



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Compliance With the Safe Schools Against Violence in Education Act

State Education Department



Report 2013-S-71

January 2015

Executive Summary

Purpose

To determine whether school districts outside of New York City are properly and accurately reporting statistics on crime and incidents to the State Education Department (Department). We also assessed whether the Department has used incident data to identify school districts with comparatively high rates of incidents to help ensure they have adequate violence prevention and response programs. Our audit covered the period July 1, 2011 through June 16, 2014.

Background

The Safe Schools Against Violence in Education Act (SAVE Act) was enacted in July 2000 to address the need to provide a safe learning environment for New York's students in pre-kindergarten through 12th grade. To comply with the SAVE Act, the Department developed the Violent and Disruptive Incident Report (VADIR) and a process for collecting annual data from school districts about incidents that occur in schools and on school property. The Department uses the data to calculate a School Violence Index (SVI) for each school. Schools at or above a certain SVI threshold for two consecutive years are designated persistently dangerous and are, by definition, unsafe. The Department posts incident data and the list of persistently dangerous schools on its website, and provides assistance to help schools comply with SAVE Act requirements and reduce the number and severity of incidents.

Key Findings

- We reviewed incident records for seven schools for the 2011-12 school year. We identified 935 unreported VADIR incidents, which represented 29 percent of the 3,175 reportable incidents for the six schools whose underreporting we were able to quantify. We were not able to determine the full extent to which the remaining school, Burgard Vocational High School in Buffalo (Burgard), underreported because it used an incorrect recording and reporting methodology.
- We identified 82 VADIR incidents that schools misclassified in their internal records, generally in VADIR categories that were considered less serious. The misclassifications were at six of the seven schools we visited.
- Based on our calculations, the SVI for two schools – Burgard and Fulton Junior High School in Oswego – was above the threshold for Department consideration as potentially persistently dangerous or persistently dangerous.
- The Department did not designate persistently dangerous schools for the 2013-14 school year, despite the SAVE Act requirement that it do so annually. Further, by not designating these schools, the Department failed to comply with its own Regulations as well as provisions of the federal No Child Left Behind Act of 2001 that require it to notify local educational agencies of this designation in time for these agencies to notify parents of the option to transfer to a safe public school.
- One school did not retain summary VADIR information as required. Two schools were not aware of the requirement to report incidents that occur during summer school months.

Key Recommendations

- Assess risks related to SAVE Act compliance and focus resources to broaden efforts to improve the accuracy and completeness of VADIR reporting.
- Revise existing VADIR guidance to provide more and better quality assistance to schools and districts.
- Comply with provisions of the SAVE Act and the corresponding Regulations that require the Department to annually designate persistently dangerous schools and notify local educational agencies of the designation so they can notify parents timely of the option to transfer to a safe public school, if one is available.

Other Related Audits/Reports of Interest

[State Education Department: Reporting of Violent and Disruptive Incidents by Public Schools \(2005-S-38\)](#)

[State Education Department: Reporting of Violent and Disruptive Incidents by Public Schools \(2007-F-13\)](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

January 13, 2015

Ms. Elizabeth R. Berlin
Acting Commissioner
State Education Department
89 Washington Avenue
Albany, NY 12234

Dear Acting Commissioner Berlin:

The Office of the State Comptroller is committed to helping State agencies, public authorities and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for 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 of the State Education Department entitled *Compliance With the Safe Schools Against Violence in Education Act*. 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.

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,

*Office of the State Comptroller
State Government Accountability*

Table of Contents

Background	6
Audit Findings and Recommendations	8
School Incident Reporting	9
Department Use of Data to Identify At-Risk Schools and Provide Assistance	17
Recommendations	21
Audit Scope and Methodology	22
Authority	23
Reporting Requirements	23
Contributors to This Report	24
Exhibit A	25
Exhibit B	26
Exhibit C-1	27
Exhibit C-2	28
Exhibit C-3	29
Exhibit C-4	30

State Government Accountability Contact Information:

Audit Director: Andrea Inman

Phone: (518) 474-3271

Email: StateGovernmentAccountability@osc.state.ny.us

Address:

Office of the State Comptroller
 Division of State Government Accountability
 110 State Street, 11th Floor
 Albany, NY 12236

This report is also available on our website at: www.osc.state.ny.us

Table of Contents (Con't)

Exhibit C-5	31
Exhibit C-6	32
Exhibit D	33
Exhibit E	34
Agency Comments	35

Background

The Safe Schools Against Violence in Education Act (SAVE Act) was passed by the New York State Legislature in 2000 to address issues of school safety and violence prevention in New York's public schools. The SAVE Act requires the State Education Department (Department), school districts and schools to take steps toward providing a safe learning environment for students in pre-kindergarten through 12th grade. Under the SAVE Act, public school districts must develop district-wide school safety plans and codes of conduct, and develop emergency response plans for each building.

The SAVE Act also requires the Department to define criteria for identifying violent and disruptive incidents that occur in schools and on school property, and to develop a method to identify persistently dangerous schools using incident information. To comply with the SAVE Act, the Department amended its Regulations of the Commissioner to require that every public school in the State complete and maintain a record of each reportable violent or disruptive incident that occurs on school property.

