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COMPTROLLER



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STATE OF NEW YORK  
**OFFICE OF THE STATE COMPTROLLER**

July 22, 2004

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

Re: No Child Left Behind Act  
Report 2003-S-47

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 audited the State Education Department's oversight and monitoring of school district and school activities in relation to the No Child Left Behind Act, as well as district and school compliance with selected first-year requirements of the Act, for the period July 1, 2002 through June 30, 2003.

**A. Background**

Section 305 of the Education Law requires the Commissioner of Education to enforce all general and special laws relating to the State's educational system and to execute all educational policies determined by the State Board of Regents. The Commissioner provides general supervision over all schools, has the authority to examine and inspect schools, and advises and guides the school officers of all districts in relation to their duties.

In January 2002, the federal No Child Left Behind Act (Act) became law. The overall goal of the Act is to ensure that all children meet state academic standards and assessments by the 2013-14 school year. The Act requires states and public schools to take specific actions to qualify for certain federal educational aid.

For the 2002-03 school year, federal educational funding to New York State totaled about \$1.3 billion. The majority of the federal funding was for grants to local school districts (districts) that have significant numbers of students from economically disadvantaged families. The funding was to help such districts improve the academic performance of disadvantaged students. In general, the funding may be used for a wide range of purposes that support the education of disadvantaged students.

For the first year of the Act (2002-03 school year), each district in the State was required to identify and report their poor performing schools to the New York State Education Department (Department). Poor performing schools are defined as those schools whose test scores for core academic subjects do not meet Department standards. Once a school is identified as poor performing, it must develop (within three months) a two-year improvement plan and submit it to its district office. Each plan must address ten specific areas mentioned in the Act. For example, a plan must describe strategies to increase parental involvement in the school. The initial deadline for the individual school improvement plans was January 31, 2003. School improvement plans are reviewed, approved, and maintained at the school's respective district office.

Prior to the Act, the Department required low performing districts to prepare improvement plans. Specifically, the Department required such districts to prepare Comprehensive District Education Plans (or CDEPs) to help ensure that the districts took appropriate actions to improve students' academic performance. Consequently, districts often could comply with the Act's planning requirements by modifying their existing CDEPs.

Additionally, the Act requires districts to notify all parents whose children (or child) attend poor performing schools, by the first day of the new school year, that they have the option to transfer their children (or child) to another public school that has not been identified as poor performing within the same district. Furthermore, the Act requires that the lowest achieving students from the lowest income families receive priority to transfer to another school. However, school choice is not an option when all schools within a district are identified for improvement or when only one school exists.

In September 2002, the Department identified 433 schools statewide that came under the Act's improvement requirements. Of the 433 schools, 300 were New York City (NYC) schools. Department records indicate that the following districts accounted for the majority (372 out of 433) of the schools identified under the Act's improvement requirements:

- NYC – 300 schools
- Buffalo – 31 schools
- Rochester – 19 schools
- Syracuse – 12 schools
- Yonkers – 10 schools

## **B. Audit Scope, Objectives and Methodology**

We audited the Department's oversight and monitoring of district and school activities in relation to the Act, as well as district and school compliance with selected first-year requirements of the Act, for the period July 1, 2002 through June 30, 2003. The objectives of our performance audit were to: (1) assess the effectiveness of the Department's oversight and monitoring of district and school efforts to comply with first-year requirements of the Act, (2) determine whether poor performing schools identified by the Department have developed improvement plans, and (3) determine whether districts have developed procedures to notify parents of the option to transfer their children (or child) to other schools. Our audit did not address the implementation of the

individual school improvement plans or whether such schools were making adequate progress to improve school performance.

To accomplish our audit objectives, we reviewed federal legislation and Department records, policies and procedures as well as interviewed Department and district officials. We also conducted site visits to the following eight districts to determine whether selected first-year requirements of the Act had been implemented: Binghamton, Brentwood Union Free, Buffalo, Niagara Falls, NYC, Rochester, Syracuse, and Yonkers. Our sample of districts was designed to include the five districts with the highest number of poor performing schools and three smaller districts with more than one poor performing school.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of the Department that are within our audit scope. Further, these standards require that we understand the Department's internal control structure and its compliance with those laws, rules and regulations that are relevant to the operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe that our audit provides a reasonable basis for our findings and conclusions.

In addition to being the State Auditor, the 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.

### **C. Results of Audit**

We generally found that the Department, districts, and individual schools did a good job in carrying out the first-year requirements of the Act included in the scope of our audit. The Department's oversight and monitoring efforts were effective in enabling districts and schools to comply with selected provisions of the Act. In addition, we determined that all of the poor performing schools in our sample developed improvement plans, and that the districts developed procedures to notify parents of the option to transfer their children (or child) to other schools.

#### **1. Department Oversight and Monitoring**

Improvement plans are important to help ensure that poor performing schools develop and implement specific strategies and tactics to effectively remediate students' academic deficiencies that have been identified through their performance on standardized tests. Without the plans, there is

less assurance that schools will take the necessary actions to improve students' academic performance, and therefore, less assurance that students will meet prescribed academic performance standards.

The Department has an important role in overseeing and monitoring the implementation of the Act by districts and schools. We found that the Department employed a variety of tools and activities to oversee and monitor district and school efforts to comply with selected first-year requirements of the Act.

