



**BROOKLYN  
DEFENDER  
SERVICES**

**TESTIMONY OF:**

**Keren Farkas – Supervising Attorney, Education Unit**

***BROOKLYN DEFENDER SERVICES***

**Presented before  
The New York City Council Committees on Juvenile Justice, Education, and  
Fire and Criminal Justice Services  
Oversight Hearing  
on  
Educational Services for Detained and Placed Youth**

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My name is Keren Farkas. I am the head of Brooklyn Defender Services (BDS) education unit. BDS provides innovative, multi-disciplinary, and client-centered criminal, family, and immigration defense, as well as civil legal services, social work support and advocacy, for tens of thousands of clients in Brooklyn every year. I thank the City Council Committees on Juvenile Justice, Education, and Fire and Criminal Justice Services for the opportunity to testify today about the quality of educational services for detained and placed youth.

BDS is fortunate to have the support of the City Council, as well as other elected officials and the Office of Court Administration, to supplement the services we provide as a public defender office in Brooklyn. We have developed a model of specialization to best represent certain types of clients, including adolescents. Through specialized units of the office, we provide extensive wrap-around services that meet the needs of these traditionally under-served clients in a comprehensive way. This includes helping young people and their families navigate the public education bureaucracy during and after contact with the criminal justice and family court system.

BDS' Education Unit provides legal representation and informal advocacy to our school-age clients. We work with young people impacted by the child welfare and criminal justice systems, including youth detained at Rikers, Horizons and Crossroads. As a legal and social work team, we work to improve our clients' access to education, and a significant portion of our advocacy relates to school discipline, special education, reentry and alternative pathways to graduation.

BDS is grateful to the City Council and Councilmember Dromm for introducing a new piece of legislation, Int. No. 1148, that would require the Department of Education to report to City Council about East River Academy. We support the legislation and hope the enhanced transparency will lead to better educational services and outcomes for youth at Rikers. I will conclude my testimony with several brief recommendations that we believe will strengthen Int. No. 1148. First, however, my comments will highlight the education barriers that we see our school age clients at Rikers Island experience.

### **Educational Services for Youth Incarcerated on Rikers Island**

The best way that the City could help our youth would be to avoid sending them to Rikers, the horrors of which are well documented, and focus on diverting them from the criminal justice system altogether. However, in the interim, the City can do better to ensure that our young people obtain the education that they are entitled to under law.

First, I want to emphasize that we continuously find the Department of Education staff at East River Academy on Rikers Island to be caring and dedicated. We see them treat our clients with respect and strive to do the very best that they can, particularly given the challenges that educating young people in a jail environment pose. Further, we are encouraged by the various improvements at East River Academy over the past year. These developments include enrollment increases among 18-21 year olds, greater access to vocational education, and targeted resources to address the school reentry challenges our clients face. We also understand that, starting next quarter, students at East River Academy can earn up to five, rather than three and half, credits per quarter. We attribute these improvements to DOE's District 79 Leadership as well as collaboration from the DOE Adolescent Advisory Board, of which BDS is a member. That said, the following are our six areas of particular concern:

#### **Problem 1: DOC Interference with Education Access**

The majority of BDS' 18-21 year old clients at Rikers are detained in the George Motchan Detention Center (GMDC). Young people at GMDC regularly report to us that they are not transported to school. We understand that corrections officers are required to call for each enrolled student in their housing unit and transport the student to the school floor. However, we often hear of breakdowns in this system. For instance, some clients have reported that the Corrections Officers do not call for students at all or pick up students late in the school day so they miss class time. Others report of frequent, sometimes multiple day, lock-downs, where all students are denied school access. Because DOC is not

transparent about the frequency of the lock-downs, we cannot assess the extent that our clients are denied school hours, but we are concerned that it is significant.

We are also appalled that DOC deducts class time from out-of-cell time allotment for adolescents in Enhanced Supervision Housing (ESH), a highly restrictive new form of solitary confinement. This practice discourages youth in the ESH from pursuing their education.

