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OFFICE OF THE STATE COMPTROLLER

September 17, 2007

Mr. Richard P. Mills
Commissioner
New York State Education Department
State Education Building
Albany, New York 12234

Re: Report 2007-F-13

Dear Mr. Mills:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the New York State Education Department (SED) to implement the recommendations contained in our audit report, *Reporting of Violent and Disruptive Incidents by Public Schools* (Report 2005-S-38).

Background, Scope and Objective

In July 2000, the State Education Law was amended by the Safe Schools Against Violence in Education (SAVE) Act. As a result of this amendment, each year, all 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 rates of violent and disruptive incidents. SED is also required to submit an annual report about school violence to the Governor, the Legislature, and the State Board of Regents (which oversees SED).

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 a persistently dangerous school should have 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 Federal No Child Left Behind Act.)

After the completion of the school year, each district must submit a separate incident report to SED for each school within the district. Each individual school report must include: (1) a summary of all the violent and disruptive incidents that occurred at the school during the year; and (2) certain information about the incidents (i.e., the nature of the incidents, the numbers of perpetrators and victims, whether weapons were involved, and the actions taken by the school in response to the incidents).

The SAVE Act requires SED to submit a 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 violent and disruptive incidents in public schools, and the effectiveness of school district programs 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 amounts of violent and disruptive incidents.

Our initial audit report, which was issued on May 22, 2006, examined whether the SED has developed effective processes to: (1) ensure that school districts report violent and disruptive incidents to SED in accordance with State law and regulations; (2) identify schools that should be designated as persistently dangerous because of their violent and disruptive incidents; and (3) ensure that the incident data reported by school districts is recorded correctly on SED's automated information system. Our audit focused on incident reporting outside New York City.

Our initial audit identified a significant risk that the level of violence at high schools across the State was understated, and therefore, SED's annual reports on school violence did not convey the full magnitude of this issue to the Governor, Legislature and Board of Regents. As a result, school district students, teachers and other employees might have had a greater exposure to violent and disruptive behavior than was previously disclosed. The objective of our follow-up, which was conducted in accordance with generally accepted government auditing standards, was to assess the extent of implementation, as of July 12, 2007, of the 14 recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

SED officials have made significant progress in addressing the matters we identified in our initial report. Of the 14 prior audit recommendations, 13 recommendations have been implemented, and 1 recommendation has been partially implemented.

Follow-up Observations

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.

Status - Implemented

Agency Action - Between May 1, 2006 and June 30, 2007, SED's Office of Audit Services (OAS) visited 83 schools to ensure they recorded and classified violent and disruptive incidents according to the prescribed requirements. During this process, OAS developed eight criteria to identify schools at the greatest risk of noncompliance with requirements. As a result, OAS focused site visits on the higher risk schools, which help to optimize the efficiency and effectiveness of the site visit initiative.

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.

Status - Implemented

Agency Action - OAS staff visited both Albany High School and Henninger High School and evaluated the 2003-04 and 2004-05 incident reports and supporting records. At Albany High School, the OAS determined that the circumstances surrounding three incidents were not as serious as first reported by the school or the locations of the incidents in question were not on school property. Thus, these incidents were excluded from the determination of Albany's violence index, and the index dropped slightly below the threshold for a persistently dangerous school.

Henninger High School would have been persistently dangerous based on the 2003-04 and 2004-05 data. However, because 2005-06 data became available by the time OAS conducted its review, SED officials used it to determine Henninger High School's current safety status. Based on the 2005-06 data, the school no longer met the threshold for designation as persistently dangerous.

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.

Status - Implemented

Agency Action - SED officials identified 15 commercial software packages that schools could use for incident classification and reporting purposes. Officials assembled a list of the 15 packages which has been posted to SED's website for consideration by district officials.

Recommendation 4

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

Status - Implemented

Agency Action - SED officials shortened the Violent and Disruptive Incident Report (VADIR) form which is used to record key information pertinent to violent and disruptive incidents. In addition, officials clarified the VADIR reporting instructions regarding the preparation and maintenance of VADIR records and reports.

Recommendation 5

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

Status - Implemented

Agency Action - The six-year retention requirement is published in the Question and Answer page for VADIR-related issues that is posted to SED's website. In addition, officials remind the school districts of this requirement in both written and oral communications. Furthermore, the OAS includes a step in its audit program for district/school site visits to determine if VADIR-related records are retained for the required six-year period. Districts that do not retain the documents for the required period are directed to do so.

