



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

EXECUTIVE DEPUTY COMMISSIONER
(518) 473-8381
E-mail: Sharon.Cates-Williams@nysed.gov

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Mark Ren
Audit Director
Office of the State Comptroller
110 State Street
Albany, NY 12236

Dear Mr. Ren:

Pursuant to Section 170 of the Executive Law, the Commissioner of the New York State Education Department (NYSED) respectfully submits the following information regarding the steps that were taken to implement the recommendations contained within the Office of the State Comptroller's report "Licensing and Monitoring of Proprietary Schools, Report 2019-S-68."

In response to OSC's recommendations, NYSED has developed newly proposed regulations addressing the areas of school financial viability analysis, school accountability, academic progress assessment, and other student protections. These proposed regulations were presented at the June 2021 Board of Regents meeting and were published in the State Register on June 23, 2021, for a mandatory 60-day public comment period (See: <http://www.regents.nysed.gov/common/regents/files/621accesd1.pdf>). It is anticipated that the proposed regulations will be presented to the Board of Regents for permanent adoption at the September 2021 Regents meeting.

Additionally, NYSED has obtained waivers from the New York State Division of the Budget, to hire an Education Finance Specialist-2 and an Education Finance Specialist-1. These positions will be dedicated to the review and monitoring of proprietary schools' financial viability. NYSED has been actively engaged in the recruitment process, and anticipates filling these positions by mid-August 2021.

The proposed regulations, if adopted by the Board of Regents, coupled with the new positions dedicated to the review and monitoring of schools' financial viability will enable NYSED to fully meet each of OSC's recommendations.

OSC Recommendation 1.a.: Develop policies and procedures to ensure pre-licensed schools' financial information and licensed schools' financial statements are in compliance with requirements.

NYSED Response: NYSED's implementation of the newly proposed regulations will fully address this recommendation.

OSC Recommendation 1.b.: Develop policies and procedures to ensure schools' financial viability is determined using more objective measures in accordance with the Law and Regulations.

NYSED Response: NYSED's implementation of the newly proposed regulations will fully address this recommendation.

OSC Recommendation 1.c.: Develop policies and procedures to require every school's occupational and educational data survey (OEDS) be analyzed for potential problems or negative trends with appropriate benchmarks.

NYSED Response: NYSED's implementation of the newly proposed regulations will fully address this recommendation.

OSC Recommendation 1.d.: Develop policies and procedures to ensure that inspections are fully completed and documented and that determinations rendered are consistent.

NYSED Response: Under the leadership of the Director of the Bureau of Proprietary School Supervision (BPSS), the BPSS Education Team has met regularly throughout the past several months with a focus on redesigning its procedures for documenting the full scope of inspections and for better aligning inspection reports to objective criteria for licensure determinations. Additionally, as an internal control for consistency and alignment, the BPSS Supervisor of Education Programs performs an added level of supervisory review and approval of inspection reports to ensure consistency and alignment across reviewers.

OSC Recommendation 2.: Train staff on policies and procedures enhancing their understanding and interpretation of financial information.

NYSED Response: The Education Finance Specialist positions currently being recruited will provide the foundation for implementing new procedures for monitoring schools' financial viability, and will train existing staff who are a part of the work-flow processes. In the interim, staff in BPSS have been receiving support and technical assistance from the Adult, Career, and Continuing Education Service's (ACCES) Fiscal and Administrative Services Team (FAST) and NYSED's Office of Audit Services to aid in its interpretation of financial information.

OSC Recommendation 3.: Utilize the mechanisms identified in the Law, such as probation or performance bond requirements, when a school is identified with financial viability issues.

NYSED Response: The newly proposed regulations provide the necessary regulatory procedures through which BPSS can implement this recommendation in a transparent and repeatable manner.

OSC Recommendation 4.: Develop a process to identify and follow up with schools that have not submitted the required documentation and to identify unapproved financial statements and OEDSs so reviews are completed timely.

NYSED Response: NYSED has made the task of identifying and following up with schools that have not submitted financial statements or OEDSs a formal expectation of the Education Program Assistant-1 (EPA) in BPSS, who has performed these functions in collaboration with staff from the Information Technology (IT) unit that provide support for BPSS's web-based submission portal.

OSC Recommendation 5.: Institute controls that require financial statements and OEDSs to be submitted and approved before a school's license can be renewed, in accordance with the Law.

NYSED Response: As an additional internal control, the BPSS Licensing Supervisor, has been providing supervisory review to ensure that financial statements and OEDSs are submitted and approved before a school's license can be renewed. The BPSS Licensing Supervisor has retired from State service in June 2021, and this position is now vacant. In the interim, until this Licensing Supervisor position can be filled, an Associate in Occupational School Supervision has been tasked with performing this review function. It is also anticipated that the two Education Finance Specialist positions in the process of being filled will play a key role in maintaining internal controls in these areas.

OSC Recommendation 6.: In light of limited resources, consider upgrades to the database to automate processes that are currently performed manually.

NYSED Response: BPSS has been working collaboratively with staff from NYSED's IT unit to identify solutions to automate processes that are currently performed manually. Such upgrades, however, may require additional resources that are not currently available. In addition, BPSS has been working collaboratively with ACCES' Data Unit to identify additional technology solutions that are already available. For example, the BPSS complaint management process is currently being moved from its existing system, to SharePoint, which is currently available to BPSS, and which should make the complaint management process more efficient.

If you have any questions regarding this response, please contact Owen Donovan, Director of the Bureau of Proprietary School Supervision, at Owen.Donovan@nysed.gov.

Yours truly,

Sharon Cates-Williams

Sharon Cates-Williams

c: Ceylane Meyers-Ruff
Owen Donovan
Lauren Newell
James Kampf