

THOMAS P. DINAPOLI
STATE COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

March 15, 2023

David C. Banks
Chancellor
New York City Department of Education
52 Chambers Street
New York, NY 10007

Re: Compliance With Special Education
Requirements – Evaluations
Report 2022-F-26

Dear Chancellor Banks:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article III, Section 8 of the General Municipal Law, we have followed up on the actions taken by officials of the New York City Department of Education to implement the recommendations contained in our audit report *Compliance With Special Education Requirements – Evaluations* (Report [2017-N-3](#)).

Background, Scope, and Objective

In New York State, the Regulations of the Commissioner of Education (Regulations) stipulate requirements for the referral, evaluation, Individualized Education Program (IEP) development, and placement of students in special education.

The New York City Department of Education (DOE) – the nation's largest school system, comprising 32 school districts – served approximately 900,000 students at its more than 1,500 elementary, middle, and high schools (excluding charter schools/students) and provided special education services to approximately 192,000 of these students in the 2021-22 school year.

The DOE is responsible for evaluating students to determine their eligibility for special education services and for ensuring eligible students receive appropriate services. Toward this end, the DOE follows a multi-step evaluation and placement process. The evaluation component – the focus of the initial audit report – includes a referral from a parent/guardian or other interested stakeholder, parental consent to conduct the evaluation, a series of student assessments, and an IEP meeting, at which time an IEP is developed if the student is deemed eligible for special education services. The Regulations specify a 60-calendar-day time frame for completing evaluations. Any delay in conducting the evaluations may cause delay in the provision of services, thus adversely impacting students' educational growth.

Pursuant to New York City Local Law 27 of 2015 (Local Law 27), the DOE annually reports statistical measures, including the number of initial referrals, their disposition, and the number of resulting IEP meetings held during the school year, to the New York City Council. The DOE generates Local Law 27 Annual Reports on Special Education (Annual

Reports) based on data in its Special Education Student Information System (SE SIS), which the DOE uses to record and track students' information, including referrals, evaluations, and placement. However, in both its Annual Report for school year 2016-17 and a May 2016 SE SIS Assessment Report, the DOE acknowledged shortcomings with SE SIS, including deficiencies in its design for capturing, processing, and storing information, that negatively affect its ability to reliably report on specific compliance metrics. The DOE also identified areas for remediation and enhancement and reported actions that either had been or will be taken to improve its performance. According to the DOE, it is anticipating launching a new Special Education Data Management System in summer 2024 to replace SE SIS.

The objective of our initial audit report, which was issued on May 16, 2019, was to determine if the DOE evaluated students for special education services within required time frames. The audit scope covered the period of July 1, 2016 through March 9, 2018, and included all students initially referred for evaluations during the school year ended June 30, 2017. We found that the DOE had difficulty meeting the 60-calendar-day time frame requirement for completing evaluations, resulting in potential delays in the provision of services for affected students.

The objective of our follow-up was to assess the extent of implementation, as of February 16, 2023, of the four recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

DOE officials have made progress in addressing the issues we identified in the initial audit report. Of the initial report's four audit recommendations, three were partially implemented and one was not implemented.

Follow-Up Observations

Recommendation 1

Assess the reasons for non-compliance with the 60-calendar-day requirement and take appropriate actions, especially for the districts/schools and grades where significant non-compliance has been consistently identified.

Status – Partially Implemented

Agency Action – DOE officials provided information for a sample of schools that shows they assessed the reasons for non-compliance with the 60-calendar-day requirement. However, they did not provide documentation to support the actions they have taken to address the reasons when non-compliance has been consistently identified.

Recommendation 2

Calculate school year compliance rates based on actual disposition dates for all initial referrals made during the school year (annual initial referral cohort), in addition to the information provided in the Annual Reports.

Status – Not Implemented

Agency Action – DOE officials maintain their position that it is sufficient to measure compliance using IEP dates alone, and stated they continue the practice of monitoring all open evaluations on an ongoing basis, without constraint to a particular school year. Our

recommendation pertained to the DOE using the actual disposition dates for initial referrals (i.e., actual dates each assessment was completed) rather than using the IEP meeting date, which may occur on a later date. We stand by our recommendation that capturing actual dates will provide useful information to the DOE as it is a better reflection of how long it takes to complete the assessments.

Recommendation 3

For each assessment type, develop controls that will allow analysis of the time frames for completion, similar to the analysis presented in this report, and take corrective action where significant time lapses are identified.

Status – Partially Implemented

Agency Action – DOE officials provided us with an agreement to show that SESIS will be replaced with a new data system that will enable them to analyze the time frames for completion of each assessment type. Our review found the agreement includes language that the new data system will have functions (i.e., controls) enabling the DOE to analyze compliance with different time frames. However, according to DOE officials, the new system will not be implemented until summer 2024. Consequently, we are unable to confirm whether such controls are in place. Moreover, we note the DOE can still perform this analysis without waiting for implementation of the new data system – similar to the analysis we conducted and cited in our initial audit report – and subsequently take corrective action.

Recommendation 4

Develop data integrity controls to provide greater assurance of the accuracy and completeness of data. This could include logic controls for the dates in student records (e.g., to flag instances where mandated assessments occurred before parental consent, after the IEP meeting, or not at all).

Status – Partially Implemented

Agency Action – The DOE provided us with an agreement that SESIS will be replaced with a new data system, and stated it will include data integrity controls for dates in student records. Our review found the agreement includes language that the new data system will have logic controls for different dates in student records. However, according to DOE officials, the new system will not be implemented until summer 2024. Consequently, we are unable to confirm whether data integrity controls are in place.

Major contributors to this report were Rita Verma-Kumar, Manna Zhen, Alcides Ortiz, and Gabriela Grateraux.

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 DOE for the courtesies and cooperation extended to our auditors during this follow-up.

Very truly yours,

Sheila Jones
Audit Manager

cc: Danya Labban, DOE
Todd Middler, DOE
Robert Sosa, DOE
Doug Giuliano, Mayor's Office of Risk Management and Compliance
Marjorie Landa, Mayor's Office of Risk Management and Compliance