Schools submit an annual summary of these incidents, called the Violent and Disruptive Incident Report, or VADIR, to their district office. The summary must include a count of the violent and disruptive incidents by VADIR category that occurred during the prior school year. It must also include other information, such as number of offenders and victims, location and time of incidents, whether incidents were gang- or bias-related and whether there is a police or safety officer in the school.

School districts compile the school VADIR summaries for the most recent July 1 through June 30 school year and submit them to the Department, generally by September 30. Each summary requires a superintendent certification stating that the data submitted is complete and accurate; without this, the Department does not consider the VADIR data complete. The Department uses the data to determine which schools should be designated persistently dangerous or potentially persistently dangerous, using methods it established for this purpose. It also offers technical assistance to schools with existing or emerging patterns of violence to help reduce incidents, correctly report incidents that do occur, and promote a safer climate for learning.

The Department publishes the VADIR incident data and the annual list of persistently dangerous schools on its public website. The data for the 2012-13 school year was scheduled to be released in August 2014. The list includes schools new to the list that year as well as schools carried over from the prior year. To be removed from the list, schools must demonstrate they are under the Department's designated threshold of persistently or potentially persistently dangerous for two consecutive years.

Department Regulations define safe public schools as ones that have not been designated persistently dangerous; as such, persistently dangerous schools are considered unsafe. The Regulations require the Department to determine which schools are persistently dangerous and notify local educational agencies of their status as such. Local educational agencies, in turn, are

required to notify parents of the option of sending their child to another school in the district that is not designated as persistently dangerous, if one is available. The Department requires persistently dangerous schools to take steps to reduce their violent incidents and improve school safety.

The Department provides training to schools and school districts on SAVE Act requirements, and posts guidance on its website to assist schools and the general public in understanding the reporting system. It also provides assistance to schools to help reduce the number and severity of incidents and restore a safe learning environment. The Department also contracts with the New York State Center for School Safety (Center for School Safety), an agency that assists with development and delivery of training and guidance that includes VADIR compliance. The Department is responsible for summarizing and communicating annual VADIR results to the Governor, the Legislature and the Board of Regents.

In a 2006 audit (Report 2005-S-38), the Office of the State Comptroller examined whether the Department had developed an effective process for ensuring school district compliance with the incident reporting requirements of the SAVE Act. That audit identified unreported violent and disruptive incidents at most of the schools visited and recommended the Department make site visits to school districts, clarify its VADIR guidance and develop and deliver training to better ensure compliance with the Act. A follow-up report in 2007 (Report 2007-F-13) cited improvements in the Department's outreach efforts and its oversight of incident data.

Audit Findings and Recommendations

We determined whether school districts outside of New York City are properly and accurately reporting statistics on crime and incidents to the Department. We also assessed whether the Department has used incident data to identify school districts with comparatively high rates of incidents to help ensure schools have adequate violence prevention and response programs. Though the Department has made some improvements to the VADIR process since our prior audit, its failure to comply with certain key SAVE Act provisions limits the effectiveness of the Act.

We found that the school districts for the seven schools we tested did not properly and accurately report the statistics on crime and incidents for those schools to the Department. Because the Department relies on this information to identify persistently dangerous schools and to help them improve school safety, inaccurate data compromises the effectiveness of these efforts. We identified 935 unreported VADIR incidents for the 2011-12 school year at six schools whose underreporting we were able to assess. We were not able to determine the full extent to which the remaining school, Burgard Vocational High School in Buffalo, underreported because it used an incorrect recording and reporting methodology. The 935 unreported VADIR incidents represented 29 percent of the 3,175 reportable incidents we identified.

Our assessment of incident data for two schools – Burgard Vocational High School and Fulton Junior High School – resulted in their exceeding the threshold the Department uses to identify whether a school is potentially persistently dangerous or persistently dangerous. We also found that six of the seven schools we visited misclassified some incidents in their internal systems, recording them in VADIR categories that were less serious than what the incident records supported. We found a total of 82 misclassified incidents. We further determined that two of the six schools that held summer school sessions were not aware of the Department requirement to record and report summer incidents. In addition, Schenectady High School (Schenectady) did not retain a summary of the VADIR information it submitted, which Department guidance requires.

Though the Department uses incident data to identify persistently dangerous schools, data that is incorrect or incomplete compromises the accuracy and effectiveness of assessments of school safety. The risk that schools with unsafe learning environments will not be identified as such raises concerns that school problems will continue unaddressed, parents will not be notified of school choice option, and the learning environment will suffer.

Lastly, the Department did not designate persistently dangerous schools for the 2013-14 school year, despite the SAVE Act requirement that it do so annually. Further, by not designating these schools, the Department failed to comply with its own Regulations, as well as provisions of the federal No Child Left Behind Act of 2001 (No Child Left Behind) that require it to notify local educational agencies of this designation in time for the agencies to notify parents of the option to transfer to a safe public school.

School Incident Reporting

Completeness and Accuracy of Reporting

Underreporting

To be considered VADIR-reportable, an incident must occur on school grounds or at a school-sponsored function; be either violent or disruptive of the educational process (or both); and result in one of six disciplinary consequences (with some exceptions) that range from suspension to referral to law enforcement. Incidents in some categories, such as robbery or bomb threat, must be reported whether or not the offending person was disciplined or referred to law enforcement.

