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**OFFICE OF THE
NEW YORK STATE COMPTROLLER**

DIVISION OF STATE SERVICES

**STATE EDUCATION
DEPARTMENT**

**REPORTING OF VIOLENT
AND DISRUPTIVE
INCIDENTS BY PUBLIC
SCHOOLS**

Report 2005-S-38

AUDIT OBJECTIVES

Our objectives were to determine whether the State Education Department (SED) has developed effective processes for (1) ensuring that school districts report violent and disruptive incidents to SED in accordance with State law and regulations, (2) identifying schools that should be designated as persistently dangerous because of their violent and disruptive incidents, and (3) ensuring that the incident data reported by school districts is recorded accurately and correctly on SED's automated information system. Our audit focused on incident reporting outside New York City.

AUDIT RESULTS - SUMMARY

The Safe Schools Against Violence in Education (SAVE) Act, which became effective in July 2000, requires school districts to report certain information each year to SED about the violent and disruptive incidents that occurred in their schools during the past year. SED is required to assess the reported information and determine whether any schools should be designated as persistently dangerous because of their violent and disruptive incidents. SED is also expected to summarize the information in an annual report about school violence to the Governor, the Legislature, and the Board of Regents.

We visited a representative sample of high schools and found that, at a majority of the schools, at least one-third of the violent and disruptive incidents documented in the schools' records were not reported to SED. At several schools, more than 80 percent of the documented incidents were not reported to SED, and in a number of instances, the most serious types of incidents were unreported, such as sexual offenses and incidents

involving the use of a weapon. For example, at one high school, 780 of the 924 documented incidents (84.4 percent) in the 2003-04 school year were not reported to SED, and the unreported incidents included two sexual offenses, 11 incidents involving the use of a weapon, and one incident involving the possession of a weapon.

Based on the results of our work, we conclude that there is significant risk that the level of violence at other high schools across the State is similarly understated, and therefore SED's annual reports on school violence do not convey the full seriousness of the situation to the Governor, Legislature and Board of Regents. In effect, school district students, teachers and other employees have a greater exposure to violent and disruptive behavior than may have been previously disclosed.

Incidents were not fully and accurately reported by the school districts because the reporting guidelines, which are complex and include definitions taken from the State's Penal Law, were not always understood and accepted by school district officials. In addition, the officials may be reluctant to publicly report such incidents. We recommend SED more actively monitor the reporting process through site visits to selected districts. We also recommend SED improve the training and other reporting guidance that is provided to the districts.

If a school is designated as persistently dangerous, it must develop an Incident Reduction Plan and the parents of the children attending the school are to be given the option of sending their children to another school in the district, if one is available. We found that schools meeting SED's criteria for persistent danger may not always be so designated, because serious incidents at the schools may not be fully and accurately reported. Also,

schools that are at risk of being designated as persistently dangerous may manipulate their reported incident data to avoid the designation, and SED has not instituted controls that could prevent this kind of manipulation.

For example, in 2005, six schools avoided being designated as persistently dangerous by revising previously reported incident data. The revised data included either fewer or less serious types of incidents than had previously been reported (e.g., a school that had previously reported eleven weapons possession incidents revised the number to seven). SED does not require that such revisions be supported by documentation and does not visit the schools to verify questionable submissions against school records, even though questionable data is submitted by many of the schools that are at risk of being designated as persistently dangerous. Because of this lack of verification, in 2005, as many as 14 at-risk schools were able to avoid being designated as persistently dangerous. In the absence of this designation, the schools were not required to develop Incident Reduction Plans and the parents of children attending the schools were not given the option of sending their children to another school.

If the intent of the SAVE Act is to be fully realized, significant improvements are needed in SED's process for identifying persistently dangerous schools.

According to the provisions of the Federal No Child Left Behind Act, a parent whose child is the victim of a violent criminal offense at a public school is to be given the option of sending the child to another school in the district, if one is available. We found improvements are needed in the incident reporting process if SED is to have reasonable assurance parents are in fact given this option. We also found that the incident data reported by school districts is not always recorded accurately and correctly by SED.

Our report contains 14 recommendations to improve SED's processes to: ensure that school districts report violent and disruptive incidents to SED in accordance with State law and regulations; identify schools that should be designated as persistently dangerous; and ensure that incident data reported by school districts is recorded accurately on SED's automated information system. SED officials agreed with our recommendations and have taken or will take steps to implement them.

This report, dated May 22, 2006, is available on our website at: <http://www.osc.state.ny.us>. Add or update your mailing list address by contacting us at: (518) 474-3271 or
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BACKGROUND

In July 2000, the State Education Law was amended by the SAVE Act. As a result of this amendment, each year, all the school districts in New York State are required to report certain information to SED about the violent and disruptive incidents that occurred in their schools during the past year.

SED is required to assess the reported information and determine whether any schools should be designated as persistently dangerous because of their violent and disruptive incidents. SED is also required to make an annual report about school violence to the Governor, the Legislature, and the Board of Regents.

If a school is designated as persistently dangerous, it must develop an Incident Reduction Plan and submit the plan for SED's approval. In addition, the parents of the children attending such a school are to be given the option of sending their children to another school in the district, if one is available (this option and the Incident Reduction Plan are also required by the 2002 Federal No Child Left Behind Act).

While all school districts in New York State are subject to the reporting requirements of the SAVE Act, different reporting processes are used inside and outside New York City. For example, in New York City, the reporting process is overseen by the New York City Department of Education and much of the reportable information is collected and maintained by the New York City Police Department. Our audit addresses the reporting processes used outside New York City, where there are more than 3,000 public schools in more than 700 school districts.

School districts outside New York City are required to submit their annual incident reports to SED. The reports are due after the completion of the school year, usually in October. The districts must submit a separate incident report for each school in the district, and each report must include (1) all the violent and disruptive incidents that occurred at the school during the prior school year and (2) certain information about each incident (e.g., the type of incident, the number of the perpetrator(s) and victim(s), whether a weapon was involved, and the actions taken by the school in response to the incident).

Reportable incidents are defined in regulations promulgated by SED. SED was required by the SAVE Act to work with the Division of Criminal Justice Services (Division) in developing these definitions. SED reports that it worked with the Division, legislative staff and executive staff in developing the regulations and definitions, and notes that the definitions were taken directly from the State Penal Law.

A total of 17 different types of violent and disruptive incidents are defined in the regulations. All such incidents must be reported by the schools, and each individual incident must be properly classified in the annual incident report (e.g., reckless endangerment should not be reported as criminal harassment). Following are the 17 different types of reportable incidents:

- homicide
- sexual offenses
- kidnapping
- assault with serious physical injury *
- assault with physical injury *
- arson
- robbery

- reckless endangerment *
- criminal harassment *
- intimidation, harassment, menacing, or bullying *
- burglary, larceny, or other theft offenses
- criminal mischief *
- bomb threat
- false alarm
- other disruptive incidents *
- possession, but not use, of a weapon
- use, sale or possession of drugs or alcohol

* - See Appendix A, p. 38 for the definition of this type of incident.

In addition, if a weapon is used by the perpetrators of certain types of incidents, the schools are required to disclose this fact and indicate what type of weapon was used.

SED was required by the SAVE Act to develop a “statewide uniform violent incident reporting system.” To help ensure uniformity of reporting, the annual incident reports are to be completed on a standardized form that was developed by SED (the Violent and Disruptive Incident Report or VADIR). In addition, each individual incident is to be recorded shortly after occurrence, either on a standardized form that was developed by SED (the Individual Incident Report) or on a similar recording instrument. SED has developed detailed instructions, guidelines and other forms of assistance to help the school districts comply with the reporting requirements.

The school districts were first required to submit annual incident reports for the 2001-02 school year. SED officials found that the information reported for the first two school

years was often inconsistent and inaccurate, and as a result, modified the standardized VADIR form, provided more detailed reporting instructions, and conducted statewide training sessions for school district officials. Because of these various changes, the annual incident reports for the 2003-04 school year were not due until April 15, 2005. SED officials told us that the information reported for this school year was more accurate; accordingly, our audit focused on the 2003-04 school year.

To determine whether any schools should be designated as persistently dangerous because of their violent and disruptive incidents, SED analyzes each school’s annual incident data and assigns a numerical score to each school. The score is generated through a calculation that takes into account the seriousness of the reported incidents (some types of incidents are not included in the calculation and some of the types that are included are weighted more heavily than others) and the school’s total enrollment. The Board of Regents must formally approve the methodology for creating the score. However, this approval has not yet happened. In the interim, SED refers to the score as the “Transitional Violence Standard.” Once the methodology for the score is approved, the score will be called the “School Violence Index.” For this report we use the term “Violence Index” in lieu of “Transitional Violence Standard.”

If a school has a Violence Index of 25 or higher for any school year, it is placed on a preliminary list of persistently dangerous schools. If the school’s Violence Index falls below 25 in the following school year, the school is removed from the preliminary list and is not designated as persistently dangerous. However, if the Violence Index is 25 or higher for two consecutive school

years, the school is designated as persistently dangerous and ordered to develop an Incident Reduction Plan, unless school officials are able to demonstrate to SED that, because of altered conditions or some other reason, the school would not in fact be dangerous in the upcoming school year.

If a school is designated as persistently dangerous, it is included on the annual published list of such schools. The first such list was published in August 2003, and was based on incident data reported for the 2001-02 and 2002-03 school years. A total of two schools were on the list, both in New York City. The second list of persistently dangerous schools was published in September 2005 (no list was published in 2004), and was based on incident data reported for the 2003-04 and 2004-05 school years. A total of five schools were on this list, one in New York City and four outside the City.

SED is to submit its annual school violence report to the Governor, Legislature and Board of Regents by January 1 of each year. The report is expected to address the prevalence of violence and disruptive incidents in public schools, and the effectiveness of school programs undertaken to reduce violence and ensure the safety and security of students and school personnel. The report is also expected to summarize the information reported by the school districts and identify the schools and school districts with the least and greatest incidence of violent and disruptive incidents.

Each year, SED publishes a report card for each public school in the State. The report cards contain data on the schools' academic performance and other aspects of school operations. The data is initially reported to

SED by the school districts and later selected by SED for inclusion in the report cards. According to the SAVE Act, information about violent and disruptive incidents is to be added to the report cards. The information in the schools' annual incident reports is to be summarized by SED and presented in a format prescribed by SED. The SAVE Act does not specify when this incident information is to be included in the report cards, and at the time of our audit, the information was not yet included. SED officials told us they had yet to develop the report card format for incident information because they first needed to address the inconsistencies and inaccuracies in reported incident data. The officials stated that they were working on the format and expected incident information to be included soon in the annual report cards.

