November 21, 2019

Ms. Shannon Tahoe
Acting Commissioner
State Education Department
89 Washington Avenue
Albany, NY 12234

> Re: Implementation of the Dignity for All
> Students Act
> Report 2019-F-32

Dear Ms. Tahoe:

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, *Implementation of the Dignity for All Students Act* (Report 2016-S-28), issued October 13, 2017.

Background, Scope, and Objective

New York State's Dignity for All Students Act (DASA) seeks to provide students in New York with a safe and supportive environment free from discrimination, harassment, and bullying on school property, on school buses, and at school functions. The State Education Department (Department) is responsible for providing guidance to assist school districts in complying with DASA requirements. DASA's initial provisions, which took effect July 1, 2012, included curriculum and annual incident reporting requirements in 12 bias-related categories (race; ethnic group; national origin; color; religion; religious practice; disability; gender; sexual orientation; sex; weight; and an "other" category for incidents not covered in those areas) and required schools to designate a trained Dignity Act Coordinator (DAC). An amendment effective July 1, 2013 defined cyberbullying and added requirements for investigating and reporting alleged incidents. DASA is similar in intent to the Safe Schools Against Violence in Education Act (SAVE), which took effect in 2001 to address issues of school safety and violence prevention in New York's public schools and requires school districts to submit an annual Violent and Disruptive Incident Report (VADIR) to the Department. Beginning with the 2017-18 school year, new Department regulations require that schools report information about both DASA and VADIR incidents in a combined Report on School Safety and the Educational Climate

(SSEC). For the school year ended June 30, 2018, school districts (excluding New York City) reported 15,826 DASA incidents.

Our initial audit report, which covered the period July 1, 2012 through April 4, 2017, evaluated the steps the Department had taken to ensure that school district policies and practices comply with DASA and that school districts report material incidents of discrimination and harassment, as required, to the Department. We also evaluated whether the Department had issued timely DASA guidance to school districts that adequately addresses transgender and gender nonconforming students. We found that the Department generally provided effective oversight of DASA implementation and took steps to support school and district implementation of, and compliance with, its requirements. However, while most schools we visited had implemented key requirements, such as designating DACs, we found gaps in compliance with other critical requirements. For example, more than half of the schools we visited did not communicate DAC contact information throughout the school, and officials at most schools we visited were not aware of DASA record retention requirements. We also found that certain schools may not accurately report some DASA incidents or may not report them at all, and incident records often were not adequate to clearly demonstrate whether or not the incidents were reportable.

The objective of our follow-up review was to assess the extent of implementation, as of October 15, 2019, of the three recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

We found that the Department has implemented two recommendations and partially implemented one recommendation from our initial audit report.

Follow-Up Observations

Recommendation 1

Develop a risk assessment that incorporates known and suspected weaknesses in DASA implementation, and commit sufficient resources to promote school compliance with DASA requirements, including accurate reporting, under the new structure.

Status – Partially Implemented

Agency Action – The Department has not developed a risk assessment that incorporates known and suspected weaknesses in DASA implementation. Department officials stated that they, along with the New York State Center for School Safety (NYSCFSS, with whom they partner to provide services), plan to conduct a reasonability analysis of the 2018-19 SSEC data and follow up with schools based on the results of the analysis. However, they are waiting to receive data from all schools before proceeding with the analysis.

The Department has committed resources to promoting school compliance with DASA requirements, including facilitating accurate reporting. An amendment to Department regulations approved by the Board of Regents in 2018 adds illustrative

examples of reportable DASA incidents to help promote accurate reporting. The amendment background information cited the conclusions from our initial audit among the developments leading to this change. In addition, the Department, in collaboration with the NYSCFSS, has provided more than 30 professional development training sessions – reaching more than 1,400 attendees – since the end of our audit fieldwork in April 2017. It has also made a "DASA & SSEC Self-Assessment" checklist available, through training sessions and on its website, which assists schools in identifying and addressing DASA implementation weaknesses.

Recommendation 2

Work with partners, such as the Center for School Safety, to enhance training to better meet user needs. Efforts should include (but not be limited to): identifying school and district-level resources to facilitate proper electronic reporting and record keeping; and ensuring that training content includes the details that need to be documented in incident investigation records as well as examples that clearly distinguish reportable from non-reportable incidents.

Status – Implemented

Agency Action – The Department, in collaboration with the NYSCFSS, has enhanced its training by providing webinars and training sessions that have been tailored to better meet user needs. Training content now includes examples that clearly distinguish reportable from non-reportable incidents and also includes a template that describes the details that need to be documented in incident investigation records. The NYSCFSS has made the training material available on its website.

Recommendation 3

Remind school and district officials of DASA record retention requirements and address areas of confusion that compromise compliance with these requirements.

Status – Implemented

Agency Action – The Department, along with its partner, the NYSCFSS, has made record retention requirements clear through professional development trainings, such as the August 2018 "Developing a Positive School Climate to Prevent Incidents," and a November 2017 "School Safety and Educational Climate (SSEC) Reporting Forms" webinar. The Department has also included the record retention requirements on the "Responding to Incidents" sample form it made available during an August 2018 training and on the NYSCFSS website. Additionally, the record retention requirement appears on the NYSCFSS website.

Major contributors to this report were Sharon Salembier, CPA, CFE; Karen Bogucki, CGFM; Christopher Herald, CIA, CGAP; and Jacqueline Keeys-Holston.

You are not required to respond to this report. However, if you choose to do so, we ask that you respond within 30 days, indicating any actions planned to address unresolved issues identified in the report. We thank Department management and staff for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Sharon L. Salembier, CPA, CFE
Audit Manager

cc: Division of the Budget
    Sharon Cates-Williams, State Education Department
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