Department personnel use the VADIR data to calculate a School Violence Index (SVI) for each school, which they then use to identify persistently dangerous schools. The SVI is a ratio of violent incidents to school enrollment, and takes into account the number and seriousness of incidents. Schools report incidents in 20 categories according to Department-defined criteria. Several category names are similar to those used in Penal Law, such as homicide and reckless endangerment. Each category has a descriptive definition and a numerical code. Incidents the Department has defined as more serious have a lower-numbered code. Some categories are also assigned a weight to identify incident types the Department considers violent. For example, a robbery incident on school property has a lower-numbered VADIR code of 3 and a higher weight of 40, whereas weapons possession has a VADIR code of 17 and a weight of 15 and use of alcohol a VADIR code of 19 and zero weight.

The VADIR enrollment number used to calculate the SVI reflects student enrollment on a given day, usually in early October. There were 6,594 students in the aggregate VADIR enrollment data reported for the seven schools we tested. Because enrollment is the denominator in the SVI calculation, smaller schools will have a greater SVI than larger schools reporting the same number and type of incidents. A school may be designated persistently dangerous if, for two consecutive years, it has either an SVI of 1.5 or greater or an SVI of 0.5 or greater and 60 or more violent incidents. Schools that meet the threshold for one year are considered potentially persistently dangerous.

VADIR data for more than 2,900 non-New York City schools was reported to the Department for the 2011-12 school year. Exhibit A at the end of this report presents the number of reporting schools by county. We visited six high schools and one junior high school to assess the accuracy and completeness of the VADIR data reported by the relevant school districts for the July 1, 2011 through June 30, 2012 school year. We selected a mix of schools with 2011-12 SVIs, based on reported VADIR incidents, which ranged from 0 to 1.49. See Table 1 for schools selected and factors contributing to selection.

TABLE 1

School Name, District, Location, and County	Factors Contributing to Selection
Burgard Vocational High School (Burgard) Buffalo City School District Buffalo, Erie County	VADIR data reported for the 2011-12 school year resulted in an SVI of 1.37
Castleton Academy High School of Oceanside (Castleton) Oceanside Union Free School District Castleton, Nassau County	VADIR data reported for the 2011-12 school year resulted in an SVI of 0; VADIR data reported for the prior year resulted in an SVI greater than 1.5
East High School (East) Rochester City School District Rochester, Monroe County	School was on the 2010-11 and 2011-12 persistently dangerous lists but not on the 2012-13 list; VADIR data reported for 2011-12 school year resulted in an SVI of .42
Fulton Junior High School (Fulton) Fulton City School District Oswego, Oswego County	VADIR data reported for the 2011-12 school year resulted in an SVI of 1.49
Institute of Technology at Syracuse Central (Institute) Syracuse City School District Syracuse, Onondaga County	VADIR data for the 2012-13 school year was not certified at the time of the audit fieldwork and was not considered complete by the Department; VADIR data reported for the 2011-12 school year resulted in an SVI of .15
Pleasantville High School (Pleasantville) Pleasantville Union Free School District Pleasantville, Westchester County	VADIR data reported for the 2011-12 school year resulted in an SVI of 0
Schenectady High School (Schenectady) Schenectady City School District Schenectady, Schenectady County	School was on the 2010-11 persistently dangerous list but not on the 2012-13 list; VADIR data reported for 2011-12 resulted in an SVI of .26

Exhibit B at the end of this report presents a map of county locations of the schools we visited.

We identified errors in the completeness and accuracy of all seven schools' VADIR reporting, including unreported violent and disruptive incidents and misclassified incidents. The unreported incidents were documented in school records but not reported to the Department. We were not able to determine the extent to which Burgard underreported because it used an incorrect reporting methodology. For the six schools whose underreporting we were able to quantify, we identified 3,175 reportable incidents, compared with the schools' combined reported incidents of 2,240, a difference of 935 unreported incidents, or 29 percent of the total incidents. The unreported incidents at these schools ranged from 16 percent of the total reportable incidents to as high as nearly 67 percent. For three of these six schools, the number of unreported VADIR incidents was greater than one third of the reportable total. Examples of unreported incidents are as follows:

- East - two sex offenses that involved inappropriate sexual contact but no forcible compulsion (VADIR code 2) and 11 unreported weapons possession incidents (VADIR code 17);
- Institute - 11 incidents of intimidation, harassment, menacing or bullying (VADIR code 10);
- Pleasantville - ten incidents of intimidation, harassment, menacing or bullying (VADIR code 10);
- Schenectady - one arson (VADIR code 5) and 11 drug possession incidents (VADIR code 18).

See Tables 2 and 3, respectively, for the unreported incidents by school as a percent of the total incidents and the summary of unreported incidents. Exhibits C-1 through C-6 at the end of this report present the unreported incidents for the six schools for which we were able to quantify this information.