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.

Status - Implemented

Agency Action - During their site visits in 2006, SED officials met with district personnel to assess their understanding of the guidance materials regarding incident reporting. Officials used information obtained from the site visits to revise the definitions of certain incident classifications. These revisions were formally adopted into regulation by the Board of Regents in June 2006 (and became effective July 13, 2006). In addition, SED's website includes a Glossary of Terms and a Questions and Answers document that provide guidance on VADIR-related matters. In December 2006, the Glossary of Terms was updated to clarify the proper classification of incidents of Reckless Endangerment and Other Sexual Offenses. The Questions and Answers document was also updated in December, 2006 to address concerns emerging from staff training and technical assistance sessions.

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.

Status - Implemented

Agency Action - SED developed a standard training program for the VADIR reporting process

which began in August, 2006 with a "Train the Trainer" session. SED held additional training sessions in August and September 2006 at various locations across the State. At these sessions, SED officials noted which school districts had representatives present and followed-up with certain districts that did not have staff in attendance to help ensure that such districts had representatives at subsequent training sessions. SED also has regional VADIR experts who can provide training and technical assistance where necessary. In addition, the materials for the training sessions are available on SED's website, and a DVD which contains essential parts of the training is also available to school districts, at their request.

Recommendation 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.

Status - Implemented

Agency Action - SED officials stated the superintendent's electronic certification is now required to submit the VADIR report. If a report has not been certified, SED staff contact the school district superintendent's office and direct officials to electronically certify the VADIR report.

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.

Status - Partially Implemented

Agency Action - SED established a comprehensive program for the assessment of evidence presented by schools seeking to avoid designation as persistently dangerous. The program now includes a pre-site visit examination and analysis of schools' incident data, including the accuracy of the data and compliance with prescribed reporting requirements. Site visits by SED are also required, and the site visits include further assessments of data accuracy. The site visits also include assessments of the development and implementation of the prescribed Incident Reduction Plan. The site visit team will make specific recommendations for improvements to the plan, if they are found to be necessary. This assessment program and its attendant processes, however, have not been formalized in official policy or regulation.

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.

Status - Implemented

Agency Action - SED requires schools to submit their annual VADIR data to SED during a two-month period (from December through January) following the end of the school year in question. All VADIR reports must be certified by district superintendents, transmitted electronically, and pass system edit checks during the submission period. SED no longer accepts changes to VADIR reports after they are certified by the school superintendent and transmitted to SED. Further, the only changes that can be made to a school's electronic submission are those resulting from a site visit by SED staff. It should be noted that SED officials schedule site visits to schools which are potentially persistently dangerous as part of their plan of regularly-scheduled school site visits.

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.

Status - Implemented

Agency Action - SED officials made site visits to and reviewed pertinent documentation of each of the 14 schools in question. Based on the results of the site visits, SED officials concluded that all 14 schools were properly removed from the persistently dangerous schools list because they did not meet or exceed the index of a persistently dangerous school for two consecutive years.

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.

Status - Implemented

Agency Action - SED required all schools to submit their VADIR incident summary reports electronically for the 2005-06 school year and thereafter. VADIR submissions must also include a formal affirmation that parents, whose children were the victims of violent offenses at school, have been notified of their right to choose a different school for their children.

VADIR submissions will not be accepted if they have not passed all system edit checks, including an affirmation of parental notification of school choice, where applicable.

Recommendation 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.

Status - Implemented

Agency Action - SED officials developed and implemented a series of system edit checks to test VADIR data entries for completeness, reasonableness, internal inconsistencies and discrepancies. If an entry does not pass the edit check, the school district receives an error message as soon as the data is entered. District officials can correct the error at that point, or they can view and correct all errors at once at the end of a reporting session. Moreover, if a school district does not correct all of its VADIR data entry errors, its report will not be accepted by SED.

Recommendation 14

Develop a fully automated incident reporting process in which the school districts electronically submit their incident data.

Status - Implemented

Agency Action - As noted previously, all school districts were required to submit their VADIR reports electronically for the 2005-06 school year data and thereafter.

Major contributors to this report were Bill Clynes and Don Collins.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in the report. We also thank the management and staff of SED for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Brian E. Mason
Audit Manager

cc: Ms. Lisa Ng, DoB
Ms. Theresa Savo, SED
Mr. James Conway, SED