if the MOU remains in effect, it should be followed—at least insofar as it requires annual evaluation of school safety programs and school discipline to be in line with pedagogical values.

We look forward to your response. You may reach us by phone at 212-607-3342, or by email at uofer@nyclu.org.

Sincerely,



Donna Lieberman
Executive Director



Udi Ofer
Advocacy Director

cc: Speaker Sheldon Silver
Assemblyman Karim Camara
Assemblywoman Cathy Nolan
Senator John Sampson
Senator Bill Perkins
Senator Suzi Oppenheimer
Speaker Christine Quinn
Council Member Robert Jackson
Council Member Melissa Mark-Viverito
Council Member Al Vann
Council Member Peter Vallone Jr.
CSA President Ernest Logan



THE NEW YORK CITY DEPARTMENT OF EDUCATION
JOEL I. KLEIN, *Chancellor*

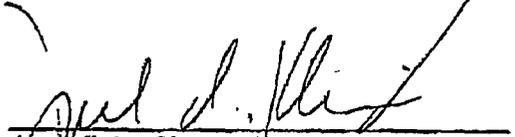
OFFICE OF THE CHANCELLOR
52 Chambers Street, New York, NY 10007

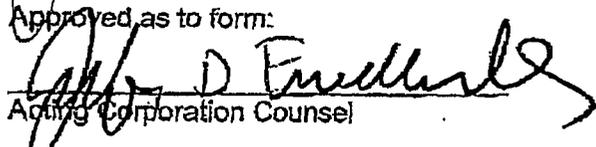
**Letter of Agreement Regarding the Continuation of the September 17, 1998,
Memorandum of Understanding on the Performance of School Security Functions**

The undersigned parties hereby agree that the Memorandum of Understanding on the performance of school security functions, dated September 17, 1998, is hereby extended and shall continue in effect on and after December 20, 2002, except as such Memorandum may be amended or terminated hereafter by written agreement of the undersigned parties.

Agreed to as of 1/22/03


Michael Bloomberg, Mayor


Joel Klein, Chancellor

Approved as to form:

Acting Corporation Counsel