We have also heard that DOC staff discourages clients from attending school due to concerns of violence between inmates during transport or at school. While there is an acknowledged problem of violence at Rikers that must be addressed, particularly at GMDC. DOC interference with the student's decision to participate in school is neither appropriate nor the right solution to the problem. As an example, I will share a client story from last week:

A is serving a year sentence on Rikers Island. A explained to her BDS social worker that she feels frustrated because she feels as though DOCS is trying to push her out of school. Just last week they brought her paperwork to "sign herself out" of school. She told her social worker that she refused to sign them and continues to tell them that she wants to attend school. Apparently, DOCS has determined that her housing unit has problems with another unit. Because of this "beef" they won't allow A's housing unit to move when the other unit's residents are on the school floor or in the hall. A was called last week for school but hasn't been called since. She is frustrated as she is extremely motivated to attend school while she is in for the next several months, but will not be able to get an education, even though she has the time, if the guards refuse to take her to the school. A already has 15 credits towards her Regents Diploma.

We also have clients at GMDC who choose not to go to school at all because they are concerned about violence. Notably, our 16- and 17-year-old clients housed at the Robert N. Davoren Complex (RNDC) do not report similar barriers attending school, likely due in large part, to the fact that school attendance is mandatory for this age range.

*Solution: The City should call upon DOC and DOE to decentralize the schools, particularly at GMDC, and allow young people who want to learn the opportunity to do so in their units.*

## **Problem 2: Youth at OBCC do not even have a school that they can attend**

BDS still has 18-21 year old clients at Otis Bantum Correctional Center (OBCC). While these young adults are school-age and many are interested in preparing for their High School Equivalency or Regents Diploma, East River Academy is not available at OBCC. Recently, several clients housed at OBCC have reported that they want to attend school, but have chosen to remain at OBCC, rather than

transfer to GMDC, because of concerns of violence. In several instances, they were explicitly discouraged from transferring to GMDC by DOC staff, but not provided with an educational alternative at OBCC. Our clients should not have to choose between safety and school opportunity.

*Solution: DOC should be required to create a school in any facility where youth are held, including OBCC.*

### **Problem 3: Too many of our clients are significantly behind in their reading and math levels and require intervention to succeed in school**

Many of our clients struggle in school because their reading and math skills are far below grade level. Reading is the building block of learning, and without it, our clients are at a terrible deficit that fosters recidivism, not opportunity. Likewise, limited math skills contribute to low self-confidence, leading to truancy and school disengagement. East River Academy can be an opportunity to re-engage students in school and provide them with the building blocks to succeed. In order to break the cycle of incarceration and poverty, our clients need access to interventions that will provide additional and targeted support in reading and math skills. We are hopeful that the data that will be provided per Int. No. 1148 will help inform the need to allocate resources to fund these interventions.

*Solution: The City Council should fund intensive, research-based remedial reading and math instruction, including additional staffing such as reading specialist positions at East River Academy, to ensure that all of the youth who attend have the opportunity to improve their basic reading and math skills.*

### **Problem 4: Difficult for youth to accrue credits**

The East River Academy can be an extremely positive motivator for our clients incarcerated on Rikers Island. When they learn a new skill or receive a certificate of achievement in school, they are proud of their accomplishments and feel excited to continue their education.

However, too many of our clients leave East River Academy empty handed, without academic credits despite participation in class and coursework. We find that this problem occurs for a variety of reasons. Sometimes transcripts are not appropriately or timely updated with notations of full or partial course completion. Difficulties also arise when students return to the community mid-year, because the community school system uses a two semester system while East River Academy now uses trimesters. The timing of a student's arrival at East River Academy and return to the community can then dictate whether they will receive credits, even if they accrued a substantial amount of seat time. This is harmful as it confuses and discourages the youth. It also becomes wasted time that could have been spent working towards their high school diploma. Another problem students face is that foreign language and elective courses do not appear

to be regularly offered. We hope that the additional resources targeted at reentry support will address this problem.

*Solution: The City Council should direct the DOE to create guidelines on mid-year credit accumulation and make it possible for youth at East River Academy to obtain partial credits, even if a young person does not complete a module in its entirety.*

**Problem 5: Youth are often tracked or encouraged to pursue high school equivalency (HSE) courses, even if they are strong candidates for high school diplomas**

BDS's education team works diligently to place our clients in schools that meet their individual needs to ensure future academic success and end the cycle of poverty and incarceration. This advocacy includes our clients on Rikers Island. We have helped many students enroll in community schools after finishing their time on Rikers, even those that are over-age and under credited.