The Department effectively communicated with the districts, including providing appropriate technical assistance. In this regard, we generally found that the Department allocated its resources primarily to the larger districts that have the highest number of poorly performing schools. For example, officials at the Rochester School District indicated that the Department has provided considerable guidance in the creation of their school plans for their poorest performing schools. Officials at the Buffalo Central School District also stated that the Department has provided numerous training sessions that focused on the creation of the school improvement plans. Syracuse District officials said that they have received planning documents, improvement plan templates, technical support and other helpful information from the Department. They also indicated that the Department's web site has been a good source for information relating to the Act.

## **2. Improvement Plans**

We conclude that the poor performing schools identified by the Department for the 2002-03 school year have developed improvement plans that substantially address selected key elements required by the Act. Our conclusion is based on our review of a sample of eight districts (Binghamton, Brentwood, Buffalo, Niagara Falls, NYC, Rochester, Syracuse, and Yonkers) that accounted for 381 of the 433 schools identified as needing improvement for the 2002-03 school year. We determined that all 381 schools in our sample developed improvement plans and submitted them to their respective district.

Additionally, we examined a secondary sample of 79 of the 381 school improvement plans in detail for compliance with six selected elements of the Act. These elements are:

1. Strategies based on scientifically developed research that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for improvement.
2. Policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all groups of disadvantaged students will meet the State's performance standards on the State academic assessment.
3. Specific annual, measurable objectives for continuous and substantial progress by each group of students specified.

4. Strategies for increasing parental involvement in the school.
5. Specific responsibilities of the school, the district, and the Department under the plan.
6. Specific plans for federal funds that will help the school to remove itself from school improvement status.

We found that the school plans in our sample generally complied with these six elements. We determined that 72 of the 79 plans addressed these elements in satisfactory detail to comply with the Act. The remaining seven plans were each missing one or two of the six selected elements. However, we believe that this relatively minor number of omissions is not indicative of a significant deficiency.

### **3. Option to Transfer**

The Act introduced a new requirement for districts to notify all parents whose children (or child) attends poor performing schools that they have the option to transfer their children (or child) to another public school within the same district. Additionally, as stipulated by the Act, in providing students the option to transfer, the district must give priority to the lowest achieving children from the lowest-income families, as determined by the district.

We found that all eight districts in our sample had developed school choice procedures that complied with the Act's requirements. During our scope period, three districts (Binghamton, Brentwood and Niagara Falls) from our sample were not able to offer parents the option to transfer children because all the schools at certain grade levels in those districts were identified as poor performing. For the other five districts in our sample, we determined that the districts had developed a form letter to notify parents about the school choice option.

A draft of this report was provided to Department officials for their review and comment. Their comments have been considered in the preparation of this report and are included as Appendix A. Department officials state that they are pleased that the audit found the Department, districts and individual schools did a good job in carrying out the first-year requirements of the Act included in the scope of the audit. Department officials further noted that to ensure even greater compliance in the future with the requirements for School Improvement Plans, they will emphasize the required components of such plans during annual technical assistance sessions with staff from local educational agencies.

Major contributors to this report were Brian Mason, Karen Bogucki, Kevin Kissane, Dave Pleeter, Melissa Clayton, and Paul Bachman.

We wish to thank the management and staff of the State Education Department for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Steven E. Sossei  
Audit Director

cc: Mr. Robert Barnes, Division of the Budget  
Ms. Theresa Savo, New York State Education Department  
Mr. Thomas Sheldon, New York State Education Department



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

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May 28, 2004

Mr. Steven E. Sossei  
Audit Director  
Office of the State Comptroller  
110 State Street  
Albany, New York 12236

Dear Mr. Sossei:

This is in reply to your letter of April 19, 2004 to Commissioner Richard P. Mills, on the State Comptroller's Draft Audit Report (2003-S-47) of the State Education Department's oversight and monitoring of school district and school activities in relation to the No Child Left Behind Act, as well as district and school compliance with selected first-year requirements of the Act, for the period July 1, 2002 through June 30, 2003. The following comments to the draft audit narrative are provided for your consideration.

The Department is pleased that the audit found the Department, districts and individual schools did a good job in carrying out the first-year requirements of the Act included in the scope of the audit.

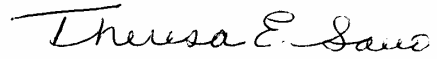
Regarding your determination that of the 79 plans reviewed, seven plans were each missing one or two of the six selected elements, I offer the following information:

School Improvement Plans are required to be developed by each school building that has been designated as a School in Need of Improvement, Corrective Action, or Restructuring. These plans are required to be submitted to the LEA where they are reviewed and approved by district level staff, who are also required to maintain a copy of the plan available for review by State Education Department staff upon request.

To ensure even greater compliance in the future with the requirements for School Improvement Plans, the State Education Department will emphasize the required components of such plans during our annual technical assistance sessions with staff from local educational agencies. We will also inform our Regional School Support Centers (RSSCs) to emphasize the integration of the required elements when they help designated schools to develop their School Improvement Plans, and we will continue to selectively review plans for compliance during on-site monitoring visits.

If you have any questions, please contact Renee Bullis, Administrative Support Group, at (518) 486-2251.

Sincerely,

A handwritten signature in cursive script that reads "Theresa E. Savo".

Theresa E. Savo

c: Renee Bullis