



New York State Comptroller  
**THOMAS P. DiNAPOLI**

# Oversight of Mental Health Education in Schools

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State Education Department

Report 2020-S-63 | April 2022

Spotlight on Education



# Audit Highlights

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## Objectives

To determine what steps the State Education Department (Department) is taking to ensure that school districts have the necessary mental health education in place as required by law. We also sought to determine what mental health services are available at the school districts. Our audit covered the period July 2018 through August 2021.

## About the Program

As the steward of New York State's education program, the Department is charged with the general management and supervision of the State's school districts and the education of approximately 2.6 million students statewide.

The coronavirus disease 2019 (COVID-19) pandemic has presented many challenges to students, educators, and parents. Children already coping with mental health conditions have been especially vulnerable to the changes, and now we are learning about the broad impacts on students as a result of schools being closed, physical distancing guidelines and isolation, and other unexpected changes to their lives. In mid-March 2020, schools across the United States, including New York State, went into lockdown and needed to rapidly adopt remote learning. Among other consequences of these challenges, teachers, students, and their families have experienced increased stress and anxiety, which has led to a decline in mental health. The American Psychological Association reports that nearly 81% of teenagers experience more intense school-related stress due to COVID-19. In October 2021, a coalition of the nation's leading experts in pediatric health (American Academy of Pediatrics, Children's Hospital Association, and American Academy of Child and Adolescent Psychiatry) issued an urgent warning that the mental health crisis among children is so dire that it has become a national emergency.

To help confront the mental health crisis among youth in New York State, the Mental Health Association in New York State, Inc., a non-profit organization, led a call to action for a State law that would require mental health instruction in the kindergarten–Grade12 health curriculum. With the passage of the legislation, which amended Section 804 of the Education Law (Law) effective July 1, 2018, New York became the first state to require that health education in schools must include instruction in mental health. The Law mandates all school districts to ensure that their health education programs recognize the multiple dimensions of health by including mental health and the relation of physical and mental health to enhance student understanding, attitudes, and behaviors that promote health, well-being, and human dignity.

In addition to education, mental health services are an important component of a mental health program; however, the Law stops short of requiring that all students have access to in-school mental health services. Although school districts are not required to provide mental health services to students unless specified in an individualized education program (IEP), schools are often considered the natural and best setting for comprehensive prevention and early intervention services for all students, including those without identified education disabilities. The need for mental health services will likely increase as COVID-19–related and other life stresses continue to plague students.

## Key Findings

The Department has taken steps to aid school districts in implementing mental health education into their health education curriculum, namely in the form of issued guidance and resources made

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available on its website. For example, the Department's 2018 "Mental Health Education Literacy in Schools: Linking to a Continuum of Well-Being" guide provides evidence-based and best practice instructional resources and materials to assist school districts in developing classroom instruction that complies with the Law. Additionally, during the COVID-19 pandemic, it issued guidance to schools with recommendations on how to help students and what resources were available.

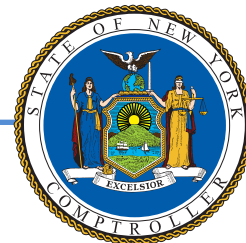
While not assigned specific oversight responsibilities under the amended Law, the Department is charged with the general management of public schools and the educational work of the State. Given the magnitude of the escalating mental health crisis among students, the Department should have a means to assure itself that school districts statewide have established a mental health curriculum and that schools are implementing it. However, the Department does not require school districts to submit any documentation or other information to verify their compliance with the Law, and thus has no assurance that all school districts have developed and implemented the required mental health education curriculum.

For a sample of 22 school districts we surveyed, all were able to describe the mental health curriculum they implemented; however, only 19 actually provided supporting documentation to show they implemented some sort of mental health education and met the minimum requirements of the Law. Furthermore, we found that the mental health curricula varied among these 19 school districts. Without some level of oversight, the Department cannot be assured that students are receiving mental health education or that the instruction achieves the intent of the Law: to enhance student understanding, attitudes, and behaviors that promote health, well-being, and human dignity.

