

Class Dismissed

Lousy teachers or just political victims: there's got to be a better way to settle teacher disputes than New York's rubber rooms

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Imagine that your boss wants you to sign a document accusing you of something you don't believe you did—a fireable offense like assaulting someone at work, for example—and your response is not only to refuse to sign, but to let loose a damning accusation that your boss was making up the allegation.

And, for good measure, you call your boss "fat."

Now, in just about any industry you can think of, this would not bode well for your continued employment. But in this case, we're not talking about just any kind of workplace, but perhaps the most dysfunctional employee-employer interface in the history of paychecks.

In other words, the New York City public school system.

When, three years ago, Georgia Argyris, a teacher, was presented with a letter accusing her of yanking the arm of a kindergartner at P.S. 50 in East Harlem, she let loose with a stream of accusations at her principal, Rebekah Mitchell, and added some unkind words about Mitchell's weight.

At another kind of job, Argyris might have called on a union representative to help her fend off what she considered baseless claims (she was denied one). Or she might have been immediately terminated after calling attention to her boss's waistline (she wasn't). Or at the least, the allegations against her, and her counterclaims, might have been reviewed in a timely manner by an impartial third party, someone who wasn't the recipient of Argyris's unwise outburst.

But no, this is the public school system, and there's only one way New York knows how to deal with teachers accused of bad behavior: send them off to a Kafkaesque holding pen, where taxpayers continue to pay their salaries for months as they wait for the glacial pace of what passes for justice, meted out by a sluggish school district and intransigent union.

Argyris, not formally charged with any wrongdoing, would spend the next *year and a half* in this limbo, paid by taxpayers to sit in a childless classroom with other teachers awaiting their own hearings.

It's not hard to see why teachers call this place the "rubber room," where they spend months—and even years, some simply waiting to see what they've been charged with.

The Department of Education, naturally, says that teachers end up for long periods in rubber rooms because their union—the United Federation of Teachers—has made it so difficult to fire lousy teachers.

The UFT, on the other hand, says that it's the DOE that abuses rubber rooms, sending teachers there that principals consider troublemakers. In other words, the union tends to see the rubber room system as the Guantánamo Bay of the school world, where political prisoners are sent by

dictatorial principals. (Not surprisingly, the teachers doing time in rubber rooms we spoke to tended to agree with this view.)

Meanwhile, as teachers spend month after month reporting to mind-numbingly boring rooms waiting to be found incompetent (in some cases), or fit to return to teaching (in others), you pay. And pay.

The UFT and the DOE each claim no knowledge of the origin of rubber rooms. One longtime employee says they have existed since at least the late 1960s, but in a different form.

Teachers at that time who were accused of wrongdoing were reassigned to their district office where they were put to work—filing, typing up reports, and organizing data.

Today, teachers simply rot.

When Argyris reported to 333 Seventh Avenue in Manhattan, one of 13 rubber rooms the district euphemistically refers to as Reassignment Centers, she soon realized that her "job" now consisted of joining about 70 other reassigned teachers in daylong sessions of staring at a wall.

"I felt like a vegetable in a chair," she says.

Rubber room hours match that of a typical school day—Argyris would sign in at 8:30 a.m. and be released at 3:20 in the afternoon, with a 50-minute lunch break. Like something out of a dystopian fairy tale, however, this school had no children, just a few cafeteria workers, social workers, and custodians who shared the same lot.

In 2000, there were 385 teachers assigned to rubber rooms. Last month, that number had climbed to 662. Argyris, while she sat and stared at a wall, was paid \$62,646 a year. The DOE pays about \$33 million a year just in salaries to the teachers in rubber rooms—an amount that doesn't include the salaries of investigators working on the cases of rubber room teachers, the upkeep of the reassignment centers, or the substitute teachers who replace employees like Argyris.

Because teachers in rubber rooms are awaiting their cases to be heard, they aren't technically being punished. But they are restricted from numerous activities—they can't use MP3 players, telephones, or laptop computers. (Most flout those rules, however, and use various devices openly.)

Teachers say they soon learn that their peers are territorial and often cranky. One young teacher serving his fifth month tells the *Voice* the first thing he was told by a supervisor was not to sit in seats claimed by others. Fights have broken out over less, he was told.

"It's high school on steroids," he says. "Or maybe a mixture between a minimum security prison and a senior home."

To keep occupied, teachers read, play games like Scrabble or chess, or work on their screenplays. Art teachers work on paintings. Masters degrees get completed. Last year at the Seventh Avenue rubber room, a group of teachers taught each other to knit. Exercise is a popular activity.

