



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

Commissioner of Education
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September 17, 2021

Sent Via Electronic Mail

Mr. Scott Jaffee, President
Mrs. Jennifer Schlactus, Vice President
Dr. Richard Buzin
Mr. Ryan Goldstein
Mr. Jeffrey Mensch

Dear Board President Jaffee, and Members of the Board of Education,

I am writing to clarify the chronology of the events that led to the unfortunate closure of Ridge Street Elementary (the "School").

Closure orders are not issued lightly. The closure order issued the School is the first in several years, and it was issued only after SED learned that the district illegally allowed staff and students into the building without a valid certificate of occupancy ("CO").

SED has jurisdiction over enforcement of the New York State Building Code, ("Uniform Code") for public school buildings in New York State. Prior to the closure order, SED directed the district several times, verbally and in writing, that the building could not receive a valid CO—and thus, be occupied by anyone—until it met three requirements:

- (1) the architecture firm certified the complete code compliance of the School;
- (2) the School received a valid fire safety inspection, signed by the superintendent; and
- (3) SED approved a construction phasing document that stipulates the conditions under which the district and contractor would operate safely while the building is under construction.

Below is a partial chronology of the communications between SED staff and the District.

- **August 24, 2021**: An inspector conducting work for the District indicated that "[n]o portion of the sprinkler system will be functional by the planned occupancy date of 9/13." The inspector further relayed an architect's position that the sprinkler system was not required due to a technicality; namely, "because the more significant portion of the new construction [was] not completed (closed in) and not technically attached to the occupied part of the building" An SED employee responded, indicating that "[i]f there is a system that is impaired then it should be treated as such regardless of whether it is required by the [Uniform] [C]ode." The employee also expressed

confusion as to the District's representation that the location was not "technically" attached to the existing building.

- **August 26, 2021**: an architect working with the district indicated that he "worked out a way to connect the sprinkler system from the riser to the attic of the 1950 Wing," which "means that all areas scheduled to be occupied this school year will have sprinkler coverage."
- **September 1, 2021**: the architect informed SED of the status of the renovations, concluding that "we have enough information to outline a set of established goals that we believe will allow the facility to be occupied for the 9/13 start of school." The inspector's walkthrough was scheduled for Tuesday, September 7, 2021.
- **September 6, 2021**: the superintendent submitted a "formal request" to SED to allow the School "to open remotely on Monday, September 13th and deliver instruction through synchronous online learning for a limited time" The superintendent indicated that the School would only "resume full day in-person learning ... [a]s soon as we receive a Certificate of Occupancy (CO) or temporary CO and we can safely return the students to the building" SED approved this request, subject to those conditions, later that day.
- **September 8, 2021**: the District's Assistant Superintendent for Finance & Facilities contacted SED to inform it that "The new wing and the 1955 wing have not yet received [a] CO (which I anticipate in the next week or so) and I would like to know what staff are permitted in the areas that do not have a CO" SED staff stated that the District could not occupy any portions of the building without a certificate of occupancy.
- **September 10, 2021**: SED staff answered additional questions from the inspector about fire alarm systems in the School. Based on the state of the construction, SED's Office of Facilities Planning recommended that "th[e] district ... make other arrangements for Monday 09.13.2021 and identify alternate spaces for their students to attend classes." SED reiterated that "[i]n order for any part of this building to be legally occupied[,] ... a valid Occupancy Certificate must be in place."
- **September 11, 2021**: Counsel for the District indicated to SED that "School is set to open Monday, Sept. 13. The District has been on full speed trying to finish all punch-list items on construction to start in-person instruction on Monday. Final inspection for a CO will take place on Friday, September 17. In the meantime, part of the plan was to place students in several classrooms that were not under construction ... On Friday night at 10:06 pm, the District received an email from [SED] advising that it could NOT use those classrooms because the second egress from those classrooms went by the construction."
- **September 12, 2021**: The Superintendent pledges to obtain an inspection immediately from the local fire chief.

- **September 13, 2021:** SED writes to Dr. Harold Coles, Superintendent of the Southern Westchester BOCES, to seek assurances that “the Blind Brook-Rye building which is under construction is safe before being occupied.” Assistant Commissioner Christina Coughlin wrote that she “spoke with the superintendent yesterday,” who expressed his intention “to have a certified code enforcement official review the spaces as they currently stand” SED learned that staff and students occupied the building on September 13, despite the lack of a CO. SED contacted Dr. Coles, directing him to inform the Superintendent that an immediate inspection was necessary.
- **September 14, 2021:** Students attended school for a second day at the School without a valid CO. When the inspector contacted the superintendent, the superintendent told him that he would only be inspecting the spaces that had been under construction, not the entire site. Because the entire building's certificate of occupancy was invalid, per the Uniform Code, this requirement from the Superintendent was not consistent with standard practice for these inspections. The inspector contacted SED and reported that he had been refused access to the entire site.
- **September 15, 2021:** Students attended school for a third day at the School without a valid CO. SED reached out again to Dr. Coles, reiterating the need for the previously requested approvals first requested. SED prepared a closure order based upon the District's inaction. Communications from the inspector, architect, and counsel suggested that any issues identified by the code enforcement official would be minor and resolvable during the district's previously scheduled closure on September 16, 2021 for the Yom Kippur holiday.

Later in the evening, SED staff conferred with the inspector. He informed SED of numerous violations of the Uniform Code, stating that he was “very concerned” about numerous spaces, not just those under construction. In the inspection report, the School received four three-point violations, the most serious degree of violation. Each of these violations would have resulted in a failed inspection. The inspector also noted situations that were so non-compliant — the lack of ceilings and hanging wires — that they did not even appear on the inspection sheet.

Below are additional, serious violations discovered during the inspection:

- Non-functional alarm systems, which would create a delay in notifying occupants of a fire.
- Blocked and poorly lit paths to exits and outside the building.
- Doors lacking appropriate hardware (making it difficult for occupants to flee a burning building); and
- Non-functional sprinklers and uninstalled fire blocks between spaces (these are intended to slow the spread of fire, allowing occupants time to escape).

These violations impacted both the spaces under construction and the spaces where children were in class this week.

The multiple, serious violations of the Uniform Code identified during the inspection confirmed that a closure order was essential. These violations occurred in a building complex housing hundreds of young children. Imagine the potential tragedy should a fire have occurred in this building this week.

Parents trust their school leaders to keep their children safe when they send them to school. An intentional decision to occupy a school building lacking a CO represents a brazen, and perhaps criminal, disregard for the safety of others. It would certainly support the removal of school officers for a willful violation of law or neglect of duty under Education Law § 306. It is unfathomable that it took the issuance of an SED directive to close the school, which was the only morally and legally acceptable action under the circumstances.

I await the submission of the three documents listed above. SED will review these documents immediately upon receipt.

Sincerely,



Betty A. Rosa
Commissioner

cc: Patrick Brimstein, Superintendent