TABLE 2

Percent of Unreported Incidents by School for 2011-12 School Year for Six of Seven Schools Visited					
School	Enrollment Used in Department SVI	Number of VADIR Incidents Identified by Audit Team	Incidents Publicly Reported Through VADIR	Difference (Unreported Incidents)	Percent Unreported
Castleton Academy High School of Oceanside, Castleton, Nassau County	55	15	8	(7)	46.7%
East High School, Rochester, Monroe County	1,728	769	256	(513)	66.7%
Fulton Junior High School, Oswego, Oswego County	566	368	289	(79)	21.5%
Institute of Technology at Syracuse Central, Syracuse, Onondaga County	403	163	137	(26)	16.0%
Pleasantville High School, Pleasantville, Westchester County	587	36	16	(20)	55.6%
Schenectady High School, Schenectady, Schenectady County	2,665	1,824	1,534	(290)	15.9%
Totals	6,004	3,175	2,240	(935)	29.4%

TABLE 3

Summary of Unreported Incidents for 2011-12 School Year for Six of Seven Schools Visited					
VADIR Code	SED Violent and Disruptive Incident Category	Weight	Number of VADIR Incidents Identified by Audit Team	Incidents Publicly Reported Through VADIR	Difference (Unreported Incidents)
1	Homicide	100	0	0	0
2.1	Forcible Sex Offense	60	2	0	(2)
2.2	Other Sexual Offense	45	8	1	(7)
3	Robbery	40	1	0	(1)
4	Assault with Serious Physical Injury	40	6	3	(3)
5	Arson	30	4	3	(1)
6	Kidnapping	30	0	0	0
7	Assault with Physical Injury	30	94	35	(59)
8	Reckless Endangerment	25	16	0	(16)
9w	Minor Altercations (with weapon)	25	0	4	4
9	Minor Altercations	0	388	292	(96)
10w	Intimidation, Harassment, Menacing, Bullying (with weapon)	25	1	0	(1)
10	Intimidation, Harassment, Menacing, Bullying	0	219	133	(86)
11w	Burglary (with weapon)	25	0	0	0
11	Burglary	0	3	4	1
12w	Criminal Mischief (with weapon)	25	0	0	0
12	Criminal Mischief	0	28	5	(23)
13w	Larceny or Other Theft Offenses (with weapon)	25	0	0	0
13	Larceny or Other Theft Offenses	0	24	15	(9)
14	Bomb Threat	0	0	0	0
15	False Alarm	0	5	5	0
16w	Riot (with weapon)	25	0	0	0
16	Riot	0	1	0	(1)
17.1	Weapon(s) confiscated through entry screening	15	32	25	(7)
17.2	Weapon(s) found under other circumstances	15	42	36	(6)
18	Use, Possession, or Sale of Drugs	0	73	58	(15)
19	Use, Possession, or Sale of Alcohol	0	10	5	(5)
20	Other Disruptive Incidents	0	2,218	1,616	(602)
Totals			3,175	2,240	(935)

Incorrect Method Used to Identify Reportable Incidents

Two schools – Burgard and Fulton – used an incorrect method to identify reportable incidents. Burgard used suspensions as the reportable unit, rather than incidents, and reported only the number of suspensions in its VADIR summary. Because this method picked up only suspension data, and because multiple suspensions can result from one incident, we were not able to determine how many VADIR incidents were actually reported for the 2011-12 school year. Therefore, we did not conclude on the number of unreported incidents at Burgard.

However, we were able to calculate Burgard’s SVI based on our assessment of the incidents we identified, and it was 2.91, well above the threshold the Department uses to identify persistently dangerous or potentially persistently dangerous schools. Buffalo Public Schools officials acknowledged our findings and expressed their intent to do the following to address our findings at Burgard:

- provide training on VADIR reporting to both central office and school-level administrators;
- implement a quality assurance program, using data sampling strategies, to help ensure data accuracy.

Fulton correctly used incidents as the reportable unit; however, Fulton only reported incidents that resulted in suspension. We determined that Fulton did not report 79 VADIR incidents and misclassified 33 others. The SVI we calculated based on our assessment of the incidents we identified was 4.76, more than triple the Department threshold for closer assessment of persistently dangerous status.

The reporting methods used by both Burgard and Fulton failed to include reportable incidents that resulted in discipline other than suspension, and also failed to include reportable incidents that didn’t result in discipline at all. Because some types of incidents are reportable regardless of the consequence that does or does not ensue, there is significant risk that reportable incidents at these two schools will not be reported.

Misclassified Incidents

We found that six of seven schools misclassified VADIR incidents in their internal reporting systems, generally recording them in VADIR categories that were less serious than what the incident records supported. In total, there were 82 incidents that we assessed in categories that were different from those shown in the VADIR categories on the schools’ internal reporting systems. For example, at Burgard, we identified a robbery (VADIR code 3, weight of 40) that was misclassified in the intimidation, menacing, harassment, bullying category (VADIR code 10, weight of 0). At Fulton, we assessed an incident as other sexual offense (VADIR code 2, weight of 45) that was recorded in the intimidation, menacing, harassment, bullying category (VADIR code 10, weight of 0). Exhibit D at the end of this report presents a summary of the misclassified incidents. We were not able to determine whether the seventh school, Schenectady, misclassified incidents due to limitations in incident descriptions in its internal reporting system. Specifically, the school records incidents using non-VADIR category names or codes, and later determines

which incidents are VADIR-reportable.

We reviewed incidents in Schenectady's internal database and found that descriptions for some incidents were inadequate to assess them. For example, the description for one incident was simply "minor altercation," which merely categorizes the incident but does not actually describe it. In the absence of information that describes the incident, there is a risk that incidents may not be reported at all or may be reported in the wrong VADIR category.