Jeremy Garrett, a former teacher, has spent the last two years producing a film about rubber rooms by sneaking in cameras. He says he's known some teachers who actually didn't mind spending years doing little more than showing up every day for a paycheck. "There are people on the inside who are milking the system," Garrett says. "You'd have to expect that, though."

After a recent day of staring at walls, five teachers currently serving time at a rubber room met at a nearby coffee shop. For the benefit of a reporter, they had prepared freshly printed handouts and an agenda, activities they obviously missed. They gave a bullet-point outline, summarizing the reasons they had been reassigned. Each, not surprisingly, claimed to be in the rubber room on trivial or inflated charges.

The DOE, however, says that teachers are only sent to rubber rooms for serious reasons. Some teachers, the DOE says, need to be separated from children because they've been accused of

harmful behavior, like sex offenses. Others are awaiting discipline after investigators have confirmed allegations of incompetence or misconduct. And others are in rubber rooms because they've been accused of crimes by outside agencies.

But Argyris, as she sat in the rubber room in 2004, had been given no official reason why she'd been sent there. Previous principals had given her high praise for her work with kindergartners. Lyle Walford, an interim principal who worked with Argyris, says that she was a "great teacher," but also assertive. "She's outspoken," Walford tells the *Voice*. "She doesn't take any guff from anyone."

A former model, Argyris looked young for her age. She claims that from the first day of Mitchell's arrival, the new principal disliked Argyris for some reason, and the accusations of yanking a child's arm was just part of a strategy to get rid of her. The district counters that Argyris had a record of poor attendance, was often late to class, and that Mitchell found herself having to cover for the kindergarten teacher.

Late into the second month of the 2004 school year, a mother of one of the kindergartners said that her daughter's coat was missing and that her arm had been pulled. The student was on Argyris's roster. Argyris maintains she was absent the day of the incident and that the student in question was in another teacher's class. The district, however, countered in a hearing that the records were clear—on the date of the incident, the student was in Argyris's class. Mitchell interviewed some children and concluded that Argyris had mishandled the child. But Jeff Huart, a UFT investigator, tells the *Voice* that the investigation wasn't so clear-cut. "All I do know is that a bona fide eyewitness said the kid was not hit," he says. "The mother and two other kids came back and said Argyris did not hit the kid."

Argyris had never been charged with misconduct before. "She was a well-respected kindergarten teacher and all of a sudden she is an evil person that deserves to be booted from the school?" says a veteran teacher with more than a decade experience at the school. "It doesn't make sense."

Mitchell asked Argyris to sign a letter admitting to roughing up the child, Argyris refused to sign, and that's when she made her outburst about the principal's size. The principal then reported the incident to the regional superintendent, and Argyris was reassigned to the Seventh Avenue rubber room. "She lunged toward me when I gave her the letter," Mitchell tells the *Voice*. "It's a serious allegation and it warranted her being reassigned." But before she left, Argyris secretly made an audiotape of a conversation she had with assistant principal Angela Camiolo, who, in a transcript of the tape, appears to express some sympathy for her.

Argyris went to the rubber room confused and upset. She says she constantly had the urge to cry. Every 10 minutes, she says, she'd get up and go to the bathroom. She composed a letter to Chancellor Joel Klein that was never answered. She called the union frequently and rarely got through.

Two months later, still awaiting formal charges, Argyris was scheduled for a grievance hearing over her allegations that she'd been falsely accused. Perhaps naively, she believed she could play her secretly recorded tape of the assistant principal expressing sympathy for her and then get to return to her kindergarten classroom. "That didn't happen," she says.

When Argyris revealed the presence of the tape, the meeting was immediately adjourned. (Mitchell later gave Camiolo a poor rating, and Camiolo has been demoted to a teaching job at another elementary school.)

After the aborted hearing, Argyris went back to the rubber room, where her mental state deteriorated. A therapist prescribed her antidepressants.

"I became a worthless lump that didn't do anything anymore," she says.

On a recent visit to 25 Chapel Street in Brooklyn, a Reassignment Center opened in 2005 and housing at least 100 occupants, a *Voice* reporter found teachers sitting on either side of a long

room, just about wide enough for two Cadillacs to park side by side. The teachers looked sedated, like passengers after a cross-country flight, and the room was stuffy with a musty smell, as if the ventilation system hadn't been working right.

A food-delivery boy soon slipped through the door with a bag that smelled like greasy stir-fry. One woman wore a sweat suit, read a magazine, and had her feet up on a chair. Some were sleeping, their heads lulling against the wall, while others played chess and dominos or kept to themselves.

