

THOMAS P. DINAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

June 3, 2016

Ms. MaryEllen Elia
Commissioner
State Education Department
State Education Building
89 Washington Avenue
Albany, NY 12234

Re: Compliance With the Safe Schools
Against Violence in Education Act
Report 2016-F-2

Dear Ms. Elia:

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 State Education Department to implement the recommendations contained in our audit report, *Compliance With the Safe Schools Against Violence in Education Act* (Report 2013-S-71).

Background, Scope, and Objectives

The Safe Schools Against Violence in Education Act (SAVE Act) was enacted in July 2000 to address the need to provide a safe learning environment for New York's students in pre-kindergarten through 12th grade. To comply with the SAVE Act, the State Education Department (Department) developed the Violent and Disruptive Incident Report (VADIR) and a process for collecting annual data from school districts about incidents that occur in schools and on school property. The Department uses the data to calculate a School Violence Index (SVI) for each school. Schools at or above a certain SVI threshold for two consecutive years are designated persistently dangerous and are, by definition, unsafe. The Department posts incident data and the list of persistently dangerous schools on its website, and provides assistance to help schools comply with SAVE Act requirements and reduce the number and severity of incidents. Under the SAVE Act, the Department is also responsible for summarizing and communicating VADIR results annually to the Governor, the Legislature, and the Board of Regents.

We issued our initial audit report on January 13, 2015. The objectives of the audit were to determine whether school districts outside of New York City were properly and accurately reporting statistics on crime and incidents to the Department, and whether the Department had

used incident data to identify school districts with comparatively high rates of incidents to help ensure they had adequate violence prevention and response programs. The audit covered the period July 1, 2011 through June 16, 2014.

Our initial audit found that the Department's failure to comply with certain key SAVE Act provisions limited the effectiveness of the Act. For seven selected schools, we found that the related school districts did not properly and accurately report the schools' statistics on crime and incidents to the Department. The inaccurate reporting included unreported incidents and incidents misclassified as less serious than they were. Though the Department uses the incident data to identify persistently dangerous schools, incorrect or incomplete data compromises these efforts and increases the risk that schools with unsafe learning environments are not identified. We also found the Department had not designated persistently dangerous schools for the 2013-14 school year, despite the SAVE Act requirement to do so annually.

The objective of our follow-up was to assess the extent of implementation, as of April 30, 2016, of the five recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

Department officials made significant progress in addressing the problems we identified in the initial audit. Of the initial report's five audit recommendations, four were implemented and one was partially implemented.

Follow-Up Observations

Recommendation 1

Conduct and document a risk assessment related to compliance with the SAVE Act and VADIR requirements. Decide where to best focus limited resources to help schools:

- *enhance school safety and*
- *improve the completeness and accuracy of VADIR reporting.*

Status - Implemented

Agency Action - In our initial audit, we determined the Department did not have a written risk assessment related to compliance with the requirements of the SAVE Act. In July 2014, the Department conducted and documented a risk assessment related to compliance with the SAVE Act and VADIR requirements. The Department used this information to develop new training for schools and improve its own site visit processes to help enhance school safety and improve the completeness and accuracy of VADIR reporting. For instance, in August 2015, the Department and its contractor, the New York State Center for School Safety (CFSS), developed and presented new training, entitled *Reporting Incidents Concerning School Safety and Educational Climate*, at six locations throughout the State. In addition, the Department enhanced the school climate assessment it conducts as part

of the Department's site visits to persistently dangerous schools. The climate assessments include observations and interviews with students, staff, and administrators regarding school climate and safety. The visits also include targeted assistance and guidance for complete and accurate VADIR reporting, including how to code and describe incidents.

Recommendation 2

For Burgard and Fulton, review the incident records for the 2011-12 school year and other years as applicable; determine if either school should have been designated persistently dangerous for 2011-12 or subsequent years; and take appropriate corrective action.