Officials at other schools indicated that their incident databases did not always reflect an incident's final determination of its VADIR reporting status and classification. They acknowledged the need to do a better job ensuring that what gets recorded in the system and reported through VADIR is accurate and complete.

Summer School Incidents

The school year begins July 1 and ends June 30. Incidents that occur during summer school sessions from July 1 through August 31 are reportable with the related school year data. Six of the seven schools held summer sessions in July and August 2011, which was part of the school year we reviewed. Of the six, personnel from three schools – Burgard, Castleton and East – said they record and report summer school incidents when they occur. Officials at two schools – Pleasantville and Schenectady – said they were not aware of the requirement to record and report VADIR incidents that occur during the summer months. The Fulton principal stated the school does not record or report summer incidents. The district's subsequent written response to our findings indicated there were no reportable summer incidents in the period we tested, but did not refute the principal's statement. As such, it is unclear what the school's practice is.

Though we did not identify unreported summer school incidents, based on the faulty reporting methodologies described previously in combination with the practice of not accounting for summer school incidents, there is a risk that reportable incidents occurred and are not reflected in the public VADIR information.

Uncertified VADIR Data

As of May 2014, the Syracuse City School District superintendent had still not certified its VADIR data, which included data for the Institute, for the 2012-13 school year, and therefore the Department didn't consider it complete. The certification requires only that the superintendent attest to the data's accuracy to the best of his or her knowledge. A district official stated that although there was a high level of certainty of the accuracy of reported data for school violent incidents, there were concerns with the quality of the non-violent incident data. As such, the superintendent could not ensure the accuracy of the data and "was unable to certify the data submitted." Though VADIR certification is a Department requirement, there is no penalty for schools whose data is not certified. While Department personnel said this is not a common occurrence, it represents a risk area the Department should address.

Records Retention

Department Records Retention and Disposition Schedule ED-1 requires that schools keep violent and disruptive incident reports and summary records, including summary VADIR information submitted to the Department, until the youngest person involved in the incident is 27 years old. In some cases, records documenting school violence must be retained permanently. Maintaining a record of reported incidents allows schools and districts to verify the accuracy of the reported VADIR information when it later appears on the Department website. We found that six of the seven schools – Burgard, Castleton, East, Fulton, the Institute and Pleasantville – retained summary VADIR information that was submitted to the Department or were able to query their database to present a list of the information they believed was submitted by the district on their behalf. Schenectady did not retain summary information.

Factors Contributing to Deficiencies in Incident Reporting

The Department's ability to identify unsafe schools is highly dependent on the reliability of the district-submitted VADIR data, which must be accurate and complete for it to be useful. The data for a school that underreports or misclassifies reportable incidents may result in an understated SVI. If the actual SVI for a given year, in combination with the results from the prior or subsequent year, exceeds the Department threshold for consideration as persistently dangerous, the school may be incorrectly assessed as a safe school. The ramifications are significant: an incorrect assessment can delay the school from taking corrective actions to reduce its violent incidents and improve school safety. In addition, parents may not be appropriately notified of the school choice option if a school is assessed as safe when it is not. Moreover, data inaccuracies limit the ability of parents, educators and the community at large to rely on information used to make important decisions about school choice.

Based on our findings related to the accuracy and completeness of the VADIR data we tested, there is considerable risk that the data the Department relies on is not adequate for its intended purpose. We determined the VADIR data for all seven schools that was publicly available on the Department website inaccurately represented school violent and disruptive incidents for the 2011-12 school year. In two cases, the recalculated SVI could result in classification of school status for that year (and possibly prior and subsequent years, if applicable) from safe to unsafe. Because the reported VADIR data for the 2012-13 school year was not yet available at the time of our audit, we could not review it to assess potential school status that may have resulted from our findings for the 2011-12 data in combination with the 2012-13 data.

We provided preliminary findings for each school to school and district officials and have considered their responses in preparing this report. We also provided these findings to the Department for information purposes. Some school and district officials acknowledged having responsibility for the unreported incidents we identified. District-level factors they cited included transition from paper to electronic reporting and faulty reporting methodology. Personnel from Fulton cited the VADIR definitions as being difficult to apply in practice, but said they would provide additional training in the summer of 2014 to address appropriate procedures for documenting and reporting incidents. Schenectady officials acknowledged that their incident descriptions were sometimes

vague for the data we tested, and expressed their commitment to rectify this and to address correct reporting of summer incidents. Officials representing most of the schools expressed commitment to making improvements and correctly reporting incident data.

Department personnel acknowledged that limitations of the VADIR process include its reliance on self-reported information and the inherent subjectivity involved in applying VADIR criteria in recording incidents. They also cited school and district failure to understand VADIR requirements as contributing to reporting problems, as well as the time involved in capturing and recording information. They said they advise schools that the incident records should reflect the final disposition of the incident. They added that schools are not using some of the resources they provide to assist in reporting, such as the Questions and Answers (Q & A) Regarding Reporting VADIR Data, which addresses changes to incident records. Finally, because some schools perceive the persistently dangerous designation as a punishment that generates negative attention, there may be a disincentive to report accurately. Schools may be lenient in how they assess and report incidents, or they may alter the disciplinary consequences of some incident types to avoid meeting reporting criteria.