While the State's commitment to mental health through education is critical, the fight against the mental health crisis is waged not only through education but also the provision of services. When students, in all school districts statewide, are educated about mental health as an important aspect of overall health and well-being, they will be better equipped to effectively recognize signs and symptoms related to mental health issues in themselves and others and will know where to turn for help. In turn, the stigma that surrounds mental health issues will decrease. Although schools are often considered the natural and best setting for comprehensive prevention and early intervention services for all students, we determined that, for many school districts, their mental health teams (i.e., school-employed psychologists, counselors, and social workers) are understaffed, based on staff-to-student ratios recommended by the National Center for School Mental Health and the National Association of School Psychologists.

## Key Recommendations

- Develop a mechanism to determine if school districts are providing mental health education as required by Law.
- Explore partnering with State and local entities to determine whether school districts should maintain certain staffing levels for mental health professionals.



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**Office of the New York State Comptroller  
Division of State Government Accountability**

April 11, 2022

Betty A. Rosa, Ed.D.  
Commissioner  
State Education Department  
State Education Building  
89 Washington Ave  
Albany, NY 12234

Dear Dr. Rosa:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Oversight of Mental Health Education in Schools*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Division of State Government Accountability*

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# Glossary of Terms

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Term	Description	Identifier
ARP	American Rescue Plan Act of 2021	<i>Law</i>
CDC	Centers for Disease Control and Prevention	<i>Federal Agency</i>
COVID-19	Coronavirus disease 2019	<i>Key Term</i>
Department	State Education Department	<i>Auditee</i>
ESSER Fund	Elementary and Secondary School Emergency Relief Fund	<i>Federal Funds</i>
Guide	The Department's 2018 "Mental Health Education Literacy in Schools: Linking to a Continuum of Well-Being"	<i>Guide</i>
IEP	Individualized education program	<i>Key Term</i>
Law	Education Law Section 804	<i>Law</i>
LEA	Local Education Agency	<i>Key Term</i>
MHANYs	Mental Health Association in New York State, Inc.	<i>Non-Profit Organization</i>
MTSS	Multi-tiered system of support	<i>Key Term</i>
Regulations	New York Codes, Rules and Regulations, Title 8, Part 135	<i>Regulation</i>

# Background

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As the steward of New York State's education program, the State Education Department (Department) is charged with the general management and supervision of the State's school districts and the education of approximately 2.6 million students statewide.

Mental health is defined as a state of well-being in which every individual realizes their own potential, can cope with the normal stress of life, can work productively and fruitfully, and is able to make a contribution to their community. Each day in the United States, millions of children and adolescents go to school with mental health concerns that threaten their well-being and educational performance. Positive mental health allows children to think clearly, develop socially, and learn new skills. Additionally, good friends and encouraging words from caring adults are important for helping children develop self-confidence, high self-esteem, and a healthy emotional outlook on life.

Rates of childhood mental health concerns and suicide have been increasing steadily since 2010. According to the Centers for Disease Control and Prevention (CDC), among the New York State high school student population in 2017 (approximately 808,150 according to SED data), 17.4% (140,618) have seriously considered suicide and 10.1% (81,623) have made non-fatal suicide attempts. Since then, with the stress brought on by the coronavirus 2019 disease (COVID-19) pandemic, the rates have only escalated.

The COVID-19 pandemic has presented many challenges to students, educators, and parents. Children already coping with mental health conditions have been especially vulnerable to the changes, and now we are learning about the broad impacts on students as a result of schools being closed, physical distancing guidelines and isolation, and other unexpected changes to their lives. In mid-March 2020, schools across the United States, including New York, went into lockdown and needed to rapidly adopt remote learning. Among other consequences of these extraordinary challenges, teachers, students, and their families have experienced increased stress and anxiety, which has led to a decline in mental health. The American Psychological Association reports that nearly 81% of teenagers experience more intense school-related stress due to COVID-19. According to the CDC, in 2020, the percentage of emergency department visits for mental health emergencies rose by 24% for children 5 to 11 years of age and 31% for those aged 12 to 17. In October 2021, a coalition of the nation's leading experts in pediatric health (American Academy of Pediatrics, Children's Hospital Association, and American Academy of Child and Adolescent Psychiatry) issued an urgent warning that the mental health crisis among children is so dire that it has become a national emergency.

To help confront the mental health crisis among youth in New York State, the Mental Health Association in New York State, Inc. (MHANYS), a non-profit organization, led a call to action for a State law that would require mental health instruction in the kindergarten–Grade 12 health curriculum. With the passage of the legislation, which amended Section 804 of the Education Law (Law) effective July 1, 2018, New York became the first state to require that health education in schools must

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include instruction in mental health. Under Section 305 of the Education Law, the Department is responsible for enforcing the legislation.