AUDIT FINDINGS AND RECOMMENDATIONS

Incident Reporting

We found that the process developed by SED for collecting incident data from school districts complies with the requirements contained in the SAVE Act. We note that the development and implementation of this process required considerable effort on the part of SED and the school districts.

However, significant improvements are needed in the process, as we found indications many districts routinely fail to report many of their violent and disruptive incidents. For example, when we visited a representative sample of high schools and reviewed records maintained at the schools, we found that, at a majority of the schools, at least one-third of the incidents documented in the records were not reported to SED. At several schools, more than 80

percent of the documented incidents were not reported to SED, and in a number of instances, the most serious types of incidents were unreported, such as incidents involving the use of a weapon.

As a result of such extensive underreporting, the level of violence at many public schools in the State may be significantly understated in their annual incident reports to SED, and consequently, SED's annual reports on school violence may not convey the full seriousness of the situation to the Governor, Legislature and Board of Regents. In addition, schools that should be designated as persistently dangerous may not be so designated, because their Violence Index may be based on incomplete data (two of the schools in our sample would have had a Violence Index above 25 in the year we examined if all documented incidents had been reported to SED).

To better ensure that school districts fully and accurately report their incidents, we recommend SED more actively monitor the reporting process through site visits to selected districts. We also recommend SED improve the training and other guidance that is provided to the districts.

Incomplete and Inaccurate Reporting

To determine whether incidents were fully and accurately reported by school districts, we selected a sample of 15 school districts outside New York City. We visited the high schools in those districts and reviewed the incident information recorded in the schools' on-site records for the 2003-04 school year. We then compared this on-site information to the information recorded on each school's annual incident report for the 2003-04 school year.

Our sample consisted of two of the State's "Big Five" city school districts, six small to medium-size city school districts, four suburban school districts, and three rural school districts (the districts are listed in Table 1 on page 25). We judgmentally selected these districts to get a representative sample from different regions of the State. We also ensured that our sample included districts reporting both a relatively high and a relatively low number of incidents. We visited a total of 17 high schools in these 15 school districts. At these schools, we reviewed the Individual Incident Reports (if available) and/or other records used by school officials to record individual incidents, such as incident databases, student suspension letters, records of superintendent's hearings and student files.

We found that, at most of the schools we visited, incidents were neither fully nor accurately reported to SED. The number of unreported incidents was particularly significant. As is shown in Table 2 (See page 26), at 13 of the 17 schools, incidents that were documented in school records were not included in the annual incident report that was submitted to SED. At ten of the schools, at least 38 percent of the documented incidents were not reported to SED, and at eight of the schools, more than 50 percent of the documented incidents were not reported to SED.

For example, White Plains High School reported only 22 violent and disruptive incidents for the 2003-04 school year, as follows:

- 1 assault with physical injury;
- 5 instances of intimidation, harassment, menacing or bullying;
- 1 instance of burglary, larceny or other theft offenses;

- 2 bomb threats;
- 2 incidents involving the use, sale or possession of drugs or alcohol;
- 8 incidents involving the possession, but not the use, of a weapon; and
- 3 other disruptive incidents.

However, records maintained at White Plains High School indicated that, during the 2003-04 school year, a total of 311 violent and disruptive incidents occurred at the school, as follows:

- 1 sexual offense;
- 1 assault with serious physical injury;
- 36 assaults with physical injury;
- 9 instances of reckless endangerment, one of which involved the use of a weapon;
- 13 instances of criminal harassment;
- 28 instances of intimidation, harassment, menacing or bullying;
- 9 instances of burglary, larceny or other theft offenses;
- 5 instances of criminal mischief;
- 13 instances involving the use, sale or possession of drugs or alcohol;
- 12 incidents involving the possession, but not the use, of a weapon; and
- 184 other disruptive incidents.

Thus, 289 of the 311 documented incidents (92.9 percent) at White Plains High School were not reported to SED.

Similarly, Albany High School reported 144 violent and disruptive incidents for the 2003-04 school year, as follows:

- 1 sexual offense;
- 20 assaults with physical injury;
- 2 robberies;
- 39 instances of intimidation, harassment, menacing or bullying;

- 3 instances of burglary, larceny or other theft offenses;
- 11 instances of criminal mischief;
- 1 bomb threat;
- 5 false alarms;
- 1 incident involving the use, sale or possession of drugs or alcohol;
- 37 incidents involving the possession, but not the use, of a weapon; and
- 24 other disruptive incidents.

However, records maintained at Albany High School indicated that, during the 2003-04 school year, a total of 924 violent and disruptive incidents occurred at the school, as follows:

- 3 sexual offenses;
- 6 assaults with serious physical injury;
- 126 assaults with physical injury, four of which involved the use of a weapon;
- 16 instances of reckless endangerment, three of which involved the use of a weapon;
- 25 instances of criminal harassment;
- 94 instances of intimidation, harassment, menacing or bullying, two of which involved the use of a weapon;
- 17 instances of burglary, larceny or other theft offenses;
- 23 instances of criminal mischief, two of which involved the use of a weapon;
- 2 bomb threats;
- 22 incidents involving the use, sale or possession of drugs or alcohol;
- 38 incidents involving the possession, but not the use, of a weapon; and
- 552 other disruptive incidents.

Thus, 780 of the 924 documented incidents (84.4 percent) at Albany High School were

not reported to SED. Our detailed findings at all 17 high schools are shown in Table 4 (See pages 28-36).

All 17 types of violent and disruptive incidents are considered serious, but certain types are considered more serious than others and, for this reason, these types of incidents are included in the Violence Index calculation while the other types of incidents are not. For example, sexual offenses, assaults with serious physical injury, and weapons incidents (both use and possession) are included in the calculation, while bomb threats, false alarms, and several other types of incidents (if no weapon is used) are not included in the calculation. Thus, incidents classified as reckless endangerment or criminal harassment are not included in the calculation, unless a weapon is used.

We found that, in a number of instances, the more serious types of incidents were not reported to SED. For example, as is shown in Table 3 (see page 27), in a total of 100 instances, 10 of the 17 schools in our sample failed to report an incident in which a weapon was used or possessed. Three of these schools failed to report any of their weapons incidents, including Schenectady High School, which failed to report all 21 such incidents. Two other schools did not report at least half of their weapons incidents, as Charlotte High School failed to report 31 of its 39 weapons incidents (79.5%) and White Plains High School failed to report 10 of its 18 weapons incidents (55.5%). We also note that 7 of the 20 assaults with serious physical injury were not reported to SED, and 11 sexual offenses (at seven schools) were not reported to SED.

The most common type of unreported incident was “other disruptive incidents,” as

more than 2,000 of these incidents were not reported by the schools in our sample. While these incidents, which typically include disrespectful and disruptive behavior in a classroom, are not as serious as some of the other types of reportable incidents, they are still serious and should be reported to give an accurate indication of the conditions at a school.

As a result of the significant number and types of unreported incidents at many of the schools in our sample, the level of violence at these schools was significantly understated in the schools’ annual incident reports to SED. Based upon our work, we conclude that there is a significant risk that the level of violence at other high schools across the State is similarly understated, and therefore, SED’s annual reports on school violence do not convey the full seriousness of the situation to the Governor, Legislature and Board of Regents.

In addition, if the level of violence is significantly understated at schools across the State, schools that should be designated as persistently dangerous may not be so designated, because their Violence Index may be based on incomplete data. We note that this could be the case for 2 of the 17 schools in our sample: Albany and Henninger High Schools.

On the basis of the annual incident information that was reported to SED for the 2003-04 school year, the Violence Index for both schools was below 25. However, when we recalculated the schools’ Violence Index, using the documented incident information that we found in our review of 2003-04 school records, the corrected Violence Index for both schools was above 25, for the following reasons:

- At Albany High School, the Violence Index was incorrectly calculated to be 17.47, because 20 serious incidents were not reported to SED and one serious incident was not properly classified on the annual incident report. The 20 unreported incidents included two sexual offenses, six incidents of assault with serious injuries, 11 incidents involving the use of a weapon, one incident involving the possession of a weapon. The misclassified incident was a sexual offense that was not included in the Violence Index calculation because the incident was incorrectly classified as a consensual sexual offense. However, the records at the school indicated that the offense was not consensual, and therefore should have been included in the calculation. When these 15 incidents were included in the calculation, the Violence Index was 25.94.
- At Henninger High School, in the Syracuse City School District, the Violence Index was incorrectly calculated to be 17.44, because 12 weapons possession incidents were not reported to SED. When these 12 incidents were taken into account, Henninger's Violence Index was 27.06.

Thus, it appears that both schools should have been placed on the preliminary list of persistently dangerous schools on the basis of their 2003-04 data. We recommend SED review both schools' incident records for the 2003-04 school year and determine whether the schools should in fact be placed on that list. We further recommend that SED visit both schools to verify the incident data that

was reported for the 2004-05 school year, because if their Violence Index for that year is also above 25, the schools could be designated as persistently dangerous.

If schools that should be designated as persistently dangerous are not so designated, the schools will not be required to develop an Incident Reduction Plan and parents of the children attending those schools will not be given the option of sending their children to other schools. In addition, the parents in those districts may believe that the schools are safer than they actually are. It is therefore critical for schools to report all their violent and disruptive incidents to SED.

We also found that, in some cases, incidents were inaccurately reported on the annual incident reports because they were put in the wrong category. For example, some incidents that should have been reported as physical assault with injury were incorrectly reported as criminal harassment. While classification errors are not nearly as significant as the failure to report a reportable incident, information needs to be accurately reported if it is to be used as intended, and some classification errors can be significant, as was the case with the misclassified sexual offense at Albany High School.

In addition, at 4 of the 17 schools in our sample (Charlotte, Hempstead, Plattsburgh and Uniondale High Schools), many of the incidents reported to SED were not documented in records maintained at the schools. For example, Hempstead High School reported 597 incidents in the seven following categories: criminal harassment, intimidation, theft offenses, criminal mischief, bomb threat, false alarm, and other disruptive incidents. However, only 274

such incidents were documented in the school's records.

Thus, at these four schools, it appears that, in many instances, reportable incidents either were not documented or the original documentation was not maintained (SED requires this documentation to be maintained for six years). In the absence of such documentation, we were unable to determine whether the four schools reported all reportable incidents. While it is possible that all the undocumented incidents at these four schools were reported to SED, it is also possible that some, and perhaps many, of the undocumented incidents were not reported, as was the case at the other 13 schools in our sample.

