

April 20, 2006

Mr. Jim Sheffer
Chief, Division of Federal Programs
Pennsylvania Department of Education
333 Market St.
Harrisburg, PA 17126-0333

*Re: Complaint under the No Child Left Behind Act:
Parent Engagement in the School District of Philadelphia*

Dear Mr. Sheffer:

The Education Law Center is a public-interest organization that advocates on behalf of families in Pennsylvania public schools. The following complaint, which involves the School District of Philadelphia, is submitted in accordance with Pennsylvania's Procedures for Complaint Resolution under the No Child Left Behind Act.

Nearly 100 schools in the Philadelphia School District are in "Corrective Action II" status under NCLB. For each school in this category, NCLB requires that the District develop a plan for major reforms, known as a school "restructuring" plan. NCLB also requires that the District *engage parents* whose children attend the school, as well as teachers and others at the school level, in the process of designing this reform plan.

This requirement is important to the families with whom we work. Certainly, central administrators can contribute, and have contributed, much to the decision-making process. But those who are actually *at the school* – parents, students, teachers, administrators – have important knowledge and perspectives as well. They are also the

people who must help implement, and who ultimately live with the consequences of, major restructuring decisions. It was for these reasons that Congress required, in NCLB, that members of the school community, including parents, have the opportunity to participate in making those decisions.

Unfortunately, however, the District has not yet put in place a reliable system for carrying out this requirement. While one can find instances of parental participation in decisions concerning “Corrective Action II” schools, there are many other cases in which the decisions were made without significant input. This, we believe, violates NCLB.

We ask the Department of Education to require the District to establish – in collaboration with parents, students, and community groups – reliable, systematic procedures for parent participation in major decisions concerning “Corrective Action II” schools.

We have discussed these concerns with School District officials on numerous occasions. Three months ago, we provided the District with a draft of this entire Complaint in the hope that the matter could be resolved through discussion. However, we have obtained no response.

I. Background: The school improvement sequence under NCLB

Under NCLB, if a school fails to make adequate yearly progress (AYP) for two consecutive years, the school must adopt a two-year plan for “school improvement.” If the school does not make AYP by the end of the second year of school improvement, the school enters “Corrective Action I” status.

If, after a year in “Corrective Action I” status, the school still fails to make AYP, the school enters “Corrective Action II.” During the school year in which the school is in this status, a plan for “restructuring” the school must be developed. As defined by NCLB, “restructuring” means making major changes in the management of the school. It does *not* necessarily imply turning the operation of the school over to a private management company or converting the school to a charter, although these are among the possibilities. According to NCLB, restructuring is *any* arrangement “that makes fundamental reforms” aimed at improving student achievement. 20 U.S.C. § 6316(b)(8)(B)(i)-(v).

The restructuring plan must be implemented by the beginning of the following school year. The school must continue to implement the restructuring plan until the school has achieved AYP for two consecutive years. § 6316(b)(12).

The AYP status of schools in Pennsylvania is reported at www.paayp.com. The website uses the categories “Corrective Action II – First Year,” “Corrective Action II – Second Year,” and “Corrective Action II – Third Year.” When one matches these categories to the requirements of NCLB, it is clear that:

- Schools shown as in “Corrective Action II – First Year” status have reached the point at which they must develop a restructuring plan.
- Schools in “Corrective Action II – Second Year” status must be in the process of implementing their restructuring plans.
- Schools in “Corrective Action II – Third Year” status must be in their second year of implementing restructuring plans.
- Schools that were in the Corrective Action II category *last year* but then made AYP must also be implementing restructuring plans, and must continue to do so until they make AYP for a second consecutive year. These schools are categorized on www.paayp.com as “Making Progress.”¹

II. Schools in “Corrective Action II” status in the Philadelphia School District

Ninety-seven schools, *i.e.*, about one-third of the schools in the Philadelphia School District, are currently in “Corrective Action II” status. These schools include two schools in “Corrective Action II – First Year” status; 39 schools in “Corrective Action II – Second Year” status; 39 schools in “Corrective Action II – Third Year” status; and 17 schools that were in “Corrective Action II” status in 2003-04 but are shown as “Making Progress” for 2004-05. Tables 1-4, at the end of this Complaint, list the schools in each category.²

Seventeen additional schools are in “Corrective Action I” status, which means that, if they do not make AYP this year, they will enter “Corrective Action II – First Year” status in the fall of 2006.

¹ The “making progress” category is also used for schools that were in School Improvement I or II status, or in Corrective Action I status, last year, and then made AYP for one year.

² Data is from the District report card found at <http://www.paayp.com/DistrictReportCard.jsp?DistrictId=126515001>. Data concerning schools that were in Corrective Action II status in 2003-04, but then “made progress” in 2004-05, is from spreadsheets at http://www.paayp.com/datafiles/ayp2005_schooldata_part1.csv.

III. The District's obligations to parents of children in these schools

Under NCLB, the District has several obligations to parents of children in schools that have reached "Corrective Action II" status.

First, for all schools in the District, the District must have a *district-wide* "written parent involvement policy." 20 U.S.C. § 6318(a)(2)(A). That policy must, *inter alia*, "... describe how [the District] will ... involve parents in ... the process of school review and improvement." *Ibid*.

