

**Comments of the New York Civil Liberties Union
on the
East Ramapo Central School District 2021 Academic and Fiscal
Improvement Plan
Submitted October 18, 2021**



ACLU of New York

125 Broad Street
19th Floor
New York NY 10004
(212) 607-3300
nyclu.org

Donna Lieberman
Executive Director

Olivier Sylvain
President

The NYCLU respectfully submits the following comments to the 2021 Academic and Fiscal Improvement plan for the East Ramapo Central School District (ERCSD). The NYCLU is the state’s oldest and largest civil rights organization, with more than 180,000 members and supporters statewide, **including more than 500 members who are residents of ERCSD**. We submit these comments on behalf of our membership in ERCSD and our institutional interest in protecting the right to an education. Through our Education Policy Center and Voting Rights Project, we have invested significant resources in ensuring public school students in ERCSD receive the education and related services to which they are entitled under New York law and our state Constitution.

The extent of systemic racism in ERCSD is well documented, including in the holdings of two federal courts. In *NAACP Spring Valley v. East Ramapo Central School District*, Judge Cathy Seibel found that there was “a white bloc vote that controls the outcome of elections [in ERCSD]” creating a system in which “public school cuts almost exclusively affect black and Latino children.”¹ In documents introduced as evidence in that case, leaders of the white majority community bragged they have “all of the power” and that the Black and Latinx communities “feel disempowered because they are.”²

It is because of this racist and deliberate disempowerment of the public school community that the legislature and governor determined it was necessary to mandate an unprecedented system of educational oversight, unique to ERCSD among the more than 700 school districts in New York. The state has explicitly empowered each of you with the obligation to ensure that every child in ERCSD public schools receives access to a quality education. All is not well in ERCSD; if it were, your monitorships would not exist.

Formulating a meaningful, measurable, ambitious, and achievable Academic and Fiscal Improvement Plan (“the Plan”) for ERCSD is an essential to the success of the district and of the monitors. It is with this in mind that we submit our comments.

I. Urgent Problems with the Plan

There are two glaring problems contained in the proposed Plan that must be remedied urgently, even before the detailed Plan is examined. First, the Plan contains the following language:

¹ *NAACP Spring Valley v. East Ramapo Central School District*, SDNY, No. 17-CV-8943, May 25, 2020, 36-37.

² *Id.* at N. 56

One of the major factors that has had a negative impact on student achievement is division in the community. These divisions are deeply rooted in racism, exhibited on all sides due to lack of understanding and overshadow all of the continued progress the district had made.³

This is, frankly, insulting to the parents and students of ERCSD public schools and serves no purpose in this document. It does nothing to heal division, set out a vision for improvement, or advance the Plan. In fact, it seems to blame public school students of color for violations of their own rights. **This text must be removed from the plan.**

Division in the community is not a cause of educational neglect; it is a symptom. For more than a decade, the white majority in ERCSD has systemically denied families of color in the district their right to an education and—as demonstrated in recent litigation⁴—their right to vote. The majority white school board has sold public school buildings out from under the community, fired teachers, canceled Kindergarten and after school programs, and slashed arts funding, all while steadily funneling money into private school programs and transportation.⁵ The State Comptroller, a federal judge, three Commissioners of Education, and a series of professional monitors have documented waste, abuse, and misdeeds by the white majority.⁶

Responsibility for the state of affairs in the district belongs squarely at the feet of the School Board (“the Board”). It is condescending, naïve, and revisionist to claim that public school families—systemically disempowered and shut out of decision making-- are responsible for the denial of their own rights.

The Academic and Fiscal Improvement Plan is not an exercise in technical assistance; it must provide specific educational strategies through which the Monitors will hold the district accountable, and it must be based on a clear-eyed understanding of the history and context in the district. It cannot be allowed to gloss over systemic racism.