We identified a number of reasons why incidents were not fully reported, were not accurately classified, and were not properly documented by the schools in our sample. These reasons are discussed in the following section of this report.

Reasons for Incomplete and Inaccurate Reporting

To understand how school district officials complete their annual incident reports and determine whether the officials have an accurate understanding of SED's reporting guidelines, we interviewed officials at a total of 50 school districts: the 15 districts we visited and 35 other districts (see Table 1 on page 25 for a listing of these other districts). We randomly selected these 35 districts from the districts outside New York City that we did not visit.

We found that the reporting processes at many of the districts do not fully comply with SED's reporting guidelines, and as a result, the districts frequently fail to report

incidents that should be reported. For example, according to the guidelines, a disruptive incident should be reported if it results in a full day of in-school suspension, and any incident should be reported if it results in an out-of-school suspension or a superintendent's hearing. However, school district officials do not always follow these guidelines, either because they do not understand the guidelines or because they believe such incidents should not necessarily be reported.

For example, officials at the Hempstead, Uniondale, Waterville, Albany and Brentwood school districts do not report incidents that result in a full day of in-school suspension, regardless of the nature of the incident. Brentwood officials also told us that they report out-of-school suspensions only when the suspensions result in police involvement or a superintendent's hearing. Because of this noncompliance with SED's reporting guidelines, in the 2003-04 school year, Brentwood officials failed to report 131 reportable incidents resulting in out-of-school suspensions and as many as 1,580 reportable incidents resulting in in-school suspensions.

Incidents in which the perpetrator is not identified may also be unreported, as officials from two districts (Niagara Falls and Waterville) told us they do not report such incidents. However, this is contrary to SED's reporting guidelines, which require incidents to be reported even when the perpetrator is not identified. Moreover, the perpetrator frequently is not identified for incidents such as bomb threats and false alarms.

In addition, according to SED's directions for completing the annual incident report, the first eight types of incidents listed on the

standardized VADIR form (homicide through reckless endangerment) “are used to report incidents that involve physical injury or the threat of physical injury. Incidents in these categories must be reported regardless of whether or not the offender was disciplined or referred to law enforcement.” However, contrary to these directions, incidents involving reckless endangerment were not reported by one of the schools we visited (Ardsley High School), because the perpetrators were punished with detention rather than suspension or referral to law enforcement.

We note that, in these instances, school officials may have been misled by SED’s on-line repository of questions and answers about the reporting requirements, as one of the answers can be interpreted in a manner that contradicts SED’s instructions for completing the annual incident report. Specifically, in response to the question, “Are incidents resulting in detentions reportable?” SED stated, “No....detentions do not rise to the level of a disciplinary or referral action that will trigger reporting.” While this answer may be true in some circumstances, it is not true in other circumstances (e.g., in incidents involving physical injury or the threat of physical injury).

While many reportable incidents were not reported at all, some reportable incidents were reported more than once. Specifically, officials in two school districts (Hempstead and Ardsley) reported the same incident more than once if there was more than one perpetrator (for example, fights involving two students were reported as two separate incidents). According to SED’s guidelines, such incidents should be reported as a single incident with multiple perpetrators.

Each reportable incident is to be recorded shortly after occurrence, either on the standardized Individual Incident Report that was developed by SED or on a similar recording instrument. However, 12 of the 15 school districts in our sample do not comply with this requirement, as they record incidents on databases which do not capture the details that are needed to correctly categorize the incidents. As a result, these districts are less likely to categorize incidents correctly. We recommend SED investigate commercial software packages and determine whether any can be adapted for incident classification and reporting purposes. If such packages are available, we recommend SED make the school districts aware of these packages.

An official at one of these 12 districts told us that they do not use the Individual Incident Report because the form is complex and time-consuming to complete. We recommend SED attempt to make the form more user friendly. In addition, school districts are required by SED to retain individual incident records for six years. However, many of the districts we visited are retaining these records for only two years or less.

Officials at 31 of the 50 school districts that we contacted stated that the explanatory materials provided by SED (e.g., SED’s guidelines, its directions for completing the annual incident report, and its glossary of terms) were unclear and confusing. For example, some district officials indicated that the current incident categories are too vague and do not encompass all of the possible violent and disruptive incidents that may occur at a school. One district official stated, “The forms and definitions are

confusing.” Another official stated, “Definitions lead to potential variances in reporting across the State.” Another official stated, “Operational definitions of all categories are unclear.” Another official stated, “Intimidation, harassment, menacing or bullying is a confusing category and needs a clearer definition. For example, is name calling at the lower grade levels reportable?”

We reviewed the explanatory materials provided by SED and agree that the materials are not always clear. In particular, in some circumstances, there may be a fine line between some of the different types of incidents (such as assault with physical injury and criminal harassment) and, in these circumstances, we can understand why school district officials would find it difficult to distinguish one type of incident from another.

SED officials believe the guidelines and other explanatory materials are sufficiently clear. In their opinion, incidents have not been fully and accurately reported because (1) the reporting process is still relatively new and unfamiliar and (2) school district officials are often reluctant to report violent and disruptive incidents and may therefore use “confusion” as an excuse for not fully or accurately reporting incidents. We agree that both of these factors are relevant. We also acknowledge that SED has attempted to address both of these factors. However, additional actions are needed by SED.

First, to address the reporting problems that were encountered in the first two years of the program (the 2001-02 and 2002-03 school years), SED modified the standardized VADIR form, provided more detailed reporting instructions, and conducted statewide training sessions for

school district officials. However, the training sessions were not held until early in 2005 and were not attended by all school districts (we were unable to identify the untrained districts, because SED does not have a complete attendance record for the sessions). In addition, school district officials who attended different sessions told us that conflicting information was presented at the different sessions. We recommend that a uniform training program be provided to school districts, and all districts be required to send representatives to the training.

Second, to help ensure full compliance with reporting requirements, beginning in the 2003-04 school year, school district superintendents were required by SED’s regulations to certify that the data reported by their districts was complete and accurate. In response to this new requirement, the superintendents of 15 school districts in Nassau County sent SED copies of the same form letter stating that the superintendent was unable to certify the accuracy of the data because “the criteria are unclear and confusing and will result in inconsistent reporting throughout New York State.” SED sent a letter to all 15 superintendents requesting their certification, but the certification still was not provided. SED officials told us they then contacted State legislative officials and sought legislation that would make it a punishable offense for superintendents to refuse to certify incident data. The officials said that they were unsuccessful in this attempt, but are continuing their efforts.

While the legislation sought by SED may eventually be enacted and prove helpful, we believe SED should have responded more directly to the 15 superintendents. For example, SED could have contacted the

school boards for these 15 districts and asked for their assistance in getting the superintendents to certify to the incident data. SED also could have contacted the State Board of Regents and asked for its assistance. However, SED took no such action, and as a result, the 15 superintendents never did provide the required certification for the 2003-04 school year.

We further note that SED could make site visits to selected districts on a regular basis to ensure that the districts are recording and classifying incidents in accordance with requirements. Such visits would give district officials a face-to-face opportunity to clarify unresolved questions and could prevent some errors from being made before the data had to be reported. Such visits would also constitute an active monitoring presence that could help to encourage compliance on the part of the school districts, as district officials might be more willing to fully report incidents if they believed all districts statewide were doing so. In selecting districts to visit, preference should be given to districts where the risk of noncompliance is greatest (e.g., districts on the preliminary list of persistently dangerous schools, districts that have failed to report significant types or numbers of incidents in the past, districts that have frequently misclassified incidents in the past, and districts that suddenly report significantly fewer incidents).

Untimely Reporting

The annual incident reports for the 2003-04 school year were to be submitted to SED by April 15, 2005. However, we found that

most of the incident reports for that year were not submitted on time, as 2,378 of the 3,025 incident reports due for schools outside New York City (78.6 percent) were submitted after April 15, 2005. Moreover, as late as July 14, 2005, 73 annual incident reports had yet to be submitted. These 73 incident reports were due from 16 school districts.

SED uses the information in the annual incident reports for its annual report about school violence. This report must be published by January 1 each year. SED also prepares three other annual reports on various aspects of school violence, and these reports also rely on the data in the annual incident reports. If districts are late in submitting their annual incident reports to SED, it is more difficult for SED to compile and compare information from the incident reports, and information from some schools may be omitted from the compilations and comparisons.

We note that some of the annual incident reports for 2003-04 may have been submitted late because the first training sessions on the revised reporting process were not held until January 10, 2005 and the last sessions were not completed until February 28, 2005. As a result, there may not have been enough implementation time between the training sessions and the April 15 reporting deadline. We recommend future training sessions be held earlier in the reporting cycle. In addition, as is discussed later in this report, SED's processing of the reported incident data could be expedited if the reporting process was automated.

Recommendations

1. Make site visits to selected school districts on a regular basis to ensure that the districts are recording and classifying incidents in accordance with requirements. In selecting districts to visit, give preference to those where the risk of noncompliance is greatest.
2. Review Albany and Henninger High Schools' incident records for the 2003-04 school year and determine whether the schools' Violence Index for that year was 25 or higher. If so, place the schools on the preliminary list of persistently dangerous schools and visit both schools to verify the incident data reported for the 2004-05 school year.
3. Determine whether any commercial software packages can be adapted for incident classification and reporting purposes. If such packages are available, make the school districts aware of these packages.
4. Streamline the Individual Incident Report to make it more user-friendly.
5. Remind school districts that Individual Incident Reports and other records used to record individual incidents should be retained for six years.
6. Perform a comprehensive review of the explanatory materials made available to the school districts for the incident reporting process. Use the review to eliminate inconsistencies in the materials and

clarify matters not adequately understood by the school districts.

7. Develop a single, uniform training program in the incident reporting process, mandate school district attendance at the program, and offer the program early enough in the reporting cycle to allow timely implementation by the districts.
8. Develop and implement procedures to enforce compliance with the requirement of superintendents' certification of districts' violent and disruptive incident reports to SED. Such procedures could include (but not be limited to) formal notification of a district's Board of Education when the superintendent has not certified the district's reports.

Persistently Dangerous Schools

We found that significant improvements are needed in SED's process for identifying persistently dangerous schools, as schools that meet SED's criteria for persistent danger may not always be so designated.

