



MINTZ

Boston Public Schools:

**Review of Paid Administrative Leave
Determinations & Disciplinary Outcomes:
BPS Central Office Managers/School Leaders**

Introduction



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Review Timeline

- August 17, 2022 – BPS employee notifies Acting Supt. Echelson & Incoming Supt. Skipper of concerns related to sudden increase in number of BPS senior administrators of color investigated and placed on paid administrative leave.
- External investigator identified
- Fall of 2022 – data compilation
- Spring of 2023 – interviews with internal and external stakeholders
- Summer of 2023 – finalization and report of findings

Scope of Mintz Review

- Summary of Internal Complaint:
 - During previous 10 months (2021-2022 SY), BPS investigated and placed a significant number of senior administrators of color (mainly Black men and women) on paid administrative leave.
 - Request for retention of external investigator to identify potential patterns of implicit bias or racial discrimination.
- Period of Review
 - Expanded to include SY 2019-2020; 2020-2021; and 2021-2022
- Positions under Review
 - School Leaders (e.g., principals and school co-leaders)
 - Central Office Managerial Employees

Overview of BPS Investigation & Disciplinary Process

- Complaints are generally referred to the Office of Equity (“Equity”) or the Office of Labor Relations (“OLR”)
 - Equity: handles allegations of bias-based and discriminatory conduct along with sexual harassment or similar misconduct
 - OLR: handles all other allegations
- If a preliminary investigation suggests that the conduct alleged would constitute a violation of BPS policy, the District will proceed with an investigation.
 - PAL determination is made.
 - Investigatory Meeting notice is issued.
- PAL determination criteria:
 - (1) safety concerns
 - (2) pattern of behavior or jeopardy to the integrity of the investigation
 - (3) egregiousness of the conduct

Overview of BPS Investigation & Disciplinary Process (cont.)

- Depending on the nature of the allegations, the District may elect to conduct the investigation internally or retain an external investigator.
- If allegations are substantiated, the District will determine what, if any, discipline is necessary.
 - Discipline may range from oral warning up to termination.
- Where the severity of the misconduct warrants a suspension or termination, a formal hearing is required.
- Where the severity of the misconduct warrants termination, the District may negotiate a separation agreement with the employee or offer an opportunity to resign in lieu of termination.

Summary of Findings

- Averaged across the three-year review period, 246 BPS employees were identified as Central Office Managers or School Leaders (the target population). Of these, according to available data, slightly more than half (53.6%) identified as people of color.
- BPS investigated **37** members of the target population during the review period.
 - **15** were placed on PAL pending the investigation’s outcome (7 white and 8 non-white);
 - **22** were investigated but NOT placed on PAL (11 white and 11 non-white)
- 35 investigations were completed at time of this review.
 - 8 investigations resulted in a finding of “Unsubstantiated.”
 - One of these investigations involved an employee who was placed on PAL pending the outcome.
 - Disciplinary outcomes in the remaining 27 ranged from remedial training to termination.
- Based on the relatively small number of employees investigated (37 total) and the variety of misconduct alleged, Mintz was unable to draw a reliable conclusion as to whether, and to what extent, race factored into the PAL determinations or disciplinary outcomes.

PAL Determinations: Misconduct Investigations

PAL DETERMINATIONS: MISCONDUCT INVESTIGATIONS (37 TOTAL)			
RACE	TOTAL	NO LEAVE	LEAVE
ASIAN	1	0	1
BLACK	15	9	6
LATINX	3	2	1
WHITE	18	11	7
TOTAL	37	22	15

Equity Investigations by Type of Misconduct Alleged

OFFICE OF EQUITY INVESTIGATIONS				
MISCONDUCT TYPE	RACE	TOTAL	NO LEAVE	LEAVE
DISABILITY-BASED BIAS OR DISCRIMINATION	BLACK	1	1	0
	WHITE	1	1	0
GENDER-BASED BIAS OR DISCRIMINATION	BLACK	1	1	0
RACE-BASED BIAS OR DISCRIMINATION	WHITE	4	3	1
SEXUAL MISCONDUCT OR THE FAILURE TO ADDRESS SEXUAL MISCONDUCT	WHITE	3	2	1
TOTAL		10	8	2

OLR Investigations by Type of Misconduct Alleged

OLR INVESTIGATIONS				
MISCONDUCT TYPE	RACE	TOTAL	NO LEAVE	LEAVE
CONDUCT OUTSIDE OF WORK	WHITE	1	0	1
	ASIAN	1	0	1
FAILURE TO FOLLOW PROTOCOLS, PROCEDURES, OR POLICIES	BLACK	11	5	6
	LATINX	2	1	1
	WHITE	8	5	3
	BLACK	2	2	0
HOSTILE WORK ENVIRONMENT	LATINX	1	1	0
	WHITE	1	0	1
TOTAL		27	14	13

Failure to Follow Protocols, Procedures, or Policies

FAILURE TO FOLLOW PROTOCOLS, PROCEDURES, OR POLICIES				
SUB-CATEGORY OF MISCONDUCT	RACE	TOTAL	NO LEAVE	LEAVE
VIOLATION OF ALCOHOL-FREE WORKPLACE POLICY	WHITE	1	0	1
	BLACK	1	0	1
FAILURE TO INVESTIGATE ALLEGATIONS OF BULLYING	BLACK	2	1	1
	WHITE	1	1	0
MISCONDUCT RELATED TO VACATION TIME, ACCRUED TIME OFF, AND LEAVES OF ABSENCE	BLACK	1	0	1
	WHITE	1	1	0
MISHANDLING OF PERSONNEL INFORMATION	BLACK	1	1	0
	WHITE	1	1	0
VIOLATION OF THE CONFLICT OF INTEREST LAW	BLACK	1	1	0
	LATINX	1	0	1
	WHITE	2	1	1
FAILURE TO FOLLOW PROCUREMENT PROCEDURES	ASIAN	1	0	1
	BLACK	2	0	2
FINANCIAL IMPROPRIETIES	BLACK	1	1	0
	LATINX	1	1	0
FAILURE TO REPORT MISCONDUCT	BLACK	3	2	1
	WHITE	3	2	1
TOTAL		22	11	11

Key Observations

- BPS employs informal, varied, and unwritten criteria for Paid Administrative Leave determinations.
- OLR placed more employees of color on PAL than the Office of Equity but also handled more matters during the review period (27 – 10).
- All 5 OLR investigations of alleged procurement policy violations or other financial improprieties involved POC.
- While outcomes varied across BPS, the Office of Equity was more likely to impose remedial training as a disciplinary measure.

Key Observations (cont.)

- Cluster of Employees of Color Placed on Paid Administrative Leave Pending Performance-Based Dismissal

PAL DETERMINATIONS: PERFORMANCE EVALUATIONS (4 TOTAL)				
OUTCOME	RACE	TOTAL	NO LEAVE	LEAVE
DISMISSAL	BLACK	1	0	1
	LATINX	1	0	1
RESIGNATION	BLACK	1	0	1
REINSTATED TO NEW POSITION	BLACK	1	0	1
TOTAL		4	0	4

Recommendations

- Establish, implement, and publish criteria for PAL determinations.
- Incorporate into employee notification of PAL determination the factor(s) relied upon in determining that PAL was appropriate.
- Establish mechanism for consistent tracking of BPS misconduct complaint investigation processes (including IMs and PAL determinations).
- Establish protocol for periodic audits of BPS investigation and disciplinary processes to identify and respond to trends and potentially problematic patterns.