Second, the proposed Plan contains the following among the “assurances” between the Board and the monitors:

The Board and District leadership and staff shall not take any actions that are inconsistent with the goals, measurable objectives, and

³ East Ramapo Central School District: 2020-2025 (Long-Term) Strategic Academic and Fiscal Improvement Plan, p. 16. (Sept 2021). <https://www.ercsd.org/cms/lib/NY02205564/Centricity/Domain/34/ERCSD%20Long%20Term%20Academic%20and%20Fiscal%20Improvement%20Plan%2010-3-21%20FINAL.pdf>

⁴ *Supra* at 1.

⁵ See, NYCLU, *Private Privilege, Public Pain: The Rise of 21st Century Jim Crow Education in East Ramapo Public Schools*, September 2021. Available at https://www.nyclu.org/sites/default/files/field_documents/20210914_nyclu_eramapo_report.pdf.

⁶ *Id.*



ACLU of New York

125 Broad Street
19th Floor
New York NY 10004
(212) 607-3300
nyclu.org

Donna Lieberman
Executive Director

Olivier Sylvain
President

improvement strategies contained in the Plan without the express written consent of the Monitor(s).

This appears to be an attempt to reduce the statutory authority of the monitors outside of the legislative process. The suggestion that the Monitors can explicitly consent to the Board taking actions inconsistent with the Plan is contrary to both the letter and the spirit of the law.⁷ This language is counter to the public interest, it imperils the Monitors' statutory authority, and **it must be removed.**

II. Missing and Incomplete Information

While we recognize that the Plan posted on the ERCSD website is marked as a “working document”, the task of commenting appropriately on the Plan is challenging due to missing and incomplete information.

For example, at the time of submission of these comments, the Plan posted on ERCSD's website refers to Appendices, but the Appendices have not themselves been posted. As such, we are unable to fully review and comment on the Plan, as we do not know the contents of the missing Appendices.

Additionally, on page 19, in the section on improving Board Governance, key information about the number of canceled Board meetings and dates of the most recent evaluations of the Superintendent and Board members are absent.

III. Boilerplate Language

The Plan posted on the ERCSD website contains boilerplate language that calls into doubt the processes by which the Plan was composed and the commitment of the Board and Monitors to actually engaging transparently with the public school community. For example, the draft plan, posted on October 5, 2021, states that “the Monitors engaged the newly formed Community Advisory Committee” in the development of the draft. That Committee, however, was not formally created until the October 5, 2021 Board meeting (a fact that is also stated in the Plan⁸) so they could not have been so consulted.

This boilerplate language may be considered insignificant, but to us it is troubling, as it indicates a lack of seriousness in approaching duties required of the Board and Monitor by law. It telegraphs an assumption that no members of the public will actually read the plan, which is counter to the purpose of a public comment period. Perhaps most troublingly, it indicates a lack of deliberateness and care in formulating a Plan shaped by meaningful public input, a pattern that is all too familiar for residents of ERCSD. The public school community has been treated with disdain by the Board majority for more than a decade; we are expecting something better from the Monitors.

IV. Plan Priorities

The following are priority areas for improvement as identified by the NYCLU and our partners and student leaders in ERCSD, including current students at

⁷ Assem. Bill 05683, §4 (c) et seq. 2021, NY (Chap. 173, 2021).

⁸ “Members shall be appointed at the October 5 board meeting,” East Ramapo Plan, *supra* n. 3, at 9.



ACLU of New York

125 Broad Street
19th Floor
New York NY 10004
(212) 607-3300
nyclu.org

Donna Lieberman
Executive Director

Olivier Sylvain
President

Ramapo and Spring Valley High Schools. We recommend these items be explicitly addressed in the Plan.



125 Broad Street
19th Floor
New York NY 10004
(212) 607-3300
nyclu.org

Donna Lieberman
Executive Director

Olivier Sylvain
President

- 1. Specific Programs to support English Language Learners** and to ensure these students have access to additional support if their outcomes are below grade level. The dropout rate among Latinx students in this district is shockingly high—far above the state average⁹-- and the District is doing too little too slowly to change those outcomes. Among ELL students, the dropout rate is even higher: 56% in 2020.¹⁰ The fact that almost a third of the District's Latinx students and more than half of its ELLs are dropping out should be treated as an educational emergency. Yet the Plan's only requirements are to assess current programs and expand professional development, and the measure of progress for ELLs is based solely on standardized test scores. There are no measurable objectives related to raising the engagement level, grades, or graduation rate of ELLs. We recommend these be added, as improved standardized test scores are an incomplete measure of meeting the district's obligations in this area.

