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OFFICE OF THE STATE COMPTROLLER

June 21, 2023

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

Re: Licensing and Monitoring of  
Proprietary Schools  
Report 2023-F-1

Dear Dr. Rosa:

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, *Licensing and Monitoring of Proprietary Schools* (Report [2019-S-68](#)).

**Background, Scope, and Objectives**

Non-degree-granting proprietary schools provide training in a broad range of disciplines, such as business, computer/information technology, and English as a second language. The New York State Education Law (Law) requires all non-degree-granting proprietary schools to be licensed by the State, unless they meet certain exemption criteria. Within the State Education Department (Department), the Bureau of Proprietary School Supervision (Bureau) is responsible for overseeing these proprietary schools, including licensing and monitoring to ensure that their overall educational quality will provide students with the necessary skills to secure meaningful employment and that students' financial interests – that is, tuition investments – are protected. As of January 20, 2023, there were 359 licensed proprietary schools – 333 private career schools and 26 English as a Second Language schools – operating in New York State.

When initially granted, a proprietary school's license is valid for 2 years. Thereafter, license renewals are granted for a period of 4 years. In order to be approved for the 2-year license, schools are required to submit certain financial documentation as evidence of their viability, including a balance sheet, certificate of incorporation, bank statements, audited financial statements, and a 24-month projected operating budget. Once licensed, the Bureau requires schools to submit financial statements as well as statistical reports (e.g., student enrollment, completion, and job-placement data) annually, according to its established deadlines. The documentation, which schools submit through a portal on the Department's website, is maintained in the Bureau's automated management information system. The Bureau reviews the documentation and has the authority to impose financial penalties for schools that fail to comply with documentation requirements and submission deadlines.

Pursuant to the Law, schools are also required to maintain adequate and accurate records on site for a period of not less than 7 years. The Bureau is required to conduct inspections at each school at least once every licensure period to monitor compliance with records requirements and other provisions of the Law and Regulations of the Commissioner of Education (Regulations). Schools found to be operating in violation of the Law or Regulations may be placed on probation; have their license suspended, revoked, or not renewed; be charged financial penalties; and be subject to corrective action plans (CAPs).

The objective of our initial report, issued January 21, 2021, was to determine whether the Bureau was verifying that schools have sufficient resources prior to initial licensing, and whether the Bureau was adequately monitoring schools and utilizing its database to look for warning flags of future closings. The audit covered the period from January 1, 2016 through July 21, 2020. Overall, we found the Bureau generally did not perform due diligence in reviewing schools' fiscal documents to ensure they had sufficient resources prior to their initial licensing. Furthermore, once schools had been licensed, the Bureau did not adequately monitor them or utilize its database to identify warning flags of future closures.

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

### **Summary Conclusions and Status of Audit Recommendations**

Bureau officials made significant progress in addressing the issues we identified in the initial audit report. Of the initial report's six audit recommendations, five were implemented, and one was partially implemented.

### **Follow-Up Observations**

#### **Recommendation 1**

*Develop policies and procedures to:*

- a. Ensure pre-licensed schools' financial information and licensed schools' financial statements are in compliance with requirements.*
- b. Ensure schools' financial viability is determined using more objective measures in accordance with the Law and Regulations.*
- c. Require every school's OEDS be analyzed for potential problems or negative trends with appropriate benchmarks.*
- d. Ensure that inspections are fully completed and documented and that determinations rendered are consistent.*

Status – Partially Implemented

Agency Action – Bureau officials developed policies and procedures to address three of the four parts of this recommendation.

The Bureau proposed regulation amendments addressing school financial viability, accountability, and academic progress evaluation standards that were adopted by the NYS Board of Regents effective September 2021. In December 2022, the Bureau updated its financial information reporting requirement policy for licensed schools

to outline financial statement reporting mandates in accordance with current law and regulations. The Bureau sent notices to all schools with information regarding updated annual fiscal requirements and updated its website to reflect the updated policy information. The website dedicated a section to schools seeking initial licensure, including the development of a Financial Documents Checklist that outlines the financial documents required to obtain a new license. The Bureau also redesigned its annual review process to include internal review checklists for pre-licensed and licensed schools to ensure financial statement compliance.

In November 2021, the Bureau issued Policy 3-1104: Financial Viability, which establishes clear criteria for assessing a school's financial viability, including the identification of events that may indicate financial viability concerns. It also provides options for schools that are not financially viable and gives the Department the ability to deny, suspend, or revoke a license based on a school's financial condition.