The Law mandates all school districts ensure that their health education programs recognize the multiple dimensions of health by including mental health and the relation of physical and mental health to enhance student understanding, attitudes, and behaviors that promote health, well-being, and human dignity. As stated in the Assembly memorandum submitted in support of the legislation:

By ensuring that young people learn about mental health, we increase the likelihood that they will be able to more effectively recognize signs in themselves and others, including family members, and get the right help. Further, as we begin to teach the facts about mental health and openly discuss the issues from a health perspective, we will begin to remove the stigma surrounding mental illness – a stigma that causes ostracism and isolation, leads to bullying and keeps many students from getting the help they need.

The Regulations of the Commissioner of the State Education Department (New York Codes, Rules and Regulations, Title 8, Section 135.3) were accordingly amended:

- Elementary school (kindergarten–Grade 6) teachers must provide for students' participation in planned activities to develop the ability to make constructive decisions regarding their social, emotional, physical, and mental health.
- Mental health instruction shall be included as a topic in the health education curriculum, which is required for all students in junior and senior high school (Grades 7–12) and must be taught by teachers holding a certificate to teach health.

The Law does not mandate a specific health education curriculum for all school districts statewide, but rather gives school districts latitude in developing their own to meet their particular need. The Department provides guidance to school districts for developing their own appropriate and effective health education curriculum that meets local community needs and conforms to State or school district requirements.

In addition to education, mental health services are an important component of a mental health program; however, the Law stops short of requiring that all students have access to in-school mental health services. Although school districts are not required to provide mental health services to students unless specified in an individualized education program (IEP), schools are often considered the natural and best setting for comprehensive prevention and early intervention services for all students, including those without identified education disabilities. The need for mental health services will likely increase as COVID-19–related and other life stresses continue to plague students.



# Audit Findings and Recommendations

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The Department has taken steps to aid school districts in implementing mental health education into their health education curriculum, namely in the form of issued guidance and resources made available on its website. For example, the Department's 2018 "Mental Health Education Literacy in Schools: Linking to a Continuum of Well-Being" (Guide) provides evidence-based and best practice instructional resources and materials to assist school districts in developing classroom instruction that complies with the Law. Additionally, during the COVID-19 pandemic, it issued guidance to schools with recommendations on how to help students and what resources were available. For example, the guidance recommended school districts ask students how they are doing and what they need, listen, and promote mental health resources for those currently in distress/crisis.

While not assigned specific oversight responsibilities under the amended Law, the Department is charged with the general management of public schools and the educational work of the State. Given the magnitude of the escalating mental health crisis among students, the Department should have a means to assure itself that school districts statewide have established a mental health curriculum and that schools are implementing it. However, the Department does not require school districts to submit any documentation or other information that would verify their compliance with the Law, and thus has no assurance that all school districts have developed and implemented the required mental health education curriculum.

For a sample of 22 school districts we surveyed, all were able to describe the mental health curriculum they implemented; however, only 19 actually provided supporting documentation to show they implemented some sort of mental health education and met the minimum requirements of the Law. Furthermore, we found that the mental health curricula varied among these 19 school districts. Without some level of oversight, the Department cannot be assured that students are receiving mental health education or that the instruction achieves the intent of the Law: to enhance student understanding, attitudes, and behaviors that promote health, well-being, and human dignity.

While the State's commitment to mental health through education is critical, the fight against the mental health crisis is waged not only through education but also the provision of services. When students, in all school districts statewide, are educated about mental health as an important aspect of overall health and well-being, they will be better equipped to effectively recognize signs and symptoms related to mental health issues in themselves and others and will know where to turn for help. In turn, the stigma that surrounds mental health issues will decrease. Although school districts are not required to provide mental health services to students unless specified in an IEP, schools are often considered the natural and best setting for comprehensive prevention and early intervention services for all students. However, we determined that, for many school districts, their mental health teams (i.e., school-employed psychologists, counselors, and social workers) are understaffed, based on staff-to-student ratios recommended by the National Center for School Mental Health and the National Association of School Psychologists. Specifically, of the 686 school districts we analyzed in New York State (excluding New York City):

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- 450 (66%) do not meet the recommended ratio of one school counselor for every 250 students.
  - 344 (50%) do not meet the recommended ratio of one school psychologist for every 500 students.
  - 653 (95%) do not meet the recommended ratio of one school social worker for every 250 students.
  - 19 school districts reported having no mental health professional staff at all.