One highly effective program that was cut by the district was community-based outreach directly to families of English Language Learners to determine their individual needs. We hope you will consider restoring and expanding that program by hiring credible community messengers to build relationships with those families and connect them to services.

We also recommend the Plan be amended to require the hiring of a bi- or multi-lingual liaison to open channels of communication, identify and locate kids who may be unenrolled or chronically absent, ensure district information is translated in a timely manner, and to address specific unmet needs of non-English-speaking community members. While it has been many years, deeply hurtful remarks about immigrant students by former Superintendent Joel Klein¹¹ still create a reluctance to trust the district. The District has also been subject to a corrective action plan by the New York State Education Department Office of Bilingual Education and World Languages. Given the demographic direction of the area and the terrible history of discrimination against ELL families, ERCSD must do more to make itself a welcoming place for public school students of all backgrounds. This should be a specific goal in the plan.

- 2. Comparable programs with those in Rockland County Districts.** ERCSD schools have fallen far behind other school districts in Rockland County in terms of the programs and opportunities offered. We recommend

⁹ In the 2016 4-year cohort, 29% of Latinx/Hispanic students in ERCSD dropped out, as compared to 8% for the rest of the state. NYSED, East Ramapo CSD Graduation Rate Data 4 Year Outcome as of August 2020, <https://data.nysed.gov/gradrate.php?instid=800000039112&year=2020ðnicity%5B%5D=H&cohortgroup=0>.

¹⁰ *Id.* (no statewide average is provided)

¹¹ See, e.g. Gary Stern, *East Ramapo's Klein 'Profoundly Sorry' to Hispanic Community*, Oct. 17, 2014. <https://www.lohud.com/story/news/education/2014/10/17/east-ramapo-superintendent-apologizes/17440811/>

that the Plan require a systemic examination of program and course offerings, student-to-staff ratios, class sizes, ratio of support staff, and breadth of extracurricular activities in neighboring districts to set meaningful benchmarks for ERCSD. While the size and budget of each district are relevant to these measures, with the influx in Foundation Aid funding over the next three years we are confident ERCSD can once again be successful as compared to its neighboring districts.



125 Broad Street
19th Floor
New York NY 10004
(212) 607-3300
nyclu.org

Donna Lieberman
Executive Director

Olivier Sylvain
President

3. **Wraparound services and behavioral supports.** It is essential that the district provide an adequate ratio of social workers, counselors, and other trained, professional support staff for student well-being and success. The ratio of students to social workers recommended by the National Association of School Social Workers is 250:1.¹² We believe the current ratio of students to social workers in ERCSD may exceed 1200:1. After firing every single social worker and most guidance counselors in 2009¹³, ERCSD has rehired these support staff at far too slow a pace; achieving proper staffing ratios for support staff must be a goal in the Plan to be addressed *with urgency*.
4. **After school and extracurricular activities including field trips** must be greatly expanded and properly funded to provide student enrichment. Sports teams are currently underfunded and a lack of funding for field trips and after school programs remains a major barrier to students accessing the rich school experience they deserve. Extracurriculars are a major component of admissions to selective colleges, in addition to helping students build skills and become more well-rounded. The 2021 amendments to the monitor law require that the ERCSD budget expand areas including extracurriculars,¹⁴ yet the Plan sets no goals or measurable objectives for achieving this. The Plan should include concrete goals for improving extracurricular offerings (see item 2, *supra*) and interim objectives to achieving those goals. We recommend this goal include explicit means for soliciting feedback from students about the types of extracurriculars they want.
5. **Culturally Responsive Education.** ERCSD's schools are attended overwhelmingly by students of color. The curriculum should reflect and honor their experiences, consistent with the Board of Regents 2021 *Policy on Diversity, Equity and Inclusion*,¹⁵ the Dignity for All Students Act¹⁶, and the state's framework for Culturally Responsive-Sustaining Education. Exposure to culturally relevant curriculum improves performance and school climate and thus supports all the other goals in the Plan.