The Bureau has not developed formal policies or procedures requiring analysis of every school's Occupational Educational Data Survey (OEDS) for problems or negative trends with appropriate benchmarks. Bureau officials stated they are currently using Part 126.19 of the updated Regulations as a guideline, requiring schools to report only certain statistical data by April 2022 and to fully meet all additional requirements by April 2023. According to the Bureau, it is currently in a project testing phase to implement the OEDS process as part of its existing internal system. Once this process is finalized and schools are reporting all required statistical data, the Bureau stated it will issue formal policies and procedures.

Bureau officials redesigned the inspection process to ensure all schools are afforded consistent inspection determinations, inspections are fully completed, and results documented. The redesigned inspection process details 17 different criteria, sources of evidence that may be used, and characteristics of both compliance and non-compliance as guidance during the inspection process. To ensure consistency, the Bureau developed a flow chart of the entire inspection process; created a checklist listing the criteria for compliance determination, resolution of non-compliance, observed characteristics, and previous compliance concerns; and revised the CAP form used for resolution of non-compliance in January 2023.

## **Recommendation 2**

*Train staff on policies and procedures enhancing their understanding and interpretation of financial information.*

Status – Implemented

Agency Action – The Bureau provides a series of trainings to staff during their first year on the job. This training series covers the six criteria of licensure: curricula, ownership/authority, educational policies, school personnel, financial viability, and quarters. In addition, new school license evaluators review their caseload with the licensing supervisor weekly and receive individual re-training when needed. Furthermore, in June 2021, the Bureau began providing bi-annual trainings for Bureau staff and licensed school directors, which focuses on OEDS, financial reporting, the Financial Summary Worksheet, financial viability, and the Bureau's internal system.

### **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.*

Status – Implemented

Agency Action – If a school does not meet the standards of financial viability, the Bureau issues a letter to the school notifying it that it has failed to meet financial viability standards and explaining what its options are to meet standards. If the school does not then submit an adequate financial viability plan, the Bureau will issue another letter notifying the school it is being placed on probation. Probation includes heightened monitoring by the Bureau as well as a list of terms the school must comply with. If the terms of probation are not met, a performance bond or alternative method of demonstrating financial viability may be applied. There is currently one school on probation because it did not provide a financial viability plan.

### **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.*

Status – Implemented

Agency Action – To identify schools that have not submitted the required financial information, the Bureau updated its internal system to include real-time data reports. The Bureau also developed a new process requiring schools to upload their financial statements to its internal system. Reports generated from the Bureau's internal system identify schools that have not submitted the required documentation. Bureau staff email schools with reminders one month prior to when financial statements are due and again if they are past due.

In February 2022, the Bureau also began a process to collect OEDSs using customer voice software. The software generates a list of non-compliant schools and sends them bi-weekly emails regarding their OEDS submission status. Bureau officials can see if the email is not opened and reach out to the school directly.

In addition, the Bureau's licensing team meets monthly with the fiscal unit to identify schools approaching renewal that have not met the criteria for OEDS and/or financial viability. A tracking spreadsheet is used as the basis for warning notices sent to schools 120-180 days prior to the school's license expiration date. Schools that fail to meet the OEDS and/or financial requirement are denied renewal of their license upon expiration.

### **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.*

Status – Implemented

Agency Action – The Bureau developed a checklist for school license renewals, including a field for OEDS and financial statements. If these are delinquent, the license will not be

renewed. In addition, the licensing team meets with the fiscal unit monthly to identify schools approaching renewal that have not met the criteria for OEDS and/or financial viability according to the tracking spreadsheet. The tracking spreadsheet is used as a basis for sending warning notices to a school prior to their license expiration date. Schools that fail to meet the OEDS and/or financial requirement are denied renewal at the point of license expiration.

### **Recommendation 6**

*In light of limited resources, consider upgrades to the database to automate processes that are currently performed manually.*

Status – Implemented

Agency Action – In 2022, the Bureau modernized the collection of OEDSs from paper to electronic tracking, using customer voice software. In addition, the Bureau’s internal system has been updated to streamline the review process and allow unit managers to run real-time data reports, which allows for daily monitoring and tracking of school renewals, closures, and outstanding liabilities.

Major contributors to this report were Holly Thornton, Lauren Bizzarro, Inza Kone, and Gregory Bradt.

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

Very truly yours,

Theresa Podagrosi  
Audit Manager

cc: Sharon Cates-Williams, State Education Department  
James Kampf, State Education Department  
Jeanne Day, State Education Department