After a room supervisor discovered the intrusion, the reporter was forced out of the room into a hall, where several teachers were power-walking for exercise, but others soon gathered, anxious to speak about their experiences. "You can't use my name," one teacher said pleadingly. "There's a history of retribution. I have to pay my bills, pay for my child and for rent. This is the only job I've had my whole adult life and this is all happening before I'm proven guilty. We're all guilty, but did nothing wrong."

After about an hour, two suit-clad DOE employees arrived. "The head of human resources," one teacher murmured to the next. The crowd scattered. A few moments later, a guard came into the hall and asked the unapproved visitors to leave. When asked why, the guard just shrugged.

Most press mentions of the teachers exiled to the rubber room involve extreme cases that tend to inflame the tabloids. The Office of the Special Commissioner of Investigation (SCI), an independent body headed by Richard Condon and designed to investigate wrongdoings in the DOE, posts press releases of teachers found guilty on its website, where they make for tab fodder.

On March 7, the SCI made public the case of 30-year-old Marcia Amsterdam, who engaged in sexual intercourse with a 13-year-old boy from her school. In another widely reported case, a teacher's lewd e-mails to a 16-year-old student produced six years of litigation (during which the teacher received \$300,000 in compensation).

But out of 592 SCI investigations completed in 2006, only 259 were substantiated. The majority of cases are investigated by the Office of Special Investigations (OSI), which is part of the DOE and handles misdemeanor cases like incompetence and corporal punishment. "Before I was there, I thought this place was filled with thieves and molesters," one teacher tells the *Voice*. "There are people with quirks, but we're not all bad."

Even though many inside are still awaiting decisions, the rubber room has become synonymous with guilt. Some teachers are too embarrassed to tell close family members about their reassignment. One teacher, who has been inside for more than six months, tells the *Voice* he's managed to keep the truth from his wife.

Teacher advocates say the investigation process wouldn't be so mentally damaging if it could only be handled more quickly. The *Voice* spoke to teachers who had been serving time in rubber rooms from two months to three years. The DOE says it can't produce an average length of stay, because the district only started keeping track in 2005. According to their contract, teachers must be formally charged within six months of being reassigned or be returned to the classroom. But being charged can then add many more months as a case slowly works its way through a complicated process.

"The length of the process depends on the complexity of allegations and case," DOE spokeswoman Melody Meyer says. "Some investigations take days, others take months."

There are currently only 18 hearing officers handling misconduct cases. Each officer is contracted to meet only five times a month. The backlog of cases is immense.

"We have been saying for years that we want these people out of these places much more quickly," UFT president Randi Weingarten says. "There is no reason for them to be sitting six months or longer without charges being filed."

Hearing officers are chosen jointly by the DOE and the UFT, but are paid for by the New York State Education Department. With New York City officers making up to \$1,900 a day, it's a lucrative part-time job, which some critics say leads these officers to overly compromising opinions. "You make a lot of money," says Julia Cohen, a lawyer who specializes in education law. "You want to satisfy both sides."

By July 2005, Argyris still hadn't heard any decisions from the December grievance hearing and the names and faces of her students grew vague in her mind. She had been transferred to a Livingston Street rubber room where she said one man routinely ate crumbs off the floor and where she saw a woman attack a man with a cane.

The Livingston Street rubber room was soon closed and Argyris was transferred to the Chapel Street facility, where the teachers had formed tight cliques. A daily spectacle, she says, was a young couple who had met during their reassignment and had converted a corner of the room into a small love nest, complete with air mattress, sleeping bags, small fridge, and a portable DVD player.

Argyris says that she found a companion too. But it didn't dawn on her, she says, that a teacher accused of telling a student he was going to throw the boy from a window might not make the best boyfriend.

In January 2006, Argyris filed a restraining order after her rubber room boyfriend beat her up. Photographs show that the whites of her eyes were stained red with blood. Black and blue marks ran the circumference of her neck.

Meanwhile, she passed her sixth-month mark in the rubber room without charges, but that milestone didn't, as her contract promised, put her back in a classroom. Instead, the UFT told her to keep showing up. But that was becoming more difficult. She started attending less frequently. And then, in February, she finally received formal charges—for her rubber room absences.

Because of Argyris's numerous absences (65 over the 18-month period), the DOE told her it planned to dock nine months of her salary. If she didn't agree, she would be fired. Instead, she hired a private attorney who drew up another settlement. She agreed to pay \$2,500 and stipulated that if she accumulated another 55 minutes in tardiness, she would be automatically terminated.