¹² NASW, *NASW Highlights the Growing Need for School Social Workers to Prevent School Violence*, March 27, 2018, <https://www.socialworkers.org/News/News-Releases/ID/1633/NASW-Highlights-the-Growing-Need-for-School-Social-Workers-to-Prevent-School-Violence>.

¹³ See, NYCLU, *Private Privilege, Public Pain*, *supra* n. 5, at 24.

¹⁴ Assem. Bill 05683, §6 (a) 2021, NY (Chap. 173, 2021).

¹⁵ Available at <https://www.regents.nysed.gov/common/regents/files/521bra7.pdf>

¹⁶ N.Y. Edu. Law §801-a, requiring instruction in “awareness and sensitivity to harassment, bullying, discrimination and civility in the relations of people of different races, weights, national origins, ethnic groups, religions, religious practices, mental or physical abilities, sexual orientations, genders, and sexes.”



125 Broad Street
19th Floor
New York NY 10004
(212) 607-3300
nyclu.org

Donna Lieberman
Executive Director

Olivier Sylvain
President

Students have reported to us that in addition to being culturally insensitive, classroom materials including textbooks are outdated and in poor condition. We recommend the Plan include goals for updating classroom materials and technology.

While we appreciate that the Plan includes a goal to review and update materials consistent with the Culturally Responsive-Sustaining Framework, this goal is incomplete. It states “By October 2021, the District shall hire X content area district-leaders (e.g., Academic Standards Facilitators).”¹⁷ Given that it is currently October 2021, the measurable component of this goal should have been defined by now, and the Plan should include an assessment of progress on that goal, but this has clearly not been updated.

Further, the goal of completing a “book study” by November 2021¹⁸ is inadequate. We recommend the following be added to the Plan: a) the formalized inclusion of student voice, including that of ELLs, in the book study and assessment portion of this goal; b) measurable benchmarks that begin to place culturally relevant materials in students’ hands *this academic year*.

- 6. Smaller Class Sizes.** NYCLU Youth Members have reported to us that their classes are overcrowded. The district must hire more teachers and aides to support more individualized attention for students. Currently, the Plan indicates that class sizes may need to be evaluated as a means to save money¹⁹, suggesting that moving to larger class sizes may be a strategy to sustain solvency in the district. This, however, is an inappropriate way for the District to save money, especially while it spends so excessively on transportation²⁰ (see Section V, below). The District budget must no longer be balanced on the backs of public school students.

More importantly, ERCSD must seriously consider whether its physical footprint is adequate for the current and future needs of its students. Years ago, the Board relied on inaccurate population projections in deciding to sell several public school buildings to private religious entities.²¹ Those buildings have never been reclaimed for the district, but the public school population is growing. There have been months of complaints about HVAC units at Chestnut Ridge Middle School. And just this month Spring Valley High School was suddenly shut down because of mold and asbestos found in the building.

In order to prepare ERCSD to be a healthy and functioning district in the future, this Plan must include an evaluation of the physical footprint of the district and whether it is adequate to serve its students’ needs. Success in the academic aspects of the Plan is unlikely if students have no safe places to

¹⁷ East Ramapo Central School District Plan, *supra* n. 3, at 27.

¹⁸ *Id.* at 28.

¹⁹ *Id.* at 17.

²⁰ *See, e.g.* NAACP Spring Valley v. East Ramapo Central School District, *supra* n. 1 at 72.

²¹ *See, NYCLU, Private Privilege, Public Pain, supra* n. 5, at 17.

learn, are in overcrowded or environmentally unsuitable classrooms, or are forced to learn remotely.