Second, for all schools in the District, the District must ensure that the school itself "develop[s] with, and distribute[s] to, parents of participating children a [*school-specific*] written parental involvement policy, agreed on by such parents..." 20 U.S.C. § 6318(b)(1).

Third, for every school in Corrective Action II status, the District must provide parents with "(A) an explanation of what the identification [as in need of "corrective action"] means, ... (B) the reasons for the identification, (C) an explanation of what the school identified for school improvement is doing to address the problem of low achievement; (D) an explanation of what the local educational agency or state educational agency is doing to help the school address the achievement problem; (E) an explanation of *how the parents can become involved in addressing the academic issues that caused the school to be identified for school improvement, ...*" 20 U.S.C. § 6316(b)(6) (emphasis added).

Fourth, for each school in Corrective Action II status, the District must develop a restructuring plan. As part of the process, the District must provide parents and teachers with "an adequate opportunity to (I) *comment before taking any action [on the restructuring plan for that school]* and (II) *participate in developing any plan [for restructuring of the school]*. 20 U.S.C. § 6316(b)(8) (emphasis added).

To recapitulate: For any school in Corrective Action II status, there must be a District-wide as well as a school-specific policies on parent engagement, developed with parental participation. The policies must explain how parents will be involved in the school improvement process. Further, the District must inform parents about why the school has been placed in Corrective Action II status; tell them about how they can become involved in resolving academic problems at the school; invite them to participate in developing a restructuring plan; involve them in making decisions about the plan; and solicit their comments before implementing the plan.

Further, it is clear from the statutory language that:

- The District cannot meet these obligations by simply accepting input from those parents who take the initiative to provide it. Rather, under the statute, the District

has the obligation to *reach out* to parents (typically in writing, *see* U. S. Department of Education, Parental Involvement: Title I, Part A, Non-Regulatory Guidance (2004)) so as to ensure that they are aware of their right to participate in the restructuring process.

- The District must create *structures* for parental participation, such as open meetings, procedures for obtaining information and submitting comments, and the like. Without such structures, parents do not have the “adequate opportunity” for input mandated by NCLB.
- NCLB does not limit parental participation to any particular subgroup of parents. Therefore, the District cannot select parents for participation in the restructuring process, and exclude others. Instead, the District’s outreach activities must extend to *all* parents at the school, and the District must provide opportunities for all parents who wish to participate to do so.
- NCLB requires that parents participate in “the development” of restructuring plans – which means that parents have the right to have input into *decisions* concerning the content of that plan. Thus, it is not enough to offer parents the right to be involved in their own child’s school program – although that is also required by NCLB. The right at issue here is the right to participate in *shaping a plan for the school*.

IV. The situation in the District

The information available to us suggests that the District may not have developed actual restructuring plans for many of the schools in Corrective Action II status. When we requested copies of such plans from the District, we were provided with school safety plans. Obviously, if restructuring plans do not exist for some or all schools, this is inconsistent with NCLB.

But even if the District does have restructuring plans for some or all schools, it seems clear that the District has no consistent system for *involving parents in creating those plans* – even if some parent input is occasionally sought or received. Moreover, this pattern of failing to involve parents in the planning process is of long standing. For example:

- In the fall of 2002, the District transferred 45 schools to private management. A significant number of these schools were in “Corrective Action II” status at the time (*e.g.*, Clemente, Dunbar, Gillespie, Locke, Munoz-Marin, Penn Treaty, Pickett, Potter-Thomas, Sheridan, Stetson, Tilden, Wanamaker); and the act of transferring these schools to private management was clearly a “restructuring” decision as defined by NCLB, 20 U.S.C. § 6316(b)(8)(B)(iii).

However, neither in 2002 nor at any subsequent time has the District adopted or implemented a system for involving parents in the design of restructuring plans for these schools – many of which are still in restructuring status today.

- The District has also converted schools into charter schools – another form of “restructuring,” 20 U.S.C. § 6316(b)(8)(B)(i). In 2002, for example, the District converted the Edwin Vare School – then in “Corrective Action II – First Year” status – into a charter. Vare is now in “Corrective Action II – Third Year” status. However, the District has not adopted or implemented any system for involving parents in the design of restructuring plans for these schools.
- In the fall of 2004, the District terminated supplemental funding to 16 schools that had been determined to need such funding (\$550 per pupil in 2002-03, \$450 per pupil in 2003-04) in order to improve. At the time the funding was terminated, a number of these schools were in “Corrective Action II” status (*e.g.*, Blaine, Clymer, Cooke, T. Marshall). However, the District has never adopted or implemented any system for involving parents in the decision to terminate supplemental funding to these schools, or in the design of alternative restructuring plans for these schools.
- In April 2005, the District created a new “Creative Action and Results [“CAR”] Region” consisting of 11 schools in “Corrective Action II” status. (The CAR Region was later renamed the “CEO Region.”) The District announced its restructuring plans for these schools without soliciting parental involvement or comment.
- In the fall of 2005, the District eliminated its Office of Restructured Schools, through which the District had been providing supplemental funding and services to 21 schools that had been designated as in need of such funding in order to restructure. Several of these schools were in “Corrective Action II” status (*e.g.*, Barry, L.P. Hill, Rhodes, Roosevelt, Sayre, Steel, Vaux). However, the District did not adopt or implement any system for involving parents in the decision to terminate the supplemental funding or other restructuring services. The District also did not adopt or implement a system for involving parents in the design of alternative restructuring plans for these schools.
- The District has changed grade configurations for numerous schools over the past several years, including many schools in “Corrective Action II” status. The District has implemented no system for involving parents in these decisions.