Without sufficient staffing of mental health professionals, school districts are limited in their ability to help all students manage their mental health issues. Particularly because the need for mental health services will likely increase as COVID-19–related and other life stresses continue to weigh on students, the Department should proactively partner with State and local entities to help make sure that school districts are appropriately equipped with sufficient staffing to ensure all students’ mental health needs are being met.

## Mental Health Education

As mentioned, the Law does not mandate a specific health education curriculum for all school districts, but rather gives school districts the latitude to develop their own based on their particular needs. While the Law did not establish any specific oversight requirements for the Department, its intent – to promote students’ mental health and well-being through knowledge and understanding and ultimately stem the rising mental health crisis among youth – is only fulfilled to the extent that school districts comply with the curriculum requirements. However, the Department has not taken any action to proactively ensure that school districts have developed and implemented a mental health curriculum.

We met with 22 school districts to determine their compliance with the requirements of the Law. All 22 school districts were able to describe the mental health curriculum they implemented, which included planned activities for kindergarten through Grade 6 and instruction for Grades 7 to 12; however, only 19 school districts provided supporting documentation to show they implemented some sort of mental health education and met the minimum requirements of the Law. Despite our numerous requests, the remaining three school districts did not provide any supporting documentation for the curriculum and services they discussed.

We found that the mental health curricula varied among these 19 school districts. These school districts incorporated planned activities for developing attitudes and knowledge that contribute to students’ sense of self-worth, respect for their bodies, and ability to make constructive decisions regarding their social and emotional health. Among some of the more noteworthy efforts:

- One school district uses a Counseling Assessment Form to collect student data related to their academic needs and behaviors, social-emotional behaviors, and communication skills, and established social-emotional learning benchmarks

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to help meet any needs identified in the assessment. The school district's curriculum incorporates a variety of programs that teach self-management skills, creating positive relationships, and ethical decision making, including CASEL (Collaborative for Academic, Social, and Emotional Learning), Mindful Mornings, and Growth Mindset. The school district also gives self-assessments to middle school and high school students, who participate in self-care challenges and gratitude exercises.

- Another school district implemented the RULER model, an evidence-based approach to social-emotional learning developed by the Yale Center for Emotional Intelligence that supports the entire school community in understanding the value of emotions, building the skills of emotional intelligence, and creating and maintaining a positive school climate. It also used New York State standards to establish social and emotional curricula for high school students. In addition, this school district established an Alternative Learning Center to help students needing additional mental health support cope with relationships, schoolwork, and stress.
- Another school district uses the curriculum available from EVERFI, an online platform, which has units on mental wellness, mental health disorders, and coping skills.

With the COVID-19 pandemic forcing school closures and remote learning, and the related uncertainty and fears creating greater mental health risks for students, school districts had to adapt their delivery of mental health education and support. All 22 school districts interviewed reported taking measures to continue mental health education during COVID-19, offering in-person, hybrid, or remote education. These school districts provided online education and mental health counseling through various teleconference meeting platforms such as Google Classroom and Zoom. Although most school districts reported providing additional support during the COVID-19 pandemic, such as providing meals to students and families and making home visits, we found some took a much more proactive role in supporting students' mental health during this challenging time. For example:

- One school district established an online parent forum and met with parents individually to discuss their child's needs. Acknowledging the toll also to those on the "front lines," the school district issued surveys to parents and staff to gauge their emotional well-being. The school district also formed a Social Emotional Learning Committee to provide professional development to staff to help them deal with the various issues the students may experience and launched monthly topics that focus on mental health awareness and self-care.
- Another school district sent out surveys to middle school and high school students to identify needs. Based on this survey, the school district developed stress-coping mechanisms, including a "mental health classroom."
- In addition to providing Chromebooks to students and delivering meals, another school district also supplied students with library books and math games.

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In response to our findings, Department officials stated they do not prescribe curriculum in any subject; rather, they set education standards that are reviewed and adopted by the Board of Regents. The education standards determine what students should learn at certain grade levels. For example, the health standards state elementary students should be able to demonstrate the use of interpersonal communication skills to enhance health. High school students should understand ways to promote a healthy lifestyle through their understanding of human development and their ability to identify characteristics of social and emotional health.