- 7. Access To All Courses Needed To Graduate on Time.** The District itself must not be a barrier to students accessing all the courses they need to graduate high school on time. Additionally, students must have access to high-quality *advanced* courses that will enable them to be prepared for college or other post-secondary education. Students have reported being relegated to study halls when the courses they need to graduate are not offered. No student's graduation should be delayed due to a lack of adequate course offerings. In addition, students need greater access to Advanced Placement courses and other higher-level courses. The draft Plan is silent on this matter, except for a reference to the statutory requirement that the District's budget expand course offerings.

Once again, we recommend this goal be developed in comparison to other Rockland County districts, to establish relevant benchmarks and offerings. Additionally, the Plan should require the District to act on other resources for providing additional courses including the Rockland BOCES, local community colleges, and online learning.

V. Fiscal Issues

Perhaps the greatest source of fiscal mismanagement in ERCSD Central School District is spiraling transportation costs. Between 2015-16 and 2019-20, the expenses grew by 39.86 percent from \$26 million to \$36.4 million. They continued to grow to \$41.8 million in 2020-21, "are rising at a faster pace than budgeted," and are projected to reach \$51 million by 2024-25.²² The Monitors and the State Education Department must take action to require the district to reduce transportation costs as these out-of-control costs jeopardize the district's ability to fulfill the goals of the *Academic and Fiscal Improvement Plan*.

Another excessive cost item identified in the prior *Academic and Fiscal Improvement Plan* is "significant disproportionality around the placement of white students in out of district special education programs." These racially disproportionate placements result in excessive costs while violating the rights of placed students to the least restrictive environment. Reducing these unnecessary and educationally unsound expenditures must be a vital component of the Plan and, if necessary, the monitors must use their extraordinary powers to accomplish these reductions.

Finally, we recommend the Plan include an analysis of private contracts awarded by the District and a goal to ensure strict adherence to procedural requirements pursuant to both legal and ethical obligations (including the Conflict of Interest Policy required by 2021 statutory amendments²³). We applaud the steps you took earlier this year to establish better controls over funds distributed to the

²² East Ramapo Central School District: Five-Year Fiscal Plan, Submitted to the New York State Education Department February 10, 2021, pp. 24 - 27 and Attachment I

²³ Assem. Bill 05683, §4 (b) 2021, NY (Chap. 173, 2021).



ACLU of New York

125 Broad Street
19th Floor
New York NY 10004
(212) 607-3300
nyclu.org

Donna Lieberman
Executive Director

Olivier Sylvain
President

District²⁴, but this is just a first step. The NYS Comptroller has repeatedly uncovered waste and fraud in the District’s spending, including trailers full of unused textbooks stored at private religious schools, and bussing for children who do not live in the district.²⁵ We are relying on the Monitors to keep a focused and deliberate eye on District spending and to take immediate action against any spending that undercuts the likely success of the Plan. Financial solvency in the District must be achieved by cutting unnecessary spending, not by reducing public school programs or staff.

Conclusion

Thank you for your attention to these comments and your commitment to educating public school students in ERCSD. We’re looking forward to a productive year and the beginning of a new path of equity, opportunity, and transparency for the district. Please don’t hesitate to contact us with any questions or for more information.



ACLU of New York

125 Broad Street
19th Floor
New York NY 10004
(212) 607-3300
nyclu.org

Donna Lieberman
Executive Director

Olivier Sylvain
President

Sincerely,

Johanna E. Miller, Esq.
Director
Education Policy Center
Chapter
jmiller@nyclu.org

Christian Singleton
Spring Valley Youth Organizer
csingleton@nyclu.org

Lucia Hermo
Senior Strategist
Hudson Valley

lhermo@nyclu.org

²⁴ “Because of the District’s history of failing to comply with the general or specific terms and conditions of federal awards, failure to meet expected performance goals contained in federal awards, and failure to demonstrate that it is otherwise responsible, the New York State Education Department will hereby impose specific conditions on the use of federal stimulus funds to ensure that they are used in accordance with the intended purposes and provisions of the law and are not diverted to address any structural imbalances that may occur in the District’s general aid budget over time.” Commissioner Dr. Betty Rosa, *Budget Letter to ERCSD Board President*, May 7, 2021.

²⁵ NYCLU, *Private Privilege, Public Pain*, *supra* n. 5, at 26.