Status - Implemented

Agency Action - During the initial audit, we determined two of the schools we tested, Burgard Vocational High School and Fulton Junior High School, used an incorrect method to identify reportable incidents. Based on our independent assessment of Burgard's and Fulton's 2011-12 incident data, we determined the schools exceeded the Department's threshold that triggers a closer assessment of whether a school is persistently dangerous. In response to our recommendation, the Department reviewed Burgard's and Fulton's incident records for the 2011-12 school year and other years, and determined that neither school met the criteria to be designated as persistently dangerous. Additionally, in March 2015, the Department conducted site visits to each of the schools. During the site visits, the Department reviewed and adjusted how some incidents were reported and classified. The Department also provided technical assistance to help the schools improve how they report data.

Recommendation 3

Comply with provisions of the SAVE Act and the corresponding Regulations that require the Department to:

- *annually designate persistently dangerous schools,*
- *notify local educational agencies of the designation so they can notify parents timely of the option to transfer to a safe public school, if one is available, and*
- *report annual VADIR results to the Governor, the Legislature and the Board of Regents.*

Status - Partially Implemented

Agency Action - Our initial audit found that the Department did not designate persistently dangerous schools for the 2013-14 school year. By not designating these schools, the Department failed to comply with its own Regulations as well as provisions of the federal No Child Left Behind Act of 2001 that require it to notify local educational agencies of this designation in time for these agencies to notify parents of the option to transfer to a safe public school. We also determined the Department did not submit annual VADIR results to the Governor, Legislature, and Board of Regents, as required by the SAVE Act.

In our follow-up review, we determined the Department took steps to comply with the provisions of the SAVE Act and corresponding Regulations that require it to annually designate persistently dangerous schools and notify local educational agencies of the designations. The Department published lists of persistently dangerous schools on its website for the 2014-15 and 2015-16 school years. Additionally, the Department sent letters in 2014 and 2015 to school districts notifying them of schools with a persistently dangerous status.

At the time of our follow-up, the Department had not submitted VADIR results to the Governor, Legislature, and Board of Regents as required. However, Department officials provided a draft copy of a report that will cover VADIR results for the 2012-13, 2013-14, and 2014-15 school years. Once the report is finalized, it will be submitted to the required parties.

Recommendation 4

Improve and enhance training efforts to reach more schools and provide targeted assistance to higher risk schools and school districts. This could include pursuing virtual solutions such as web conferencing and e-learning to reach more schools and allow real-time interaction.

Status - Implemented

Agency Action - Our initial audit found that the Department's training efforts related to SAVE Act requirements needed improvement. The Department has since taken steps to improve and enhance training efforts to reach more schools and provide targeted assistance to higher risk schools and school districts. The Department, in partnership with CFSS, provided training related to VADIR reporting at six regions across the State in August 2015. The Department and CFSS also provided targeted technical assistance during site visits to schools designated as persistently dangerous during the 2014-15 and 2015-16 years as well as other schools, including some identified in our original audit. The assistance included direct guidance on how to code and describe incidents. Additionally, a webinar on cyberbullying has been developed and is proposed for mid-2016.

Recommendation 5

Revisit the existing VADIR guidance available to schools and make changes, as needed, to emphasize and/or clarify:

- *the descriptions of VADIR-reportable incidents and how to record incident information for accurate reporting,*
- *the requirement to maintain incident records and summary VADIR information, and*
- *the requirement to record and report summer school incidents.*

Status - Implemented

Agency Action - The Department revisited VADIR guidance available to schools and made changes to emphasize and/or clarify the items in our recommendation. For example, in April 2016, the Department updated the list of frequently asked questions on its website that relate to VADIR reporting. The list includes questions and answers clarifying when certain kinds of incidents are reportable as well as how long incident and VADIR information must be maintained. As part of its August 2015 VADIR training, the Department also clarified the need to maintain incident records and summary VADIR information. Additionally, in April 2016, the Department added language to its website and sent a memo to school districts emphasizing the requirement to record and report summer school incidents.

Major contributors to this report were Brian Krawiecki, Claudia Christodoulou, and David Brickman.

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

Very truly yours,

David Fleming
Audit Manager

cc: Thalia Melendez, SED
Jhone Ebert, SED
Renee Rider, SED
Sharon Holder, SED
Linda Seaman, SED