We recommend the Department review the incident records for 2011-12 and prior or subsequent school years, as needed, to determine if either Burgard or Fulton should have been designated persistently dangerous for that year or subsequent years. We also encourage the Department to work with Buffalo and other districts to implement training and quality assurance programs at the district level.

Department personnel said they do not have a written risk assessment related to compliance with the requirements of the SAVE Act. We recommend the Department assess risk related to compliance with the SAVE Act and devote its resources accordingly to help ensure compliance.

Department Use of Data to Identify At-Risk Schools and Provide Assistance

Though the Department has used data to identify schools with comparatively high incident rates and provide assistance to help ensure they have adequate violence prevention and response programs, these efforts are compromised if the underlying data is faulty. Perhaps more importantly, the Department has not complied with its statutory obligation to identify and notify at-risk schools and target its efforts accordingly.

Identifying Persistently Dangerous Schools

The SAVE Act requires the Department to annually determine which public elementary and secondary schools are persistently dangerous. Timely notification is critical to allow parents enough time to transfer their child to another school, if one is available. To address the notification requirement, Department Regulations require it to notify local educational agencies as to its final determination, no later than August 1, of any public elementary or secondary school the Department has identified as persistently dangerous. Local educational agencies must notify

parents of the right to transfer to a safe public school within the district no later than ten days after the local educational agency has been advised that the Department has determined a school is persistently dangerous.

Department personnel use annual VADIR data to identify schools that meet the SVI threshold for one year or two consecutive years and therefore require further scrutiny. Schools that meet the threshold for just one year are considered potentially persistently dangerous and the Department notifies them of their status by letter. Potentially persistently dangerous schools are required to submit the current year's VADIR data in July, rather than September, so staff can determine if the school should be designated persistently dangerous the following year. Schools that meet the threshold for two consecutive years are designated persistently dangerous; the Department similarly notifies these schools of their status. Persistently dangerous schools retain the designation for a minimum of two years, and can petition the Department to be removed from the list if they demonstrate progress toward improving the school safety environment.

We found the Department did not designate persistently dangerous schools for the 2013-14 school year, despite the SAVE Act requirement that it do so. Consequently, the Department also failed to comply with provisions of both No Child Left Behind and the SAVE Act that require it to annually notify persistently dangerous schools or their local educational agencies of their status. When we questioned Department officials about this, they said that they developed a draft list of schools recommended to be identified as persistently dangerous for the 2013-14 school year, but acknowledged they did not notify these schools of the designation. They said they were awaiting recommendations from the Safe Schools Task Force (Task Force) about a potential new process.

The Department and the Board of Regents established the Task Force in early 2013. The Task Force includes representatives from school districts, community and mental health organizations, the Department and other State agencies such as the Department of Criminal Justice Services. Part of its mission is to address how to reframe the existing VADIR system, in combination with the requirements of the more recent Dignity for All Students Act, to better identify safety issues and promote a safe school climate that supports effective teaching and learning. The Task Force's recommendations are expected to be presented to the Board of Regents in the summer of 2014.

In addition to the Department's failure to designate persistently dangerous schools for the 2013-14 school year, the most recent list – for the 2012-13 school year – was issued in November 2012, well into the school year it related to. The Department's practice is to publish the annual list of persistently dangerous schools on its website. The list differentiates schools newly designated in the current year from those carried over from the prior year. Exhibit E at the end of this report presents the 2012-13 list of non-New York City schools designated persistently dangerous.

The Department website reflects the following information related to its publication of persistently dangerous schools in recent years:

- 2012-13 school year – list is dated 11/29/12 and includes 33 schools
- 2011-12 school year – list is dated 9/6/11 and includes 19 schools
- 2010-11 school year – press release dated 8/27/10; list includes 16 schools

- 2009-10 school year – press release dated 8/27/09; list includes 13 schools
- 2008-09 school year – press release dated 8/20/08; list includes 19 schools

Finally, we requested the reports to the Governor, Legislature and Board of Regents for the years 2011 through 2014 that are required under the SAVE Act, and Department officials said there were none produced for that time period.

We recommend the Department comply with provisions of the SAVE Act and annually designate persistently dangerous schools; notify schools or local educational agencies of the designation so they can appropriately offer the school choice option; and report annual VADIR results to the Governor, the Legislature and the Board of Regents.

Incident Reduction Plans

The Department requires that all schools designated persistently dangerous develop an Incident Reduction Plan (IRP) that identifies the specific actions the school will take to ensure student safety. Each proposed action should have a desired result, an evaluation strategy and a timeline. The Department assesses the IRPs and differentiates exemplary IRPs from those that need improvement prior to approval. For example, if all of the desired results are measurable and relate to the program actions, this would satisfy Department criteria for an IRP's desired results. However, an IRP with too few measurable results would likely need revision prior to approval.

Department personnel make suggestions, where needed, to assist schools in developing their IRPs. An online Incident Reduction Plan Development Guide also provides guidance. A persistently dangerous school must petition the Department to be removed from the list. In making its decision, the Department considers whether the school has effectively implemented its IRP. To do this, Department and/or Center for School Safety staff review the school's self-evaluation submitted with its petition for removal and also the incident data submitted at time of petition.