The Department also stated that, although it does not require school districts to submit information related to the curriculum for any subject, nor does it set, review, or evaluate curriculum for any subject, it does measure students' learning in certain subjects through exams. While this may be true for certain subjects, such as math and science, because examinations are required by law, no such law currently exists related to mental health education. The Department has no means by which to gauge students' mental health learning.

In response to our findings, the Department emphasized that the importance of instruction about health and well-being cannot be minimized. It not only informs students of the relationship between mental and physical health to help them make healthier choices but, when faced with a mental health challenge in themselves or others, also equips them to respond with understanding attitudes and behaviors that promote health, well-being, and human dignity. The Department also stressed that it is the responsibility of the members of the local boards of education in conjunction with local school district administrators to develop and implement policies and practices that fulfill the statutory and regulatory requirements in a manner that meets the needs of the school community. Department officials stated they will remind district officials of the need to provide instruction in the required subjects and maintain supporting documentation.

We agree that it is the role of the members of the local boards of education and the local school district administrators to meet the requirements of the Law and establish a curriculum that meets the need of the school community. However, the nation is now facing what the U.S. Surgeon General has described as an urgent public health crisis among youth – an alarming increase in the prevalence of certain mental health challenges. Mental health education is one of the key ways school districts can support the mental health of all students. With the stakes so high, some level of assurance by the Department is needed to ensure we avert this preventable crisis.

## **Recommendation**

1. Develop a mechanism to determine if school districts are providing mental health education as required by Law.

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## Mental Health Services

Mental and behavioral health is a necessary focus of education if schools are to play a role in improving outcomes for their students. Of those students who do receive assistance, the vast majority (70–80%) receive mental health services in schools. Further, youth are six times more likely to complete evidence-based treatment when it is offered in schools versus in community settings. As such, schools are often considered the natural and best setting for comprehensive prevention and early intervention services for all students.

According to the National Center for School Mental Health and the National Association of School Psychologists, comprehensive school mental health systems promote well-being and social-emotional health for all students and staff, while also supporting those with mental health challenges. The success of a comprehensive school mental health and behavioral health system relies on educators, school-employed mental health professionals, other specialized instructional support personnel, and community health and mental health providers working across a multi-tiered system of support (MTSS). The MTSS approach ensures that all students, including those in both general and special education, can access an array of services and that all students have exposure to universal mental health supports. Effective collaboration between school-employed and community mental health partners broadens the availability of supports and enhances access to mental health care.

There is no law that requires schools to provide mental health services, unless they are specified in a student's IEP. However, as the Department's Guide explains, MTSS ensures that support of, and for, mental health well-being is woven into the very fabric of a school's climate and culture. The Guide also advises that facilitating the relationship between schools and community agencies is critical to positively impact school climate to support all students, especially those experiencing mental health needs, as well as to connect more students with the help they need.

Together, school-employed and community-employed mental health professionals make important contributions to school mental health. However, these partnerships, and any progress resulting thereof, are a challenge to sustain if a school has an understaffing of mental health professionals. In such a scenario, the school mental health professionals might have to restrict their focus to students with the most severe needs, and may not be able to provide critical prevention and early intervention services and supports.

The National Center for School Mental Health and the National Association of School Psychologists recommend the following professional staff-to-student ratios for optimal comprehensive mental health services:

- School psychologist: One per 500 students
- School counselor: One per 250 students
- School social worker: One per 250 students

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Each year, the school districts self-report the total number of mental health professionals (psychologists, counselors, and social workers) they employ. Based on our analysis of this self-reported data for the 2019-20 school year, we determined that many school districts fall well below the recommended ratios for school-employed mental health professionals ([see tally by school district](#)). Of the 686 school districts:

- 450 (66%) did not meet the recommended ratio of one school counselor for every 250 students.
- 344 (50%) did not meet the recommended ratio of one school psychologist for every 500 students.
- 653 (95%) did not meet the recommended ratio of one school social worker for every 250 students.
- 19 school districts reported having no mental health professional staff.

The current widespread shortage of school-employed mental health professionals across the State could have dire consequences later. We recommend the Department take preemptive action by partnering with State and local entities to determine whether school districts should maintain certain staffing levels for mental health professionals to better serve the needs of their student populations.

