

Human Rights Monitoring in New York City Schools

Human rights standards require governments to monitor the enforcement and realization of basic rights, such as the right to education. The purpose of monitoring is to ensure timely documentation of violations which allows the government to take quick corrective action. Although New York City and State collect large amounts of educational data, this information is not effectively used to address violations or incorporated into efforts to improve New York City schools.

In order to undertake more effective monitoring, the City and State must create independent mechanisms with built-in incentives or mandates to serve the interests of communities. Such mechanisms must be accountable to civil society, as well as ensure the participation of all stakeholders – particularly parents and community groups – in districts serving low-income neighborhoods and communities of color.

“[O]mbudsmen could translate the current emphasis on accountability in education into practice.” — UN Special Rapporteur on the Right to Education

The Role of an Ombudsperson for the Right to Education

An ombudsperson is a classic human rights mechanism for monitoring. “The tasks of ombudsmen often include ...monitoring the impact of the existing policies and laws” as well as “influencing policy development and law reform.”¹ In relation to the right to education, an Ombudsperson:

- **Monitors and investigates violations** of the right to education, through gathering information from stakeholders and officials, investigating complaints, and analyzing data;
- **Issues public findings and recommendations** documenting violations and failures in government accountability, and suggesting corrective measures based on internationally recognized human rights standards; and
- **Serves as an advocate** for civil society before government offices and school officials, in particular for cases of widespread or systemic violations.

In order for an Ombudsperson to successfully serve communities, the office should be accountable to civil society, and serve as both a resource and a voice for civil society stakeholders. Thus, an Ombudsperson should:

- **Organize dialogues** in partnership with parents and community organizations to discuss findings in reports and create a space to bring undetected violations to light;
- **Gather input from civil society**, for example, by creating an advisory board that is representative of a wide range of stakeholders and conducts evaluations of the performance of the Ombudsperson; and
- **Facilitate the exchange of information** among community groups or institutions undertaking their own monitoring of the right to education.

¹ The obligation to monitor the realization of human rights is found in major human rights instruments, such as General Comments 3 and 13 by the UN Committee on Economic, Social and Cultural Rights, and the *Masstricht Guidelines on Violations of Economic, Social and Cultural Rights*, Masstricht, January 1997.

² Tomasevski, Katarina, UN Special Rapporteur on the Right to Education, *From the Outside Looking In: Changing New York City's Education Through the Human Rights Approach*, 15 April 2002.

Essential Criteria for a Human Rights Ombudsperson

To serve the basic purpose of an Ombudsperson, such an office must also meet the following criteria:

- **Independence of the institution.** The Ombudsperson must not be part of any authority within the State nor be subordinated to the State. Authorities must be legally obligated to assist the Ombudsperson in his/her investigation; provide him/her with all required information; and provide proper financial and personnel resources for the office to carry out its functions.
- **Confidentiality.** The Ombudsperson must be free from the obligation of providing State agencies with any of the information received during a complaint or investigation, and must have the obligation to maintain confidentiality in all the cases brought to the office.
- **Access guaranteed to everyone.** Because an Ombudsperson works for the people there must be assurances that the access of the people is not deterred by bureaucracy, territorial or communication issues, by internal policies of the institution, or by any other factor.
- **Guarantee against reprisal.** There must be a guarantee that those seeking assistance from the Ombudsperson will not suffer reprisals from the government.
- **Publicity of the body.** The existence and functions of the office should be widely publicized.
- **Impartiality and integrity.** The impartiality and integrity of the office must be guaranteed to ensure just and objective determinations, and legitimacy before the public.

The United States Ombudsman Association Legislative Model for Ombudsman Offices

1. *a governmental office created by constitution, charter, legislation or ordinance*
2. *an office with responsibility to receive and investigate complaints against governmental agencies*
3. *an office with freedom to investigate on its own motion*
4. *an office which may exercise full powers of investigation, to include access to all necessary information both testimonial and documentary*
5. *an office with the authority to criticize governmental agencies and officials within its jurisdiction and to recommend corrective action*
6. *an office with the power to issue public reports concerning its findings and recommendations*
7. *an office directed by an official of high stature who:*
 - * *is guaranteed independence through a defined term of office and/or through appointment by other than the executive and/or through custom;*
 - * *is restricted from activities constituting a personal, professional, occupational or political conflict of interest; and*
 - * *is free to employ and remove assistants and to delegate administrative and investigative responsibility to those assistants.*

- US Ombudsman Association, www.usombudsman.org/AboutUSOA/association.htm