We reviewed the approved IRPs for the eight non-New York City schools on the 2012-13 persistently dangerous list, which were submitted between 2011 and 2013, and found that all eight included the required elements. Seven of the eight included desired results with measurable outcomes, such as "to reduce bullying incidents by 30% a year." However, the IRP for Berkshire Junior-Senior High School (Berkshire) described desired results in general terms that are difficult to measure, such as "increase positive behavior and decrease in negative behavior." (Berkshire was first added to the list of persistently dangerous schools for the 2006-07 school year, and has remained on the list since then.)

Site Visits, Training and Guidance

The Department's Student Support Services unit has five employees who handle SAVE Act-related work; of these, two work full-time on SAVE Act compliance. The Department generally only conducts site visits to persistently dangerous schools. Site visits typically include both Student Support Services and Center for School Safety personnel. Their approach emphasizes the active participation of parents and community members, observation of the school environment through

firsthand walk-throughs and helping schools identify “pockets of concern” that require attention.

The agenda for visits includes reviewing the VADIR Field Visit Form, code of conduct and IRP and performing a walk-through of the school. The VADIR Field Visit Form, which the school completes before the site visit, covers access to VADIR data; verifying data accuracy; VADIR training; protections for confidential information; records retention; and reducing serious incidents. Department personnel use it as a guide in identifying areas of focus.

Department and Center for School Safety personnel use various tools to help them evaluate school safety, including student and staff surveys and focus groups for students, staff and parents. These tools, which cover areas such as building access and facility awareness, codes of conduct and perceptions of changes over time, help both the Department and the schools identify areas for improvement and potential strategies to address them. We reviewed records related to site visits at two of the seven schools we tested – East, visited in 2010, and Schenectady, visited in 2008 and 2010 – and found these tools appeared to be useful in collecting feedback about school climate and identifying areas for improvement.

The Department’s training efforts enable it to communicate SAVE Act requirements and provide technical assistance to all schools to help ensure complete and accurate incident reporting statewide. Department officials said they last conducted VADIR training in the summer of 2011 in several regions around the State, in conjunction with the Center for School Safety. They said the training, which was optional, was attended by representatives from about one third of the schools that report VADIR data. Topics included the legal requirements of VADIR reporting; descriptions of incidents; consideration of the school climate; and schools’ ability to use their own VADIR data to make improvements.

Personnel from the Institute indicated they had requested VADIR training for the last two years, but none had been scheduled by the Department. We recommend the Department pursue additional ways to reach school and district personnel involved with VADIR reporting. Possibilities include web conferencing and e-learning solutions that allow write-in or call-in questions and can help maximize the Department’s ability to reach those who need assistance.

The Department has issued key documents as references for schools to properly assess incidents for reporting purposes. Most important are the Glossary of Terms Used in Reporting Violent and Disruptive Incidents, last revised in 2008, and Questions and Answers (Q & A) Regarding Reporting VADIR Data, last revised in 2009. For the school year we tested, there were also separate Directions for Completing the Summary of Violent and Disruptive Incidents Form (Directions). Both the Q & A and the Directions reiterate the record retention requirements.

During our site visits, we reviewed the information schools used as resources in assessing, recording and reporting VADIR data, and found that schools rely heavily on Department materials. Of the seven schools we visited, only one (East) had district-specific written guidance about how to assess VADIR incidents and record them in the school’s system. Another school, Schenectady, had information that provided limited guidance about how the district disciplinary codes related to VADIR reporting codes. The materials we reviewed for the remaining five schools did not

mention VADIR or how to assess and report incidents to comply with the SAVE Act.

The Department has an obligation to help districts understand their responsibilities with respect to the SAVE Act. This can be accomplished through training, guidelines and other mechanisms. In the absence of guidance at the school or district level, the information the Department provides takes on greater significance and must be clear. Given the significance of the unreported incidents and schools' difficulty in complying with VADIR requirements, we recommend the Department improve and enhance its training efforts and revisit its existing VADIR guidance to promote better understanding of SAVE Act requirements.

Recommendations

1. Conduct and document a risk assessment related to compliance with the SAVE Act and VADIR requirements. Decide where to best focus limited resources to help schools:
 - enhance school safety and
 - improve the completeness and accuracy of VADIR reporting.
2. For Burgard and Fulton, review the incident records for the 2011-12 school year and other years as applicable; determine if either school should have been designated persistently dangerous for 2011-12 or subsequent years; and take appropriate corrective action.
3. Comply with provisions of the SAVE Act and the corresponding Regulations that require the Department to:
 - annually designate persistently dangerous schools,
 - notify local educational agencies of the designation so they can notify parents timely of the option to transfer to a safe public school, if one is available, and
 - report annual VADIR results to the Governor, the Legislature and the Board of Regents.
4. Improve and enhance training efforts to reach more schools and provide targeted assistance to higher risk schools and school districts. This could include pursuing virtual solutions such as web conferencing and e-learning to reach more schools and allow real-time interaction.
5. Revisit the existing VADIR guidance available to schools and make changes, as needed, to emphasize and/or clarify:
 - the descriptions of VADIR-reportable incidents and how to record incident information for accurate reporting,
 - the requirement to maintain incident records and summary VADIR information, and
 - the requirement to record and report summer school incidents.