While at East River Academy, we find that many of our clients are tracked or encouraged to pursue the HSE, rather than obtain their high school diploma. While we appreciate that HSE may be the appropriate choice for a significant number of students, many of our clients express that they would prefer to pursue their high school diploma. With the credit recovery options in the community, including transfer schools, Young Adult Boroughs Centers and some specialized charter schools, it is possible for an over-age under credited student to earn a Regents Diploma. Further, we find that our clients who are connected with the specialized credit recovery schools upon reentry find supportive school settings that can be critical in helping the youth to forge a new path for herself when she returns to the community.

*Solution: The counselors at East River Academy should be encouraged to discuss the benefits of high school diplomas with all enrolled students. The City should collaborate with the newly launched Youth Reentry Network to ensure that all youth at East River Academy have access to reentry services, including support and encouragement to continue their education upon return to their communities.*

**Problem 6: Guards use pepper spray against our clients in the classroom**

BDS staff has received multiple reports of students in East River Academy being sprayed with MK9 pepper spray by guards. Our clients report that the spray spreads through the entire school, disrupting class and movement. School counselors have complained as well. It is our experience that MK9 pepper spray

can be harmful and is used far too liberally as a matter of first resort, rather than once all other options for managing a situation have been considered.

*Solution: The City Council should ban the use of pepper spray in all DOC facilities, or at the very least, correction staff should not be allowed to use MK9 in East River Academy. Pepper spray is harmful to the students and staff and not conducive to a healthy school environment that inspires learning.*

### **Int. 1148**

BDS supports Int. No. 1148. The bill will go a long way towards improving DOE reporting to provide the Council and the public with important information about the quality and parity of education that youth receive at the East River Academy.

We have several brief suggestions to strengthen the Bill:

**Suggestions 1: Specifying Use of Force** – In Sections 8-11, the bill requires the DOE to report on incidents of use of force during educational programming. As currently written, the definitions of use of force within a single category vary widely. For example, use of force A can mean a chipped tooth or a ruptured spleen, which are very different injuries. Instead of reporting “use of force A” the DOE should be required to report the injury with greater specificity. *See 9-141(b)(8-11).*

**Suggestion 2: Diploma vs. High School Equivalency Track** – We appreciate the request for information regarding achievement of HSE and Regents Diploma in Sections 12-14. We suggest modifying the language in Section 12 to specify whether a Regents Diploma was achieved and whether one of the “safety net” options were utilized. Additionally, the DOE should report the percentage of adolescents and young adults, respectively, on the Regents Diploma vs. HSE track.

**Suggestion 3: Attendance and Participation**- The information requested regarding enrollment in sections 1-2 and 16-17 will be illuminating. We ask the DOE to also report on attendance of enrolled adolescents and young adults. Sections 18-19 reference to “participation” may be encompassing attendance. If so, we suggest “participating” be clearly defined in the Definitions section.

**Suggestion 4: Teacher to student ratio** – In addition to data regarding teacher to student ratio, as noted in Section 22, the DOE should be required to report on the absolute number and ratios of special education teachers, paraprofessionals, reading specialists and related service providers.

**Suggestion 5: Credit Accrual** – We appreciate the request for data about credit accumulation in Section 25. Because credit accrual has historically been a confusing and difficult matter for students at East River Academy, we ask that

“sufficient period of time,” be defined. We also ask that the DOE report on the average and median seat time accrued by students who were not present for the “sufficient period of time.”

**Suggestion 6: Special Education at East River Academy** – Greater transparency regarding special education services is certainly needed. In addition to the information already requested, which should be updated to refer to Special Education Plan (SEP), we ask the DOE to specify the (1) the number of students entering with an IEP, (2) the number of students who received an initial special education evaluation while at East River Academy, (3) the number of students recommended for specific services, including classroom settings and related services, and (4) the classifications of students at East River Academy. We hope this information will help ensure the appropriate resources are provided to meet the needs of special education students at East River Academy.

### **Conclusion**

Thank you for your consideration of my comments. I am grateful to the Council for inviting me to testify about the challenges that my incarcerated youth clients find in accessing educational services on Rikers. Please do not hesitate to reach out to me with any questions about these or other issues at (718) 254-0700 (ext. 292) or [kfarkas@bds.org](mailto:kfarkas@bds.org).