The UFT was unhappy that Argyris had signed a private settlement with the district, but it's common for teachers to seek such agreements after they spend months in reassignment. The rubber rooms, in other words, wear them down. (In such settlements, the district collected \$310,000 in fines last year.)

Edward Wolf, a lawyer, has made a living for almost two decades defending teachers. He says settling can be dangerous, because the teacher's name will never be cleared. "You're leaving your client with a dirty reputation," he says. "The teacher's got a rap sheet now and it's easy just to bump him off."

But the alternative—waiting for the hearing process to conclude—is increasingly a crapshoot. Last year, 200 teachers were charged with wrongdoing, but only eight were exonerated. Wolf said that five years ago it was common to win several consecutive cases, but now wins are rarer.

After her settlement, Argyris was still stuck in a rubber room. In March 2006, the UFT filed a special complaint on her behalf, charging that principal Mitchell had created a harassing work environment which had led to Argyris being reassigned. An arbitrator ultimately ruled against Argyris, saying that Mitchell had not harassed her.

But during preparations for the grievance hearing, to everyone's surprise, it was found that principal Mitchell had written a letter about a year and a half earlier—in January 2005—rescinding her original allegations that Argyris had yanked a child's arm.

"There was a document exonerating her," UFT investigator Huart says. "I was flabbergasted that this

document even existed."

After 18 months in purgatory, Argyris was suddenly released from the rubber room. The teacher was told she could immediately return to her old school, as if nothing had ever been wrong.

Stunned and emotionally spent, Argyris was overwhelmed.

Just thinking of returning to school after so long an absence made Argyris dizzy.

Garrett, the documentary filmmaker, says he's seen several teachers come out of rubber rooms and experience difficulty assimilating to classrooms. "The amount of time you're away from your school indicates something bad to your colleagues," he said. "But really it's the inefficiency of the system."

Argyris shuddered at the idea of being under the supervision of the same woman who accused her of wrongdoing in the first place. "Why would they send me back to the school with that woman?" asked Argyris. "It's like they were setting me up to fail."

The first few days, Argyris failed to show up, which she attributes to feelings of intense anxiety. When she finally came to school, she was offered a third grade class instead of kindergarten, the grade she'd always taught. Argyris asked the union to provide an aide to accompany her in the room; she wanted a witness so that she couldn't be accused of corporal punishment again. The aide was denied, as was a transfer to a kindergarten classroom. Mitchell says Argyris's return was a disaster. "She usually spent the day sleeping in the teachers' lounge or went out in the neighborhood. I was often asked by parents who was the person screaming into the phone or lying in the teachers' lounge." A doctor recommended medical leave for Argyris, but as her medical issues were being resolved, Argyris surpassed the 55-minute tardy stipulation in her settlement agreement. She was terminated a little more than one month after returning to her school.

Her case won't die, however. The UFT and DOE continue to battle over the original allegations made against her. The DOE seemed incensed that the *Voice* was interested in the Argyris matter; it sent over records of a nine-year-old accusation that Argyris had made racially insensitive remarks to a district employee. Argyris denies the allegation, and was never disciplined for the incident. Repeatedly, DOE officials warned the *Voice* not to write about any aspect of the Argyris case.

Many teachers don't return to school after the rubber room—some retire; one woman the *Voice* talked to vowed to go to private schools; one young man said that when he was cleared he hoped to get a job in another state; another young teacher gave up after a few months in the rubber room and took up nursing.

But the DOE says that the numbers of teachers involved is small. "We're talking about 662 people out of a workforce of 80,000 teachers and roughly 6,000 administrators," Meyer says. "The vast majority is not affected."

The union, meanwhile, says that the rubber room system is preferable to the alternative: suspending teachers without pay until their cases were adjudicated. "There would be even more delays. Cases would drag on forever," Weingarten says. "We want these cases dealt with as soon as possible and not delayed for months and months . . . More than three years ago, I proposed creating a super-arbitrator system to clear the backlog of cases. The DOE rejected that."

Meanwhile, stuck with the rubber room system, life—or something like it—goes on in the city's reassignment centers. Jeremy Garrett, the former teacher who was sneaking into rubber rooms with videocameras to make his film, was arrested on April 18 when teachers objected to his presence. He was charged with criminal trespass.

And also last week, one teacher the *Voice* talked to, Ronald Mortensen Jr., a physical education teacher who worked with special education students, was run over and killed by a car on his lunch break. He was serving his second stint in the rubber room.