- The District has made other major decisions concerning individual schools without involving parents in the decision-making process. For example, in the fall of 2005, the District divided Olney High School – then in its second year of “restructuring” status – by physically dividing the building into two schools. The District did not implement any system for involving parents in this decision. Another example is the District’s decision, also in fall, 2005, to transfer Huey – a school in “Corrective Action II” status – to private management. Again, the District seems to have implemented no system for involving parents in this decision.

To be sure, there have also been instances in which the District *has* taken action to solicit parental involvement. For example, the District has responded to requests from parents, students and community members for involvement in certain decisions concerning the redesign of Kensington and West Philadelphia High Schools (both now in “restructuring” status). However, the process of public participation that the District implemented with respect to these schools is the exception rather than the norm.

In December 2005, the District adopted a “District Wide Parent Involvement Policy.” The adoption of this policy is a positive step. Unfortunately, however, it came long after most of the restructuring decisions noted above had been made. Moreover, the policy does not say what the District will do with respect to parent participation in decision-making concerning restructuring; nor, so far as we can determine, has any change in the District’s practices occurred since the adoption of the policy.

V. Requested Action

We request the following action from the Department.

- As provided in the Department’s “Complaint Resolution Process for NCLB Programs,” the Department should investigate this complaint by requesting from the District the following information for each school in “Corrective Action II” status:
 - A copy of the school restructuring plan.
 - Documentation concerning when, how, and to what extent the District has notified parents concerning (i) the reasons for the identification of the school as in corrective action status; (ii) the actions that the District is taking to address the problem; and (iii) the ways in which parents can become involved in the improvement process.
 - Documentation concerning when, how and to what extent the District has provided parents with an adequate opportunity to participate in the design

and implementation of a restructuring plan for the school, including meeting notices, meeting minutes, and the like.

- The Department should provide an opportunity at which we, as complainants, may present additional evidence and question witnesses concerning the allegations made in this complaint, as provided for in the Department's "Complaint Resolution Process for NCLB Programs."
- If the evidence establishes that the District has failed to comply in full with the provisions of NCLB discussed above, the Department should require the District to adopt a policy defining the actions that it will take to ensure future compliance with all aspects of NCLB relative to parent involvement with respect to schools in "Corrective Action II" status.
 - The policy should delineate, *inter alia*, the steps to be taken to ensure that parents and are provided with an adequate opportunity to participate in developing restructuring plans, to comment before any action is taken to implement a proposed plan.
 - The policy should be developed with adequate opportunity for participation by parents, students, teachers and other interested community members.
- The Department should require that the District document, for at least the next two years, its compliance with the policy once it is adopted.

We appreciate the Department's consideration of this complaint.

Sincerely,

Len Rieser
Co-Director

Table 1
Schools in “Corrective Action II – First Year” Status

Huey
 Overbrook Elementary

Table 2
Schools in “Corrective Action II – Second Year” Status

Arthur	Furness	Peirce	Stoddart-
Bache-Martin	Gratz	Pennell	Fleisher
Bartram	Harrity	Pepper	Strawberry
Blaine	Hunter	Rowan	Mansion
Bok	Jackson	Sayre	Sullivan
Bryant	Kenderton	Shaw	Taggart
Douglass, F.	Lewis	Shoemaker	Thomas
Drew	Ludlow	Smedley	Turner
Elverson	Marshall	Southwark	
FitzSimons	Morrison	Stearne	
Franklin HS	Pastorius	Steel	

Table 3
Schools in “Corrective Action II – Third Year” Status

Barry	Locke	Tilden
Bluford	Mann	University City
Boone	Mastbaum	Vare, E.
Carroll	Munoz-Marin	Vaux
Clemente	Olney HS	West
Clymer	Penn Treaty	Philadelphia
Cooke	William Penn	
Dobbins	HS	
Douglas, S.	Philadelphia	
Dunbar	Regional HS	
Edison/Fareira	Pickett	
Fell	Potter-Thomas	
Gillespie	Rhodes	
Harding	Roosevelt	
Hill, L.P.	Shallcross	
Hopkinson	Sheridan	
Jones, J.P.	S. Philadelphia	
Kensington	Stetson	

Table 4
Schools in “Corrective Action II” status during 2003-04 that
“made progress” in 2004-05

Anderson	DeBurgos	Meade	Webster
Cleveland	Ferguson	Nebinger	Wister
Bethune	Hackett	Pratt	
Central East	Holme	Rhoads	
Cramp	Lea	Smith	