Criteria for Persistently Dangerous Schools

A school may be designated as persistently dangerous if its Violence Index is 25 or higher for two years in a row. In the first such year, the school is placed on the preliminary list of persistently dangerous schools, notified by SED, and given the opportunity to demonstrate that it should not be designated as persistently dangerous if its Violence Index is 25 or higher in the following year.

According to Section 120.5(a)(2) of SED's regulations, upon such notification, the school district shall be given the opportunity to present evidence to SED that conditions in the school do not unreasonably threaten the safety of students, the school has taken appropriate action or actions to improve the safety of the school, and any other evidence in support of the school's position that it should not be designated as persistently dangerous. Section 120.5(3) of the regulations requires SED to consider this evidence and make a determination whether the school will be designated as persistently dangerous.

To guide SED staff in making this determination, SED established a work group and asked it to develop procedures that could be used in assessing the evidence provided by school districts in these circumstances. The work group decided that if a school's Violence Index in the following year decreased by at least 20 percent and was less than 30, the school should not be designated as persistently dangerous. This guideline was adopted by SED for its internal use, but was not formalized in policy or regulation.

We question the appropriateness of this guideline for two reasons. First, the application of the guideline could lead to inconsistent and counterintuitive results. For example, a school with a Violence Index of 30 in Year 1 and 26 in Year 2 would be designated as persistently dangerous, while a school with a Violence Index of 40 in Year 1 and 29 in Year 2 would not be designated as persistently dangerous, even though the second school's Violence Index was higher in both years.

Second, the guideline focuses exclusively on the past two years of incident data and does

not allow other factors to be taken into account, even though such factors could be relevant. For example, if two or three students were responsible for most of the serious incidents at a school in the past two years, and those students would not be attending the school in the upcoming year, a school could rightfully claim that it was likely to be much less dangerous in the upcoming year and therefore should not be designated as persistently dangerous.

We recommend SED develop more appropriate and more comprehensive procedures for its assessment of evidence when schools are seeking to avoid being designated as persistently dangerous. We also recommend that SED formalize these procedures in policy or regulation.

Identification of Persistently Dangerous Schools in 2005

To evaluate the effectiveness of the process developed by SED for identifying schools that should be designated as persistently dangerous, we examined the actions taken by SED in identifying such schools in 2005. At that time, a total of 21 schools outside New York City were on the preliminary list of persistently dangerous schools. The schools were on this list because their Violence Index for the 2003-04 school year had been 25 or higher. If their Violence Index for the 2004-05 school year was also 25 or higher, they would be designated as persistently dangerous, unless school officials presented evidence to the contrary.

Schools on the preliminary list of persistently dangerous schools are required to submit their annual incident reports earlier than other schools to give officials enough time to identify the persistently dangerous schools, and contact the parents

of the children attending those schools, before the beginning of the next school year. Consequently, the 21 schools on the preliminary list were required to submit their 2004-05 annual incident reports by August 11, 2005. Schools on the preliminary list are also instructed to resubmit the incident data that put them on the list if there were any errors in that data that needed to be corrected; accordingly, the 21 schools were allowed to resubmit corrected 2003-04 incident data at the same time as the 2004-05 data.

Schools on the preliminary list of persistently dangerous schools are also given a detailed description of the procedures followed by SED in calculating the Violence Index (i.e., the exact number of points that are assigned to each type of incident included in the calculation and the formula for performing the calculation). This description is not provided to schools that are not on the preliminary list and is not included in SED's explanatory materials for the incident reporting process.

In inviting these schools to resubmit corrected prior year's data and in providing school officials with a detailed description of the Violence Index calculation, SED is seeking to make the process of identifying persistently dangerous schools as fair as possible. SED is trying to prevent schools from being designated as persistently dangerous on the basis of incorrect data and is making sure school officials understand why their schools would be so designated. However, these actions also give the schools an opportunity to manipulate their incident data to avoid being designated as persistently dangerous. That is, if they are so inclined, school officials can use their understanding of the calculation process to "massage" their incident data for the two

school years (the resubmitted prior year and the current year) and ensure that their Violence Index remains below 25 in one or both years.

To help minimize this risk, SED could require the schools to submit documentation in support of any revisions that are made to the prior year's incident data and visit the schools to verify any questionable data that is submitted for the current year. However, SED requires no such documentation and makes no such visits. As a result, there is a risk that prior year incident data can be misstated by schools on the preliminary list and this will not be detected by SED.

We found strong indications incident data was manipulated in 2005. Of the 21 schools on the preliminary list, three closed after the 2003-04 school year and thus were no longer under consideration. Of the 18 remaining schools, 14 were removed from the list by SED in 2005, without being designated as persistently dangerous, for the following reasons:

- Six schools no longer had a Violence Index of 25 or higher for the 2003-04 school year, because they submitted revised data for that year and the revised data included either fewer incidents or different types of incidents than had previously been reported. The six schools were East Hampton Middle School in East Hampton, Danforth Magnet School in Syracuse, Dryden Middle School in Dryden (Tompkins County), Taconic Hills Middle School in Craryville (Columbia County), Van Duyn Elementary School in Syracuse, and Powells Lane Elementary School in Westbury. Five of these schools (all but Danforth Magnet School) also had

a Violence Index below 25 for the 2004-05 school year or had yet to submit their incident data for that year.

- Six schools continued to have a Violence Index of 25 or higher for the 2003-04 school year, but had a Violence Index below 25 for the 2004-05 school year. The five schools were Greenburgh Eleven High School in Dobbs Ferry, Clara Barton Elementary School in Rochester, Charlotte High School in Rochester, Dag Hammarskjold Elementary School in Rochester, Sauquoit Valley Middle School in Sauquoit (Oneida County), and South Park High School in Buffalo.
- Two schools had a Violence Index of 25 or higher for both years, but the Index in the second year met the exception criteria developed by SED (i.e., the Index decreased by at least 20 percent from the first year and was less than 30). The two schools were Clary Magnet School and Lincoln Middle School, both in Syracuse. Clary Magnet School had a Violence Index of 44.31 in 2003-04 and 25.81 in 2004-05. Lincoln Middle School had a Violence Index of 36.15 in 2003-04 and 28.18 in 2004-05.

Thus, 12 of the 14 schools were removed from the list because their Violence Index was below 25 in at least one of the two school years (see Table 5 for the schools' Violence Index in those two years). To determine whether incident data was fully and accurately reported by these 12 schools in these two years, we visited three of the schools and reviewed their incident records for both years. We judgmentally selected the three schools, which were Clara Barton

Elementary School and Dag Hammarskjold Elementary School in Rochester, and Danforth Magnet Elementary School in Syracuse.

We found that all three schools failed to report incidents that would have raised their Violence Index to a score above 25 in the year in which it was reportedly below 25. Thus, all three schools had a Violence Index of 25 or higher for two years in a row and therefore may have been persistently dangerous.

For example, at Danforth Magnet Elementary School, officials originally reported 11 incidents of weapon possession for the 2003-04 school year. However, when the officials resubmitted their data for 2003-04, they reported only seven such incidents. This reduction lowered the Violence Index for that year from 32.92 to 21.60. When we reviewed the school's records for that year, we identified 15 incidents of weapon possession, nine of which involved knives. Therefore, the Violence Index for 2003-04 should have remained above 25 (at 40.12), as it was in 2004-05, when it was 37.41.

In addition, we analyzed the data that was submitted by the remaining nine schools with a Violence Index below 25 in at least one of the two school years. We found that data submitted by four of these schools was highly questionable, as follows:

- One school (Sauquoit Valley Middle School) reported no incidents at all for the 2004-05 school year, after reporting incidents that resulted in a Violence Index of 37.74 in the prior year. No explanation was provided for this dramatic decrease in incidents, and

we found no indication SED officials pursued the matter.

- One school (Powells Lane Elementary School) submitted revised data for 2003-04, and reported no incidents at all for that year. The explanation given for the changes was “erroneous reporting.” We found no indication SED officials attempted to verify that the revisions were appropriate.
- Two schools (East Hampton and Taconic Hills Middle Schools) submitted revised data for 2003-04, and reported significantly fewer weapons incidents in the revised data. As a result of the revisions, East Hampton’s Violence Index dropped from 36.00 to 14.00, and Taconic Hills’ Violence Index dropped from 25.76 to 22.73. We found no indication SED officials attempted to verify that the revisions were appropriate.

SED officials told us that they contacted officials at all four schools about their data submissions. They stated that they questioned officials at Sauquoit Valley Middle School about the lack of reported incidents in 2004-05, and questioned officials at the other three schools about the revisions to the 2003-04 data. However, these discussions were not documented and in no instance did SED officials visit the schools to verify the reported data against school records. In the absence of such verification, unreported incidents are not likely to be detected.

We recommend SED verify the accuracy and completeness of the incident data submitted by these nine schools for the 2003-04 and 2004-05 school years. If, after

review, any of the schools have a Violence Index of 25 or higher in both school years, we recommend SED determine whether these schools, along with Clara Barton Elementary School, Dag Hammarskjold Elementary School and Danforth Magnet Elementary School, should be designated as persistently dangerous.

We further recommend that, in the future, SED require schools on the preliminary list of persistently dangerous schools to submit documentation in support of any revisions they make to previously reported incident data. Moreover, if this documentation is questionable, we recommend SED either deny the revisions or visit the school and review its records to ensure that the revisions are appropriate. We also recommend that SED visit some or all of these schools, as appropriate, to verify the incident data that is submitted for the current year, as incidents could be significantly underreported in that year.

For example, Charlotte High School was removed from the preliminary list of persistently dangerous schools because it had a Violence Index of 19.58 in 2004-05. However, when we visited Charlotte High School and reviewed the incident records at the school for the 2003-04 school year (Charlotte was one of the 17 sampled high schools that we visited as part of our review of incident reporting for that year.), we found that several serious incidents were not reported to SED, and as a result, the school’s Violence Index for that year was significantly understated. If the incidents documented in the school’s records were taken into account, Charlotte’s Violence Index for 2003-04 would have been 44.08, rather than 31.81, which was the score generated by the incidents reported to SED. If Charlotte’s incidents were similarly

underreported in 2004-05, its actual Violence Index for that year would have been significantly higher than 19.58 and may well have been above 25.

In addition, in view of the widespread underreporting of incident data by the schools (as is described earlier in this report), we recommend SED also verify the accuracy and completeness of the incident data submitted by Clary Magnet School and Lincoln Middle School for the 2003-04 and 2004-05 school years. It is possible that, after such a review, one or both of these schools may no longer meet the exception criteria developed by SED.

