

THOMAS P. DINAPOLI
STATE COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 27, 2023

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

Re: Oversight of Mental Health Education
in Schools
Report 2023-F-21

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 (Department) to implement the recommendations contained in our audit report, *Oversight of Mental Health Education in Schools* (Report [2020-S-63](#)).

Background, Scope, and Objective

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 2.5 million public school 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. Since then, with the stress brought on by the COVID-19 pandemic, the rates have only escalated. According to the Centers for Disease Control and Prevention, among the New York State high school student population in 2021–22 (approximately 775,347 according to Department data), 16.8% (130,258) have seriously considered suicide and 9.6% (74,433) have made non-fatal suicide attempts.

An amendment to Section 804 of the Education Law (Law), effective July 1, 2018, required that health education in schools must include instruction in mental health, making New

York the first state to require this instruction. Under Section 305 of the Law, the Department is responsible for enforcing the legislation.

Section 804 of 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.

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 students, including those without identified education disabilities.

The objective of our initial audit, issued on April 11, 2022, was 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. Our audit covered the period from July 2018 through August 2021. Overall, we found the Department did not require school districts to submit any documentation or other information that would indicate compliance with the Law, and thus had no assurance that all school districts had developed and implemented the required mental health education curriculum. Furthermore, we determined that, for many school districts, their mental health teams (i.e., school-employed psychologists, counselors, and social workers) were understaffed, based on staff-to-student ratios recommended by the National Center for School Mental Health and the National Association of School Psychologists.

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

Summary Conclusions and Status of Audit Recommendations

Department officials have made progress in addressing the problems we identified in the initial audit report. Both of the initial report's audit recommendations have been implemented.

Follow-Up Observations

Recommendation 1

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

Status – Implemented

Agency Action – Since our initial audit, the Department developed a mechanism to determine if school districts are providing mental health education. All public and non-public school districts as well as charter schools are required to submit annually online a Basic Education Data System (BEDS) Institutional Master File form, which collects certain pieces of education-related information. For the 2022–23 school year, the Department developed and added a new question to each respective BEDS form requiring schools to attest whether health instruction, including curriculum for mental health and the relationship of physical and mental health, is being provided to their students. Further, the Department drafted correspondence in July 2023 that will be sent to schools that attested they have not provided mental health education. The correspondence references the Commissioner's regulation requiring schools to provide a satisfactory health education program that includes mental health. The correspondence also includes links to Department resources to assist schools in fulfilling this requirement.

Recommendation 2

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

Status – Implemented

Agency Action – The Department has taken action to address mental health staffing in school districts, including:

- Testifying in May 2023 before the Senate Education and the New York City Education Committee's Joint Hearing on School Discipline, the Department advocated for long-term State and local investments and permanent direct funding to build and support necessary staff such as school counselors, social workers, and psychologists.
- The Department is collaborating with the Office of Mental Health on projects related to mental health services in schools, including, for example, the 2023–25 New York State Recover from COVID School Program – a 2-year \$50 million matching grant program to support ongoing expansion of student access to school-based mental health professionals, interventions, and practices that promote mental health and wellness.
- Beginning in early 2023, the Department has also been meeting biweekly with the Department of Health to discuss various topics, including expanding Medicaid eligibility to cover mental health services by licensed school-based professionals on behalf of non-IEP students. Currently, only mental health services for eligible students with IEPs

can be billed under Medicaid. Increased reimbursement could supplement limited education dollars and ultimately help to expand the staffing needed to provide mental health services to students.

- As a result of the Department's efforts, effective January 2024, the enacted State budget for State fiscal year 2023–24 will include a requirement that commercial insurance plans reimburse Article 31 (outpatient school-based mental health clinic) services at negotiated rates or at least the Medicaid rate. The Department believes this will ensure timely access and coverage of clinical mental health services in school-based clinics for all children across the State by improving reimbursement to schools for behavioral health services provided to students.

Major contributors to this report were Chris Herald, CIA,CGAP; Christi Duncan; and Christina Frisone.

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, SED
James Kampf, SED
Jeanne Day, SED