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New Lawsuit Seeks to Compel New York City Public Schools to Help Students with School Avoidance Return to Class

As Chronic Absenteeism Climbs, Plaintiffs Are Working with The Legal Aid Society and Pillsbury to Demand Solutions for Students Suffering from School Avoidance

(NEW YORK, NY) – The Legal Aid Society and Pillsbury Winthrop Shaw Pittman filed a class action lawsuit in the United States District Court for the Southern District of New York against New York City Public Schools (NYCPS) for failing to provide access to education to students with disabilities who are chronically absent or otherwise suffering from “school avoidance.” As a result, these students are systematically being denied their right to public education.

The lawsuit was filed on behalf of a group of parents and New York City students who are experiencing school avoidance, which can be caused by social or emotional disabilities such as severe anxiety or depression.

The complaint demands that NYCPS immediately develop and implement a process to identify, evaluate, and establish programming to help students experiencing school avoidance, as required by federal and state law.

According to NYCPS’s own data, the scope of chronic absenteeism—defined as missing 10 percent or more of school—is severe and has increased since the COVID-19 pandemic. In the school year ending (SYE) in 2019, 22.9 percent of students were chronically absent. In SYE 2023 this percentage had increased to 31.7 percent. For students with disabilities these figures were even more troubling, with more than 46.1

percent of NYCPS students with disabilities—more than 87,600 children and young adults—chronically absent in SYE [2023](#).

“NYCPS is fully aware that school avoidance is a widespread problem, yet they have no process for identifying students and developing strategies for getting them back into school,” said **Susan Horwitz, Supervising Attorney of The Legal Aid Society’s Education Law Project**. “Students can’t get an education if they’re not in school. If absences are the result of a disability, it is NYCPS’s job to find a way to get them back in.”

“NYCPS routinely offers woefully inadequate assistance to students with school avoidance or worse, ignores them altogether,” said **Pillsbury Partner Jeffrey Metzler**, who is pro bono counsel. “In some cases, schools have effectively counseled students out of the NYCPS, telling parents to homeschool their child until their health improves. In other cases, students have been assigned to ‘home instruction,’ a program that provides only a few hours of online instruction each day and falls well-short of the sound basic education to which all students are entitled.”

The legal team’s efforts to work with NYCPS to resolve these issues were unsuccessful, necessitating intervention by the courts.

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