A total of four schools outside New York City were designated as persistently dangerous in 2005, as follows:

School	Violence Index	
	2003-04 School Year	2004-05 School Year
Grant Middle School (Syracuse)	47.21	41.98
James A. Shea Middle School (Syracuse)	44.07	31.12
George Fowler High School (Syracuse)	27.63	33.61
Philip Livingston Magnet School (Albany)	28.59	29.09

Because of the lack of systematic verification in SED's process for identifying persistently dangerous schools, as many as 14 other schools that should have been so designated were not. In the absence of this designation, these 14 schools were not required to develop Incident Reduction Plans and the parents of children attending these schools were not given the option of sending their children to another school. If the intent of the SAVE Act is to be fully

realized, and students, teachers and other employees are to be best assured of a safe environment, significant improvements are needed in SED's process for identifying persistently dangerous schools.

Recommendations

9. Develop more appropriate and more comprehensive procedures for the assessment of evidence presented by schools that are seeking to avoid being designated as persistently dangerous, and formalize these procedures in policy or regulation.
10. Require schools on the preliminary list of persistently dangerous schools to submit documentation in support of any revisions they make to previously reported incident data. If this documentation is questionable, either deny the revisions or visit the schools and review their records to ensure that the revisions are appropriate. In addition, visit some or all of these schools, as appropriate, to verify the incident data that is submitted for the current year.
11. Verify the accuracy and completeness of the 2003-04 and 2004-05 incident data submitted by the 14 schools that were removed from the list of persistently dangerous schools in 2005. If, after review, any of the schools have a Violence Index of 25 or higher in both school years, determine whether the schools should be designated as persistently dangerous.

Other Matters

According to the provisions of the Federal No Child Left Behind Act, a parent whose child is the victim of a violent criminal offense at a public school is to be given the option of sending the child to another school in the district, if one is available. We found improvements are needed in the incident reporting process if SED is to have reasonable assurance parents are in fact given this option. We also found that the incident data reported by schools districts is not always recorded accurately and correctly by SED.

School Choice for Victims of Violent Criminal Offenses

According to the provisions of the Federal No Child Left Behind Act, if a student is a victim of a violent criminal offense at a public school, the student's parents should be given the option of sending the student to another school in the district, if one is available. (Note: In some districts, there may not be any alternative placement options available for a student because the district has only one high school or one middle school.)

Certain of the incidents reported on the annual incident report qualify as violent criminal offenses (e.g., certain sexual offenses, assaults with serious physical injury, and several other incidents if they involve the use of a deadly weapon, such as a gun or knife). Schools are required to indicate, on their annual incident reports, the total number of students who were victims of these offenses during the past year. This number is to be recorded in a designated space on the VADIR form.

In the 2003-04 school year, all 17 schools in our sample reported that none of their students had been the victim of a violent criminal offense. However, we determined that eight of the schools should have reported at least one such victim, and 23 victims in total, as follows:

- Adirondack - 1
- Albany - 10
- Brentwood - 3
- Charlotte - 1
- Hempstead - 1
- Saratoga Springs - 1
- Schenectady - 2
- Uniondale - 4

For example, at Uniondale High School, there were four victims of sexual offenses, and at Schenectady High School, there were two victims of sexual offenses. At Brentwood High School, there were two victims of assaults with serious physical injury and one victim of an assault with physical injury with a knife.

Two of the schools (Saratoga Springs and Uniondale) reported the violent criminal offenses on their annual incident report, but did not fill in the space that was designated for the total number of victims of such offenses. As is explained in the following section of this report, this reporting error should have been detected and corrected by SED. The other six schools did not report the violent criminal offenses (the widespread underreporting of incidents is discussed earlier in this report).

If schools fail to report to SED either their violent criminal offenses or the number of victims of such offenses, there is less assurance the schools are complying with the Federal No Child Left Behind Act and

offering the victims' parents the option of sending the victims to other schools. If this offer is not made, it would be unfair to the victims and their families. In addition, New York State could lose federal education funding if it does not comply with the provisions of the No Child Left Behind Act. SED does not require school districts to affirm that they have given parents a choice of a different school when their children are victims of violent criminal offenses at a public school. We recommend SED require such an affirmation as part of the annual incident report.

SED Processing of Incident Data

The annual incident report is submitted manually, on hard copy, to SED's Information Reporting Systems (IRS) unit. IRS staff manually review all reports for completeness and reasonableness. The reports are initially reviewed for obvious mistakes such as missing pages or incomplete data. If errors are found, the report is returned to the school district for correction and resubmission. After this initial review, another IRS employee checks the reports for discrepancies in the data, such as more weapon incidents than weapons reported or more violent criminal offenses than victims of such offenses. Discrepancies are corrected through email or phone conversations with school district officials.

After the annual incident reports are manually checked by the IRS unit, they are sent to SED's Information Technical Services (ITS) unit for data entry into the electronic School Accountability Data System (system). IRS personnel then check the data to verify that the information entered into the system matches the information on the original annual incident

reports. If a data entry error is found, the ITS unit is notified and the correction is made.

To determine whether incident data is accurately and correctly recorded on SED's automated information system, we selected a random sample of 100 annual incident reports from the 2003-04 school year. We compared the information on the incident reports to the data contained in the system to confirm that it was entered accurately and completely. We also examined the 100 incident reports to determine whether there were any uncorrected discrepancies in the data on the reports.

We found that 12 of the 100 annual incident reports contained data entry errors, and 16 annual incident reports contained uncorrected data discrepancies. For example, Olean Middle School reported 55 incidents of criminal harassment, but only 25 perpetrators. School officials wrote "repeat offender" to explain that the same student was involved in different incidents, but this is not how such incidents should be reported. Also, Schalmont High School reported 42 separate incidents, but only 40 incidents were summarized in the "totals" section of the report.

On the basis of these high error rates, we conclude that SED's data processing controls are not adequate. We recommend SED develop automated processing controls (edits) that will check the data entered on the system for completeness, reasonableness, and internal inconsistencies and discrepancies. We also recommend SED develop a fully automated incident reporting process. In such a process, data would be electronically submitted by the districts, and as a result, data entry would be expedited

and there would be less opportunity for error.

Recommendations

12. Require school districts to affirm in the annual incident report that they have given parents a choice of a different school when their children are victims of violent criminal offenses at school.
13. Develop automated processing controls that will check the incident data entered on the School Accountability Data System for completeness, reasonableness, and internal inconsistencies and discrepancies.
14. Develop a fully automated incident reporting process in which the school districts electronically submit their incident data.

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. We audited SED's administration of selected aspects of the SAVE Act for the period September 1, 2002 through February 6, 2006. Our audit focused on SED's oversight of school district reporting of violent and disruptive incidents and SED's identification of schools that should be designated as persistently dangerous. Our audit did not address schools under the jurisdiction of the New York City Department of Education. To accomplish our objectives, we interviewed SED and school district officials, and reviewed the provisions of the SAVE Act (Section 2802 of the State Education Law). We also reviewed relevant

SED regulations and materials prepared by SED to guide the school districts in the incident reporting process. We also reviewed and analyzed records maintained by SED, such as records indicating when annual incident reports were submitted by school districts, records of incident report data submitted by certain districts, and records relating to SED's identification of persistently dangerous schools.

In addition, we visited 15 school districts: two of the State's "Big Five" city school districts, six small to medium-size city school districts, four suburban school districts, and three rural school districts. We judgmentally selected these districts to get a representative sample from different regions of the State. We visited a total of 17 high schools and three elementary schools in these 15 districts.

At the high schools, we reviewed the Individual Incident Reports (if available) and/or other records used by school officials to record individual incidents in the 2003-04 school year, such as incident databases, student suspension letters, records of superintendent's hearings and student files. We then compared the incident information in these records to the information recorded on each school's annual incident report for the 2003-04 school year. At the elementary schools, we performed the same comparison for the 2003-04 and 2004-05 school years.

During our site visits, we interviewed school officials to learn how the officials complete their annual incident reports and determine whether the officials have an accurate understanding of SED's reporting guidelines. We also conducted telephone interviews with officials of 35 other school districts (See Table 1, on page 25). We randomly selected these 35 districts from the

districts outside New York City that we did not visit.

To determine whether incident data is accurately and correctly recorded on SED's automated information system, we selected a random sample of 100 annual incident reports from the 2003-04 school year. We compared the information on the incident reports to the data contained in the system to confirm that it was entered accurately and completely. We also examined the 100 incident reports to determine whether there were any uncorrected discrepancies in the data on the reports.

In addition to being the State Auditor, the State Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State, several of which are performed by the Division of State Services. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

AUTHORITY

The audit was performed according to the State Comptroller's authority under Article V, Section 1, of the State Constitution; and Article II, Section 8, of the State Finance Law.

REPORTING REQUIREMENTS

We provided draft copies of this report to SED officials and to officials of the 15 school districts that we visited for their review and comment. We instructed the school district officials to provide any comments to SED so that SED officials could consider their comments when preparing an overall response to the draft report. We considered SED's comments in preparing this report. A complete copy of SED's response is included as Appendix B. SED officials agreed with our recommendations and indicated the actions planned or taken to implement them.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Education shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

CONTRIBUTORS TO THE REPORT

Major contributors to this report include Brian Mason, William Clynes, Kathleen Hotaling, Jeffrey Dormond, Heather Pratt, Raymond Barnes, Sarah Purcell and Dana Newhouse.

