



**Office for People With
Developmental Disabilities**

ANDREW M. CUOMO
Governor

KERRY A. DELANEY
Acting Commissioner

December 28, 2018

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

Attached is the Office for People With Developmental Disabilities' comments on the Office of the State Comptroller's Final Audit Report 2017-S-50 entitled "Oversight of Passenger Safety" for the Office for People With Developmental Disabilities.

This response is being submitted to you in accordance with Section 170 of the Executive Law.

Sincerely,

Acting Commissioner

Attachment

**Office for People With Developmental Disabilities’
Response to the Office of the State Comptroller’s
Final Audit Report (No: 2017-S-50):
“Oversight of Passenger Safety”**

The New York State Office for People With Developmental Disabilities (“OPWDD”) disagrees with certain findings and recommendations in the Office of the State Comptroller’s (“OSC”) final audit report (2017-S-50) entitled “Oversight of Passenger Safety.” In this audit, OSC reviewed OPWDD’s transportation services in New York City between April 1, 2015 and June 26, 2018 and reported five key findings and four recommendations.

Consistent with OPWDD’s response to OSC’s audit report, and notwithstanding disagreement with some of the conclusions therein, OPWDD responds as follows:

1. OSC asserted that “because OPWDD drivers repeatedly failed to obey traffic rules, many vehicles assigned to transport OPWDD’s vulnerable clients were issued violations for serious traffic infractions, such as running red lights and speeding through school zones.” However, a large percentage of the violations reported in OSC’s report were non-moving violations, which create relatively few or no safety concerns. Further, OSC failed to analyze whether the various cited violations occurred while individuals with developmental disabilities were in the vehicles. While the vast majority of traffic violations that OSC identified were violations that created few or no significant safety concerns for individuals being served, OPWDD continues to disagree with OSC that their audit has adequately demonstrated that individuals with developmental disabilities were in fact endangered at the time of the audited citations. Nevertheless, the individuals we serve are OPWDD’s highest priority and improvements are underway to further ensure safety compliance.
2. OSC asserted “OPWDD does not analyze traffic violations to identify whether employees need training or counseling, or if they should be reassigned.” For reasons stated above, OPWDD maintains its position that this finding is based upon inadequate information. Nevertheless, OPWDD has taken significant steps to strengthen the monitoring of drivers.
3. OSC asserted “DDSOs are not properly monitoring the License Event Notification Service (LENS) reports to identify drivers whose licenses have been suspended” and recommends that OPWDD “[m]onitor LENS reports to ensure employees maintain valid driver licenses, and strengthen the monitoring process to ensure employees with suspended licenses do not drive OPWDD vehicles.” While OPWDD already engages in such monitoring, OPWDD has taken additional steps to ensure its timely response to LENS data, preventing OPWDD drivers from operating vehicles without a valid driver’s license.
4. OSC asserted that “OPWDD has not provided the Developmental Disabilities State Operations Offices (“DDSOs”) with guidance on how to address the payment and recoupment of fines, penalties, and interest resulting from violations,” and that “fines, interest, and penalties paid by OPWDD for violations incurred by its drivers had not been recouped from the employees responsible.” As previously described, OPWDD disagrees with OSC’s conclusion that these are pervasive problems because, in fact, these issues are not wide-spread and all violations have since been paid. Nevertheless, OPWDD is making improvements that will foster uniform handling and payment of traffic violations and recoupment of fines from employees.
5. OSC asserted that “repairs related to manufacturer recalls are not being done timely, or at all.” OPWDD does not believe OSC identified a systemic issue with OPWDD’s handling of recalls and, as OSC acknowledged, the National Highway Traffic Safety Administration database they utilized is unreliable. Nevertheless, OPWDD is improving its internal recall process.

RESPONSE TO OSC'S RECOMMENDATIONS

Recommendation #1: Analyze traffic violations and driving histories to identify whether employees need training or counseling, or if they should be reassigned.

Response: OPWDD disagrees with OSC's conclusion because the data relied upon by OSC consisted primarily of non-safety violations. Nevertheless, OPWDD has taken significant steps to even further ensure that its employees use safe driving practices. OPWDD will continue to rely upon LENS to notify it of employees who have their licenses suspended or revoked. OPWDD will also continue to monitor violations incurred by employees driving agency vehicles and address employees who demonstrate patterns of unsafe use of agency vehicles. Additionally, OPWDD will continue to reinforce safe vehicle operation during new employee orientation and through periodic refresher training.

Recommendation #2: Establish procedures to identify employees responsible for traffic violations so that fines are paid timely and/or can be recouped. Ensure that the fines, penalties, and interest identified in this report are collected from employees, as warranted.

Response: OPWDD has drafted procedures formalizing the responsibilities of individual drivers, Fleet Management, Business Offices and Human Resource Offices for paying fines and identifying, notifying, and collecting reimbursement from employees responsible for traffic violations. These procedures will be available to all employees and are expected to be finalized for implementation in early 2019. OPWDD is also standardizing the vehicle log forms to personally identify all passengers and drivers. This will allow for expedited identification of employees who commit traffic violations and allow for more efficient recoupment of traffic fines from the drivers responsible. As previously noted, OPWDD has paid all outstanding violations and will ensure any violations incurred in the future are paid timely.

Recommendation #3: Monitor LENS reports to ensure employees maintain valid driver licenses, and strengthen the monitoring process to ensure employees with suspended licenses do not drive OPWDD vehicles.

Response: OPWDD disagrees with the need for this recommendation because it already engages in such monitoring. LENS is used to track and monitor current employee driver status. Upon learning that an employee's license has been suspended or revoked, appropriate administrative action will be taken. To further strengthen practices, OPWDD is reaffirming and distributing policies and procedures relating to LENS to ensure that OPWDD is timely notified of employees whose licenses have been suspended or revoked, that the employee whose license has been suspended or revoked no longer has any driving responsibility until his or her license is reinstated, and that employment administrative proceedings are pursued as a result of the suspension or revocation, if appropriate.

Recommendation #4: Ensure recall repairs are done timely and maintain supporting documentation of the repairs.

Response: OPWDD is finalizing procedures to ensure that future recall repairs are completed timely and that supporting documentation of the repairs is maintained. As previously noted, OPWDD has addressed all recalls identified by OSC in its audit. Six of these vehicles were sent to OGS for disposition and OPWDD continues to resolve open recalls for these vehicles in consultation with OGS. OPWDD has created the position of Fleet Manager whose duties include overseeing recall repairs.