In response, the Department again deferred responsibility to the localities, stating that it is up to the school districts and the boards of education to determine the staffing levels that meet the needs of the school community. Officials also pointed to mental health understaffing as the collateral damage from budget cuts imposed by the former Executive during the height of the COVID-19 crisis, which crippled the neediest New York school districts that serve the highest percentage of students in need.

In response to our preliminary findings, Department officials highlighted the American Rescue Plan Act of 2021 (ARP). ARP makes available \$122.8 billion nationally in a third round of Elementary and Secondary School Emergency Relief (ESSER) Fund allocations. New York State has been allocated nearly \$9 billion under the ARP's ESSER Fund. ARP requires that a minimum of 90% be allocated to Local Education Agencies (LEAs) and that each LEA reserve 20% of the funds to address the academic impact of lost instructional time and respond to the academic, social, emotional, and mental health needs of all students, particularly those students disproportionately impacted by the COVID-19 pandemic. The influx of needed funds will allow many school districts to supplement their existing supports for students by hiring additional school psychologists, counselors, and social workers. However, Department officials noted that these funds are temporary, and it will be difficult to maintain staffing levels once the federal funds are no longer available. Therefore, it is crucial the Department work with State and local entities to determine the needs for mental health professionals in school districts and make sure they are met.

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## Recommendation

2. Explore partnering with State and local entities to determine whether school districts should maintain certain staffing levels for mental health professionals.



# Audit Scope, Objectives, and Methodology

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The objectives of our audit were to determine what steps the Department is taking to ensure that school districts have the necessary mental health education in place as required by law and what mental health services are available at the school districts. Our audit covered the period July 2018 through August 2021.

To accomplish our audit objectives and assess internal controls related to our objective, we reviewed relevant laws, regulations, and guidance. We interviewed Department officials and school district officials to gain an understanding of their practices related to mental health education and obtained relevant documents pertaining to mental health education. We also interviewed officials from MHANYS and other associations supporting school mental health professionals to gain an understanding of their roles in mental health services in schools.

We selected a judgmental sample of 25 out of 686 school districts (the 686 school districts are those that are noted as major and the “Big 5,” excluding New York City); the first five were selected based on geographic location and student population, and the remaining 20 were selected because the school district either provided vague answers to survey questions, did not respond to our survey, or was located in a county with risk of high suicide rate. To gain an understanding of mental health education being provided by school districts, we held virtual meetings with 22 of the 25 sampled school districts and reviewed documents from 19 of those districts. We limited the sample to 22 of the 25 due to difficulties related to COVID-19 and based on the findings of the initial 22 sampled. The sample selected was not projected or intended to be projected across the population as a whole. We determined that the data used to pull our sample and perform our analysis was sufficiently reliable for our use in accomplishing our audit objectives.

For the portion of the report dealing with staffing levels, we compared staff-to-student ratios at school districts with those recommended by professional organizations. However, neither the Department nor the school districts are required to comply with these ratios by State Law or by Department rule, regulation, or policy. We analyzed mental health position data (psychologists, counselors, and social workers) submitted by school districts for the 2019-20 school year. Each year, the school districts self-report the total number of mental health professionals (psychologists, counselors, and social workers) they employ. The Department relies on the school districts to submit this information and attest to its accuracy without performing any reliability testing. We performed limited data reliability testing, which identified potential errors/anomalies in the data. Despite the uncertainties with the data, it is the only information about mental health professionals employed by the school districts available to us and to the Department. We have therefore used this data in our analysis of whether mental health teams at school districts meet recommended staff-to-student ratios.



# Statutory Requirements

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## Authority

The audit was performed 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 conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The Mental Health Services section of this report's findings are based on two national organizations' recommended professional staff-to-student ratios for optimal comprehensive mental health services. No other required or recommended ratios are available; thus, the auditors used these ratios on which to make their observations.

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. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of the Department's oversight of mental health education in schools.

## Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal comment. We considered their comments in preparing this report and have included them in their entirety at the end of the report. Department officials generally agreed with the recommendations and have indicated actions they will take to address them.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the State Education Department shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

# Agency Comments

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

EXECUTIVE DEPUTY COMMISSIONER  
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March 29, 2022

Mr. Brian Reilly  
Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street - 11<sup>th</sup> Floor  
Albany, NY 12236-0001

Re: Draft Audit Report - 2020-S-063, Issued March 2, 2022

Dear Mr. Reilly:

The New York State Education Department (Department) offers the following response to the Office of the State Comptroller's (OSC) draft audit report (2020-S-063), *New York State Education Department's (SED) Oversight of Mental Health in Schools*.