TABLE 1**School Districts and High Schools Visited**Big Five City School Districts

1. Rochester City School District
2. Syracuse City School District

Charlotte High School
East High School
Corcoran High School
Henninger High School

Small to Medium-Size City School Districts

3. Albany City School District
4. Hudson City School District
5. Saratoga Springs City School District
6. Schenectady City School District
7. Niagara Falls City School District
8. White Plains City School District

Albany High School
Hudson High School
Saratoga Springs High School
Schenectady High School
Niagara Falls High School
White Plains High School

Suburban School Districts

9. Ardsley Union Free School District
10. Brentwood Union Free School District
11. Hempstead Union Free School District
12. Uniondale Union Free School District

Ardsley High School
Brentwood High School
Hempstead High School
Uniondale High School

Rural School Districts

13. Adirondack Central School District
14. Plattsburgh Central School District
15. Waterville Central School District

Adirondack High School
Plattsburgh High School
Waterville High School

Other School Districts Where Officials Were Interviewed

1. Albion Central School District, 2. Amityville Union Free School District, 3. Andes Central School District, 4. Avon Central School District, 5. Bayport-Blue Point Union Free School District, 6. Beaver River Central School District, 7. Bemus Point Central School District, 8. Chazy Union Free School District, 9. Clifton-Fine Central School District, 10. Commack Union Free School District, 11. Deer Park Union Free School District, 12. Dobbs Ferry Union Free School District, 13. East Syracuse-Minoa Central School District, 14. Falconer Central School District, 15. Goshen Central School District, 16. Grand Island Central School District, 17. Greenburgh Eleven Union Free School District, 18. Irvington Union Free School District, 19. Lockport City School District, 20. Lynbrook Union Free School District, 21. Newcomb Central School District, 22. Oswego City School District, 23. Pearl River Union Free School District, 24. Peekskill City School District, 25. Poland Central School District, 26. Prattsburgh Central School District, 27. Randolph Academy Union Free School District, 28. Red Hook Central School District, 29. Saint Regis Falls Central School District, 30. Scarsdale Union Free School District, 31. Schalmont Central School District, 32. Tupper Lake Central School District, 33. Wantagh Union Free School District, 34. Westhill Central School District, 35. Wheelerville Union Free School District.

TABLE 2

Unreported Incidents at 17 Sampled High Schools for the 2003-04 School Year				
High School	Reported to SED	Documented in School Records	Unreported Incidents	Percent Unreported
Ardsley	6	106	100	94.3%
Hudson	16	282	266	94.3%
White Plains	22	311	289	92.9%
Niagara Falls	71	624	553	88.6%
Albany	144	924	780	84.4%
Brentwood	87	357 *	270 *	75.6%
Waterville	19	63	44	69.8%
Schenectady	368	908	540	59.5%
Adirondack	219	397	178	44.8%
Corcoran	290	467	177	37.9%
Henninger	364	404	40	9.9%
Saratoga Springs	468	515	47	9.1%
East	592	599	7	1.2%
Charlotte	813	732	**	**
Hempstead	668	414	**	**
Uniondale	321	223	**	**
Plattsburgh	38	31	**	**

Notes:

- * The number of unreported incidents at Brentwood High School is probably greater than shown, as 1,580 full-day in-school suspensions were documented in the school's records, but the reasons for the suspensions were not documented. Since the reasons were not documented, we were unable to determine how many of the suspensions related to incidents that should have been reported to SED. However, it is likely that some of these in-school suspensions related to reportable incidents.
- ** At these four schools, many of the incidents reported to SED were not documented in school records. In the absence of such documentation, we were unable to determine whether the four schools reported all reportable incidents. While it is possible that all the undocumented incidents at these four schools were reported to SED, it is also possible that some, and perhaps many, of the undocumented incidents were not reported, as was the case at the other 13 schools in our sample.

TABLE 3

Unreported Incidents Involving Weapons at 17 Sampled High Schools for the 2003-04 School Year				
High School	Reported to SED	Documented in School Records	Unreported Incidents	Percent Unreported
Charlotte	8	39	31	79.5%
Schenectady	0	21	21	100.0%
Henninger	19	31	12	38.7%
Albany	37	49	12	24.5%
White Plains	8	18	10	55.5%
Ardsley	0	4	4	100.0%
Saratoga Springs	5	8	3	37.5%
Niagara Falls	14	17	3	17.6%
Waterville	0	2	2	100.0%
Corcoran	18	20	2	10.0%
Hempstead	20	20	0	0%
East	15	15	0	0%
Hudson	2	2	0	0%
Adirondack	2	2	0	0%
Plattsburgh	0	0	0	0%
Brentwood	29	23	*	*
Uniondale	10	8	*	*

Notes:

- * At these two schools, many of the incidents reported to SED were not documented in school records. In the absence of such documentation, we were unable to determine whether the two schools reported all incidents involving weapons.

TABLE 4

**Violent and Disruptive Incidents
Incidents Reported to SED Compared to Incidents Documented in School Records
at 17 Sampled High Schools for the 2003-04 School Year**

Adirondack High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	0	1
Kidnapping	0	0
Assault with Serious Physical Injury	0	0
Assault with Physical Injury	2	17
Arson	0	0
Robbery	0	0
Reckless Endangerment	1	5
Criminal Harassment	23	8
Intimidation, Harassment, Menacing, or Bullying	6	84
Burglary, Larceny, or Other Theft Offenses	3	3
Criminal Mischief	0	7
Bomb Threat	0	0
False Alarm	1	0
Other Disruptive Incidents	178	265
Possession, But Not Use, of a Weapon	2	2
Use, Sale or Possession of Drugs or Alcohol	3	5
Total	219	397

Albany High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	1	3
Kidnapping	0	0
Assault with Serious Physical Injury	0	6
Assault with Physical Injury	20	126
Arson	0	0
Robbery	2	0
Reckless Endangerment	0	16
Criminal Harassment	0	25
Intimidation, Harassment, Menacing, or Bullying	39	94
Burglary, Larceny, or Other Theft Offenses	3	17
Criminal Mischief	11	23
Bomb Threat	1	2
False Alarm	5	0
Other Disruptive Incidents	24	552
Possession, But Not Use, of a Weapon	37	38
Use, Sale or Possession of Drugs or Alcohol	1	22
Total	144	924

TABLE 4

**Violent and Disruptive Incidents
Incidents Reported to SED Compared to Incidents Documented in School Records
at 17 Sampled High Schools for the 2003-04 School Year**

Ardsley High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	0	0
Kidnapping	0	0
Assault with Serious Physical Injury	0	0
Assault with Physical Injury	0	8
Arson	0	0
Robbery	0	0
Reckless Endangerment	0	6
Criminal Harassment	0	5
Intimidation, Harassment, Menacing, or Bullying	0	16
Burglary, Larceny, or Other Theft Offenses	0	4
Criminal Mischief	0	3
Bomb Threat	0	0
False Alarm	0	0
Other Disruptive Incidents	0	55
Possession, But Not Use, of a Weapon	0	1
Use, Sale or Possession of Drugs or Alcohol	6	8
Total	6	106

Brentwood High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	0	2
Kidnapping	0	0
Assault with Serious Physical Injury	0	1
Assault with Physical Injury	0	77
Arson	0	0
Robbery	0	0
Reckless Endangerment	0	4
Criminal Harassment	7	4
Intimidation, Harassment, Menacing, or Bullying	33	18
Burglary, Larceny, or Other Theft Offenses	3	7
Criminal Mischief	7	5
Bomb Threat	0	0
False Alarm	0	1
Other Disruptive Incidents	2	55
Possession, But Not Use, of a Weapon	29	17
Use, Sale or Possession of Drugs or Alcohol	6	35
Total	87	* 357

* Includes 131 documented reportable incidents that resulted in out-of-school suspensions. Since the reasons for the suspensions were not documented, the incidents cannot be categorized.

TABLE 4

**Violent and Disruptive Incidents
Incidents Reported to SED Compared to Incidents Documented in School Records
at 17 Sampled High Schools for the 2003-04 School Year**

Charlotte High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	5	8
Kidnapping	0	0
Assault with Serious Physical Injury	0	2
Assault with Physical Injury	38	209
Arson	3	4
Robbery	19	3
Reckless Endangerment	8	50
Criminal Harassment	40	32
Intimidation, Harassment, Menacing, or Bullying	0	61
Burglary, Larceny, or Other Theft Offenses	0	17
Criminal Mischief	18	15
Bomb Threat	0	0
False Alarm	0	3
Other Disruptive Incidents	665	312
Possession, But Not Use, of a Weapon	8	8
Use, Sale or Possession of Drugs or Alcohol	9	8
Total	813	732

Corcoran High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	0	1
Kidnapping	0	0
Assault with Serious Physical Injury	0	1
Assault with Physical Injury	6	22
Arson	0	0
Robbery	0	0
Reckless Endangerment	7	21
Criminal Harassment	90	83
Intimidation, Harassment, Menacing, or Bullying	70	73
Burglary, Larceny, or Other Theft Offenses	8	8
Criminal Mischief	5	4
Bomb Threat	0	0
False Alarm	2	3
Other Disruptive Incidents	75	218
Possession, But Not Use, of a Weapon	18	19
Use, Sale or Possession of Drugs or Alcohol	9	14
Total	290	467

TABLE 4

**Violent and Disruptive Incidents
Incidents Reported to SED Compared to Incidents Documented in School Records
at 17 Sampled High Schools for the 2003-04 School Year**

East High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	0	0
Kidnapping	0	0
Assault with Serious Physical Injury	0	0
Assault with Physical Injury	8	79
Arson	0	0
Robbery	0	0
Reckless Endangerment	40	41
Criminal Harassment	83	14
Intimidation, Harassment, Menacing, or Bullying	41	53
Burglary, Larceny, or Other Theft Offenses	1	1
Criminal Mischief	6	6
Bomb Threat	0	0
False Alarm	0	0
Other Disruptive Incidents	383	377
Possession, But Not Use, of a Weapon	15	15
Use, Sale or Possession of Drugs or Alcohol	15	13
Total	592	599

Hempstead High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	14	1
Kidnapping	0	0
Assault with Serious Physical Injury	0	0
Assault with Physical Injury	43	101
Arson	0	0
Robbery	0	1
Reckless Endangerment	0	20
Criminal Harassment	341	10
Intimidation, Harassment, Menacing, or Bullying	0	23
Burglary, Larceny, or Other Theft Offenses	17	3
Criminal Mischief	0	4
Bomb Threat	0	0
False Alarm	0	0
Other Disruptive Incidents	239	234
Possession, But Not Use, of a Weapon	13	7
Use, Sale or Possession of Drugs or Alcohol	1	10
Total	668	414

TABLE 4

**Violent and Disruptive Incidents
Incidents Reported to SED Compared to Incidents Documented in School Records
at 17 Sampled High Schools for the 2003-04 School Year**

Henninger High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	0	0
Kidnapping	0	0
Assault with Serious Physical Injury	0	1
Assault with Physical Injury	4	71
Arson	1	1
Robbery	0	0
Reckless Endangerment	4	8
Criminal Harassment	72	20
Intimidation, Harassment, Menacing, or Bullying	28	38
Burglary, Larceny, or Other Theft Offenses	1	4
Criminal Mischief	0	2
Bomb Threat	1	1
False Alarm	0	0
Other Disruptive Incidents	226	219
Possession, But Not Use, of a Weapon	19	28
Use, Sale or Possession of Drugs or Alcohol	8	11
Total	364	404

Hudson High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	0	1
Kidnapping	0	0
Assault with Serious Physical Injury	0	1
Assault with Physical Injury	8	34
Arson	0	0
Robbery	0	0
Reckless Endangerment	0	10
Criminal Harassment	0	7
Intimidation, Harassment, Menacing, or Bullying	0	19
Burglary, Larceny, or Other Theft Offenses	0	0
Criminal Mischief	0	1
Bomb Threat	0	1
False Alarm	0	0
Other Disruptive Incidents	0	200
Possession, But Not Use, of a Weapon	2	1
Use, Sale or Possession of Drugs or Alcohol	6	7
Total	16	282

TABLE 4

**Violent and Disruptive Incidents
Incidents Reported to SED Compared to Incidents Documented in School Records
at 17 Sampled High Schools for the 2003-04 School Year**

Niagara Falls High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	1	1
Kidnapping	0	0
Assault with Serious Physical Injury	0	2
Assault with Physical Injury	32	49
Arson	0	0
Robbery	0	0
Reckless Endangerment	1	17
Criminal Harassment	0	11
Intimidation, Harassment, Menacing, or Bullying	7	42
Burglary, Larceny, or Other Theft Offenses	2	6
Criminal Mischief	1	0
Bomb Threat	0	0
False Alarm	0	0
Other Disruptive Incidents	0	455
Possession, But Not Use, of a Weapon	13	15
Use, Sale or Possession of Drugs or Alcohol	14	26
Total	71	624

Plattsburgh High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	0	0
Kidnapping	0	0
Assault with Serious Physical Injury	0	0
Assault with Physical Injury	4	5
Arson	0	0
Robbery	0	0
Reckless Endangerment	12	0
Criminal Harassment	6	2
Intimidation, Harassment, Menacing, or Bullying	8	2
Burglary, Larceny, or Other Theft Offenses	0	0
Criminal Mischief	0	0
Bomb Threat	0	0
False Alarm	0	0
Other Disruptive Incidents	0	12
Possession, But Not Use, of a Weapon	0	0
Use, Sale or Possession of Drugs or Alcohol	8	10
Total	38	31

TABLE 4

**Violent and Disruptive Incidents
Incidents Reported to SED Compared to Incidents Documented in School Records
at 17 Sampled High Schools for the 2003-04 School Year**

Saratoga Springs High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	1	1
Kidnapping	0	0
Assault with Serious Physical Injury	0	0
Assault with Physical Injury	4	30
Arson	0	0
Robbery	0	0
Reckless Endangerment	0	13
Criminal Harassment	49	17
Intimidation, Harassment, Menacing, or Bullying	101	17
Burglary, Larceny, or Other Theft Offenses	24	14
Criminal Mischief	4	4
Bomb Threat	0	0
False Alarm	0	0
Other Disruptive Incidents	259	380
Possession, But Not Use, of a Weapon	5	6
Use, Sale or Possession of Drugs or Alcohol	21	33
Total	468	515

Schenectady High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	10	4
Kidnapping	0	0
Assault with Serious Physical Injury	1	5
Assault with Physical Injury	7	102
Arson	1	0
Robbery	0	3
Reckless Endangerment	28	40
Criminal Harassment	233	51
Intimidation, Harassment, Menacing, or Bullying	48	85
Burglary, Larceny, or Other Theft Offenses	13	6
Criminal Mischief	11	11
Bomb Threat	1	0
False Alarm	0	0
Other Disruptive Incidents	0	585
Possession, But Not Use, of a Weapon	0	4
Use, Sale or Possession of Drugs or Alcohol	15	12
Total	368	908

TABLE 4

**Violent and Disruptive Incidents
Incidents Reported to SED Compared to Incidents Documented in School Records
at 17 Sampled High Schools for the 2003-04 School Year**

Uniondale High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	5	1
Kidnapping	0	0
Assault with Serious Physical Injury	12	0
Assault with Physical Injury	100	43
Arson	1	3
Robbery	0	0
Reckless Endangerment	4	13
Criminal Harassment	19	17
Intimidation, Harassment, Menacing, or Bullying	46	51
Burglary, Larceny, or Other Theft Offenses	4	4
Criminal Mischief	9	6
Bomb Threat	0	0
False Alarm	0	0
Other Disruptive Incidents	95	70
Possession, But Not Use, of a Weapon	9	7
Use, Sale or Possession of Drugs or Alcohol	17	8
Total	321	223

Waterville High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	0	0
Kidnapping	0	0
Assault with Serious Physical Injury	0	0
Assault with Physical Injury	0	8
Arson	0	0
Robbery	0	0
Reckless Endangerment	0	0
Criminal Harassment	5	9
Intimidation, Harassment, Menacing, or Bullying	2	14
Burglary, Larceny, or Other Theft Offenses	0	0
Criminal Mischief	0	0
Bomb Threat	0	0
False Alarm	0	0
Other Disruptive Incidents	10	27
Possession, But Not Use, of a Weapon	0	2
Use, Sale or Possession of Drugs or Alcohol	2	3
Total	19	63

TABLE 4

**Violent and Disruptive Incidents
Incidents Reported to SED Compared to Incidents Documented in School Records
at 17 Sampled High Schools for the 2003-04 School Year**

White Plains High School		
Type of Incident	Reported to SED	Documented in School Records
Homicide	0	0
Sexual Offenses	0	1
Kidnapping	0	0
Assault with Serious Physical Injury	0	1
Assault with Physical Injury	1	36
Arson	0	0
Robbery	0	0
Reckless Endangerment	0	9
Criminal Harassment	0	13
Intimidation, Harassment, Menacing, or Bullying	5	28
Burglary, Larceny, or Other Theft Offenses	1	9
Criminal Mischief	0	5
Bomb Threat	2	0
False Alarm	0	0
Other Disruptive Incidents	3	184
Possession, But Not Use, of a Weapon	8	12
Use, Sale or Possession of Drugs or Alcohol	2	13
Total	22	311

TABLE 5

Schools Removed from Preliminary List of Persistently Dangerous Schools Because Their Violence Index Fell Below 25			
School	2003-04 Violence Index		2004-05 Violence Index
	Original	Resubmitted	
Greenburgh Eleven HS	43.24	43.24	13.89
East Hampton MS	36.00	14.00	0 *
Clara Barton ES	35.18	35.18	24.17
Danforth Magnet ES	32.92	21.60	37.41
Charlotte HS	31.81	31.81	19.58
Dag Hammarskjold ES	27.71	25.19	24.05
Dryden MS	27.20	16.74	0 *
South Park HS	26.34	26.34	16.15
Taconic Hills MS	25.76	22.73	.82
Van Duyn ES	25.68	21.62	6.60
Powells Lane ES	25.21	0	0
Sauquoit Valley MS	37.74	37.74	0 *

Abbreviations:

HS - High School

MS - Middle School

ES - Elementary School

Notes:

* The annual incident report for that year had yet to be submitted.

Definitions of Selected Violent and Disruptive Incidents

Assault with Serious Physical Injury: Intentionally or recklessly causing serious physical injury to another person, with or without a weapon. Pursuant to the State Penal Law §10.00(10), "serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ, i.e., disability. As a general rule, a serious physical injury is one that requires hospitalization or treatment in an emergency room or clinic or treatment by a licensed health professional outside of the school setting and includes, but is not limited to, a bullet wound, a serious stab or puncture wound, fractured or broken bones or teeth, concussions, cuts requiring stitches, and any other injury involving risk of death or disfigurement.

Assault with Physical Injury: Intentionally or recklessly causing physical injury to another person, with or without a weapon. This category applies where the victim does not sustain a "serious physical injury." Pursuant to the State Penal Law §10.00(9), "physical injury means impairment of physical condition or substantial pain." As a general rule, a physical injury is a minor injury, such as a scrape, minor cut, or minor bruising, that does not involve a risk of death, disability, or disfigurement. Assaults involving injuries that are treated by the school nurse but do not require further medical attention should be included in this category.

Reckless Endangerment: Subjecting individuals to danger by recklessly engaging in conduct that creates a substantial risk of physical injury, but no actual physical injury.

Criminal Harassment: For this purpose, criminal harassment means striking, shoving, or kicking another person or subjecting another person to unwanted physical contact with the intent to harass, annoy, or alarm another person. As a general rule, this is the category that applies where a student strikes another student without intending to injure that student and would cover horseplay and similar conduct. Only those incidents that result in a disciplinary or referral action should be reported. Verbal harassment, menacing, stalking, and similar offenses that may involve the threat of physical violence, but do not involve actual physical contact with another person, should be reported in the Intimidation, Harassment, Menacing or Bullying category.

Intimidation, Harassment, Menacing, or Bullying: Threatening, stalking, or seeking to coerce or compel a person to do something; engaging in verbal or physical conduct that threatens another with harm, including intimidation through the use of epithets or slurs involving race, ethnicity, national origin, religion, religious practices, gender, sexual orientation, age, or disability that substantially disrupts the educational process. This category includes any form of harassment that does not involve actual physical contact but does involve the threat of harm, including verbal harassment. Incidents of harassment that do involve physical contact should be reported in Category 9 (Criminal Harassment).

Criminal Mischief: Intentional or reckless damaging of the property of the school or of another person, including, but not limited to, vandalism and the defacing of property with graffiti.

Other Disruptive Incidents: Incidents that violate the district code of conduct but do not rise to the level of a criminal offense. Reportable incidents are limited to those resulting in disciplinary action or referral.

APPENDIX B - AUDIT RESPONSE

05/03/2006

15:47

COMMUNICATIONS OFFICE → 36012

NO. 626 0001



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

PRESIDENT OF THE UNIVERSITY
AND COMMISSIONER OF EDUCATION

May 3, 2006

Mr. Steven E. Sossei
Audit Director
Office of the State Comptroller
Division of State Services, State Audit Bureau
110 State Street, 11th Floor
Albany, New York 12236

Dear Mr. Sossei:

Thank you for your audit of the reporting of violent and disruptive incidents required by the SAVE legislation. It confirms our concerns about underreporting in schools. Creating a safe environment is of course critical and fundamental for learning. The Board of Regents and the State Education Department are focusing on the need for further reforms. As you note, "the process developed by [the Department] for collecting incident data from school districts complies with the requirements contained in the SAVE Act." Nonetheless, I agree that more must – and will – be done to ensure full compliance. As a result of our own concerns and your findings for the school year 2003-2004, we have taken a series of actions and are now taking additional actions to ensure accurate reporting and compliance:

1. We will make site visits to selected school districts statewide to ensure compliance, including the schools in the 15 districts cited in the audit. As recommended, we are giving preference to those where the risk of noncompliance may be greatest.