Effective July 1, 2018, New York became the first state to require that mental health be included as part of the health curriculum taught in schools.<sup>1,2</sup> The Department acknowledges the critical importance of including mental health as a component of school health curriculum and welcomes OSC's input regarding how the Department may further support schools and students in this endeavor.

The Department would like to emphasize that instruction designed to inform students about the importance of mental health as one of several dimensions of overall health and well-being is very different than the provision of mental health services. The former not only informs students of the relationship between mental and physical health to assist them in making healthier choices, but equips them to respond when faced with a mental health challenge in themselves or others with understanding, attitudes and behaviors that promote health, well-being, and human dignity. While instruction in mental health and overall health and well-being is critically important, it is not a substitute for mental health services provided by a qualified mental health professional. Such services are most often provided by a licensed mental health professional outside the school setting.

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<sup>1</sup>[https://assembly.state.ny.us/leg/?default\\_fld=&leg\\_video=&bn=A03887&term=2015&Summary=Y&Memo=Y&Text=Y](https://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A03887&term=2015&Summary=Y&Memo=Y&Text=Y)

<sup>2</sup> <https://www.nbcnews.com/better/health/fall-all-new-york-students-will-be-learning-about-mental-ncna911031>

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Education Law §804 specifically provides that Commissioner's Regulations regarding health education allow that "contents may be varied to meet the needs of particular school districts.....and need not be uniform throughout the state." The required guidance documents from the Department are available here: <http://www.nysed.gov/curriculum-instruction/mental-health>.

**OSC Recommendation 1:** *Develop a mechanism to determine if school districts are providing mental health education as required by Law.*

**SED Response to Recommendation 1:** It is the responsibility of the members of the local board of education in conjunction with local school district administrators to develop and implement policies and practices that fulfil the statutory and regulatory requirements in a manner that meets the needs of the school community.

OSC indicates that all 22 districts they engaged for this audit (100%) could describe the mental health curriculum they implemented, and that 19 of the 22 (86%) were able to provide supporting documentation of their compliance with the curriculum requirements.

To be responsive to the recommendation, the Department will explore the possibility of collecting an annual attestation from district administrators confirming that instruction in mental health was provided in accordance with statutory requirements.

**OSC Recommendation 2:** *Explore partnering with State and local entities to determine whether school districts should maintain certain staffing levels for mental health professionals.*

**SED Response to Recommendation 2:** It is the responsibility of local school district officials and the local board of education to determine the staffing levels that meet the needs of the school community they serve. The mental health and well-being of students is of utmost concern to the Department as well as to school officials and to the general public.

The Department has a longstanding practice of seeking input from organizations that represent New York's educators and education leaders, including the New York State School Counselor Association, the New York Association of School Psychologists, the New York State School Social Workers' Association, the New York State School Boards Association, and the School Administrators Association of New York State, among others.

In addition, the Commissioner of Education meets regularly with the commissioners of the Office of Mental Health, the Department of Health, the Office of Children and Family Services and the Division of Criminal Justice Services to discuss issues and identify solutions that pertain to those that we serve. Through this collaboration, the Department will continue to prioritize mental health needs and a variety of other concerns pertaining to all agencies and the supports and scaffolds needed by all entities serving New York.

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Moreover, the Board of Regents' priorities include additional mental health supports for schools as evidenced by the Board's budget and legislative request for additional funding to increase and improve Department capacity, as well as the capacity of districts to implement mental health supports in schools.<sup>3</sup> This priority focus to expand the availability of mental health supports in schools is also shared by the Executive as well as the Senate and Assembly, as evidenced by their respective proposed budgets.

To be responsive to this recommendation, the Department will continue the collaborative efforts with State and local entities and will persistently advocate for additional funds to support schools in these efforts.

The Department appreciates this opportunity to provide a response to the OSC draft audit report. If you have any additional questions or need additional clarification, please contact Kathleen DeCataldo at [Kathleen.DeCataldo@nysed.gov](mailto:Kathleen.DeCataldo@nysed.gov).

Yours truly,



Sharon Cates-Williams

c: Kathleen DeCataldo  
Marybeth Casey  
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<sup>3</sup> <https://www.regents.nysed.gov/common/regents/files/1121p12d3.pdf>

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