We also have proposed that the State fund the hiring of additional auditors and other experts in ensuring school accountability. These additional, targeted staff will allow the State Education Department to provide comprehensive monitoring, auditing, and assistance. The visits will also enable the Department to answer questions face-to-face and encourage accurate reporting and compliance by all districts.

2. We have reviewed and revised the definitions to make them more relevant to a school setting. In addition, we have reviewed and revised the guidance to school districts and have provided more extensive information, with examples, as to how to apply the definitions. To ensure that districts understand them, we are also undertaking a new and comprehensive review of how they are understood and applied by school districts and will expand the guidance as needed.

We reviewed and revised the definitions and guidance to school districts because the 2001-2002 and 2002-2003 data indicated that most school districts found it difficult to apply pure Penal Law definitions in a school setting. After discussions with the legislature, executive and the Division of Criminal Justice Services and prior to the collection of the 2003-2004 data (the period covered by the Comptroller's audit), we decided to modify the Penal Law definitions to make them applicable to a school setting and more comprehensible and user friendly for school administrations. From January 2005 through April 2005, we offered training to school districts on applying the revised definitions.

In February 2006, in response to comments we received from the auditors, we revised the Question and Answer guidance document to provide more extensive information regarding when incidents are reportable. Now, having collected 2004-2005 data, we have undertaken a further review of the guidance and, after consulting with school officials, will make revisions as needed this spring.

3. We will conduct additional training sessions for school districts and mandate attendance to the extent we are authorized to do so. Officials from many but not all districts attended voluntary statewide training that was offered in early 2005. A new grant from the U.S. Department of Education will allow us to expand the training program. It will be uniform and held throughout the state. Each school district will be required to participate in training and participation will be monitored.

This grant will also enable the Department, as recommended in the audit, to review software packages currently in use by school districts and determine which ones are most effective and useful.

4. We are also developing and will implement procedures to ensure compliance with a requirement that superintendents certify a district's violent incident reports to the state. This will include formal notification of a district's board of education when a superintendent has refused to certify the district's reports. We are also seeking legislation that would require superintendents to certify the data and make the knowing and intentional submission of false and inaccurate data punishable through revocation of an individual's certificate.
5. We are modifying the criteria used to designate "persistently dangerous schools" as required in NCLB legislation. This was announced earlier and discussed with the Board of Regents in January. The revised criteria will be submitted to the Regents for approval. The criteria will be more comprehensive.
6. We will also require documentation from schools that seek to change their data after it has been submitted.

This list highlights some of the improvements we have made and are making to ensure accurate reporting and compliance. A more extensive list appears below. I

appreciate your cooperative and thorough approach to this audit. We have implemented or are now implementing all of the recommendations contained in it.

Recommendation 1 - Make site visits to selected school districts on a regular basis to ensure that the districts are recording and classifying incidents in accordance with requirements. In selecting districts to visit, give preference to those where the risk of noncompliance is greatest.

We agree. The Department will visit schools and review the accuracy of the reporting of violent and disruptive incidents.

Recommendation 2 - Review Albany and Henninger High Schools' incident records for the 2003-04 school year and determine whether the schools' Violence Index for that year was 25 or higher. If so, place the schools on the preliminary list of persistently dangerous schools and visit both schools to verify the incident data reported for the 2004-05 school year.

We agree. The Department will review the incident records for 2003-2004 for these schools. The Department will also use more current data and closely review these schools' 2004-2005 and as needed 2005-2006 data. If the transitional violence standard equals or exceeds the threshold established by the Commissioner, the Department will place the school(s) on the potentially persistently dangerous list for 2006-2007. The Department accepts the recommendation to visit the schools to verify the incident data reported for the 2004-2005 school year.

Recommendation 3 - Determine whether any commercial software packages can be adapted for incident classification and reporting purposes. If such packages are available, make the school districts aware of these packages.

We agree. A workgroup consisting of school district program and data staff and Regional Information Center staff will:

- Review and analyze strengths and weaknesses of existing software programs that are being used by local school districts and BOCES in reporting violent incidents;
- Develop suggestions for a new software package for school districts and BOCES to use for electronic submission to the Department and provide building and district analysis of data;
- Assist in development of web-based staff development materials to assist school district staff in completing the data forms; and
- Ensure links between data concerns and activities and curricula supported by science-based research that can help remedy problem areas.

Recommendation 4 - Streamline the Individual Incident Report to make it more user-friendly.

We agree. Among other things, we are creating a more user-friendly, modified version of the report that is used by staff familiar with the reporting requirements and process, while continuing to provide a full version (with greater detail in definitions and instructions) for those who are not as familiar. We hope in that way to streamline the process while maintaining good data quality.

Recommendation 5 - Remind school districts that Individual Incident Reports and other records used to record individual incidents should be retained for six years.

We agree. The Department has for the last two years advised, and will continue to advise, school districts of the requirement to retain the records for six years, through a web-based Question and Answer document. Section A, Question 3 of this document addresses this question specifically.

The web address for the Question and Answer document is <http://www.emsc.nysed.gov/sss/SDFSCA/UniformViolentIncidentReportingSystemQ&A2-27-2005.htm>

Recommendation 6 - Perform a comprehensive review of the explanatory materials made available to the school districts for the incident reporting process. Use the review to eliminate inconsistencies in the materials and clarify matters not adequately understood by the school districts.

We agree. As outlined above, we have made revisions and are now doing so. Through ongoing staff development, public engagement and communication with the field, the Department makes revisions to explanatory materials and guidance as needed. Most recently, the Department modified the Question and Answer document to provide additional guidance regarding when incidents are reportable and whether incidents that result in detention are reportable.

The web address for the Question and Answer document is <http://www.emsc.nysed.gov/sss/SDFSCA/UniformViolentIncidentReportingSystemQ&A2-27-2005.htm>

Recommendation 7 - Develop a single, uniform training program in the incident reporting process, mandate school district attendance at the program, and offer the program early enough in the reporting cycle to allow timely implementation by the districts.

We agree with the recommendation. Specialized training and staff development is available to all school district staffs through a variety of means, such as site visits, personal presentations, video-conferencing, web-based information sharing, and telephone and e-mail communications. The Department will continue these efforts to foster compliance and assist school districts in satisfying the requirements. The Department is also collaborating with New York State School Boards Association to establish training for all school board members.

Recommendation 8 - Develop and implement procedures to enforce compliance with the requirement of superintendents' certification of districts' violent and disruptive incidents reports to SED. Such procedures could include (but not be limited to) formal notification of a district's Board of Education when the superintendent has not certified the district's reports.

We agree. The Department is implementing procedures to notify a district's Board of Education when district's reports are not submitted or certified by the superintendent. The Department is also seeking to amend Education Law §2802 in 2005 to ensure the accuracy of the reported data, by requiring superintendents of schools to certify that the data reported are accurate and true. Under this bill, the knowing or intentional submission of false and inaccurate data would be cause for removal of certification.

Recommendation 9 - Develop more appropriate and more comprehensive procedures for the assessment of evidence presented by schools that are seeking to avoid being designated as persistently dangerous, and formalize these procedures in policy or regulation.

We agree. We will require documentation for changes to data already submitted by school districts and will outline these.

Recommendation 10 - Require schools on the preliminary list of persistently dangerous schools to submit documentation in support of any revisions they make to previously reported incident data. If this documentation is questionable, either deny the revisions or visit the schools and review their records to ensure that the revisions are appropriate. In addition, visit some or all of these schools, as appropriate, to verify the incident data that is submitted for the current year.

We agree. In the past, the Department has accepted oral explanation and/or written documentation to justify changes in data. However, in the future, the Department will only accept written documentation to support changes in reported data. In addition, Department staff will visit schools to review and verify incident data as staff resources allow.

Recommendation 11 - Verify the accuracy and completeness of the 2003-04 and 2004-05 incident data submitted by the 14 schools that were removed from the list of persistently dangerous schools in 2005. If, after review, any of the schools have a Violence Index of 25 or higher in both school years, determine whether the schools should be designated as persistently dangerous.

We agree. The Department will do so. We will also use more current data and closely review these schools' 2004-2005 and as needed 2005-2006 data. If the transitional violence standard equals or exceeds the threshold established by the Commissioner, the Department will place the school(s) on the potentially persistently dangerous list for 2006-2007.

Recommendation 12 - Require school districts to affirm in the annual incident report that they have given parents a choice of a different school when their children are victims of violent criminal offenses at school.

We agree. The Department will amend the annual incident report to include a school district affirmation that parents have been properly advised of transfer options when such options exist consistent with the provisions of the No Child Left Behind Act, USDOE's non-regulatory guidance, Education Law §2802(7)(c), and 8NYCRR §120.5(d).

Recommendation 13 - Develop automated processing controls that will check the incident data entered on the School Accountability Data System for completeness, reasonableness, and internal consistencies and discrepancies.

We agree. We have been working to this end for the past two years. Beginning January 2006, the Department now has the capacity to collect this information electronically. The electronic data collection system includes edits to improve the accuracy of the data.

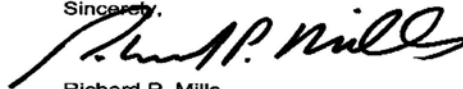
Recommendation 14 - Develop a fully automated incident reporting system in which the school districts electronically submit their incident data.

We agree. Beginning January 2006, the Department now has the capacity to collect this information electronically. The electronic data collection system includes edits to improve the accuracy of the data.

The Department also respectfully requests an inaccuracy in the report be addressed. The report states that the Department used a "school violence index" to make persistently dangerous school designations in 2005. However, a "transitional violence standard" was used for this purpose and is the more accurate term to use in the report.

Thank you again for this report. Greg Bayduss, Coordinator for Safe and Drug Free Schools, has worked extensively with the auditors and can be reached at (518) 486-7327.

Sincerely,



Richard P. Mills

cc: Theresa Savo
Jean C. Stevens
Michael Abbott
Greg Bayduss

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Note

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***State Comptroller's Note:** The Board of Regents must formally approve the methodology for creating the score. However, this approval has not yet happened. In the interim, SED refers to the score as the "Transitional Violence Standard." Once the methodology for the score is approved, the score will be called the "School Violence Index." For this report we use the term "Violence Index" in lieu of "Transitional Violence Standard."