Audit Scope and Methodology

We audited school violent and disruptive incident data that school districts report to the Department as required by the Safe Schools Against Violence in Education Act (SAVE Act). We assessed the data's accuracy and completeness. We also audited selected Department oversight responsibilities provided by the Act. The objective of our audit was to determine whether school districts outside of New York City are properly and accurately reporting statistics on crime and incidents to the Department. We also assessed whether the Department has used incident data to identify school districts with comparatively high rates of incidents to ensure they have adequate violence prevention and response programs. Our audit covered the period July 1, 2011 through June 16, 2014.

To accomplish our objectives, we analyzed school incident data reported on the Department's website to identify possible risk areas and to recalculate statistics the Department reports about this data. We interviewed key Department officials and school and district personnel to obtain an understanding of the roles and responsibilities of the parties involved in reporting school incident data. We became familiar with the flow of information between and among these parties. We also assessed the Department's internal controls as they relate to its oversight role in collecting, summarizing, communicating and acting on the reported incident data.

As part of our examination, we visited seven schools to assess whether the VADIR data the relevant school district reported to the Department for the 2011-12 school year was supported by school incident records and was reported accurately and completely. We reviewed 7,492 student records that generally represented the total number of students enrolled at any time during the school year. We communicated our findings to Department officials, and considered information they provided through June 16, 2014.

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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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. In addition, the Comptroller appoints members to certain boards, commissions and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The 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.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal comment. We considered the Department's comments in preparing this report and have included them in their entirety at the end of it. In their response, Department officials generally concurred with our recommendations and indicated that certain actions have been and will be taken to address them. Among those actions, the Department issued notices (on August 1, 2014) to schools that are on the persistently dangerous list for the 2014-15 school year. In addition, the Department will use a variety of methods (including site visits, webinars and media presentations) to provide increased opportunities for schools to receive technical assistance and support to improve climate and safety beginning in August 2014 and continuing throughout the 2014-15 school year.

Within 90 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.

Contributors to This Report

Andrea Inman, Audit Director
David Fleming, CISA, Audit Manager
Melissa Little, Audit Manager
Suzanne Mazone, Audit Supervisor
Sharon Salembier, CPA, CGFM, Audit Supervisor
Claudia Christodoulou, Examiner-in-Charge
Judy Grehl, Examiner-in-Charge
Devisha Gujjar, Examiner-in-Charge
Adrian Wiseman, Examiner-in-Charge
Tracy Glover, Staff Examiner
Jennifer Habib, Staff Examiner
Amanda Halabuda, Staff Examiner
Jackie Keeys-Holston, Staff Examiner
Matt Luther, Staff Examiner
Yulia Moroz, Staff Examiner
Daniel Rossi, Staff Examiner
Thomas Sunkel, Staff Examiner

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.state.ny.us

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.state.ny.us

Brian Mason, Assistant Comptroller
518-473-0334, bmason@osc.state.ny.us

Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Exhibit A

Number of Non-New York City Schools That Reported VADIR Data for the 2011-12 School Year (by County)			
County	Number of Schools	County	Number of Schools
ALBANY	73	ONEIDA	72
ALLEGANY	18	ONONDAGA	119
BROOME	53	ONTARIO	31
CATTARAUGUS	33	ORANGE	80
CAYUGA	21	ORLEANS	12
CHAUTAUQUA	51	OSWEGO	39
CHEMUNG	22	OTSEGO	21
CHENANGO	22	PUTNAM	21
CLINTON	29	RENSSELAER	42
COLUMBIA	16	ROCKLAND	64
CORTLAND	18	SARATOGA	51
DELAWARE	19	SCHENECTADY	42
DUTCHESS	75	SCHOHARIE	12
ERIE	212	SCHUYLER	6
ESSEX	15	SENECA	11
FRANKLIN	20	ST. LAWRENCE	40
FULTON	21	STEUBEN	38
GENESEE	19	SUFFOLK	343
GREENE	17	SULLIVAN	18
HAMILTON	5	TIOGA	20
HERKIMER	25	TOMPKINS	31
JEFFERSON	38	ULSTER	47
LEWIS	13	WARREN	20
LIVINGSTON	21	WASHINGTON	22
MADISON	27	WAYNE	37
MONROE	186	WESTCHESTER	249
MONTGOMERY	16	WYOMING	13
NASSAU	314	YATES	5
NIAGARA	53		
		TOTAL	2,958

Exhibit B

County Locations of Schools Visited



- Erie
- Monroe
- Nassau
- Onondaga
- Oswego
- Schenectady
- Westchester

Exhibit C-1

Castleton Academy High School of Oceanside – Unreported Incidents for 2011-12 School Year				
VADIR Code	SED Violent and Disruptive Incident Category	Number of VADIR Incidents Identified by Audit Team	Incidents Publicly Reported Through VADIR	Difference (Unreported Incidents)
1	Homicide	0	0	0
2.1	Forcible Sex Offenses	0	0	0
2.2	Other Sex Offenses	0	0	0
3	Robbery	0	0	0
4	Assault with Serious Physical Injury	0	0	0
5	Arson	0	0	0
6	Kidnapping	0	0	0
7	Assault with Physical Injury	0	0	0
8	Reckless Endangerment	0	0	0
9w	Minor Altercations (with weapon)	0	0	0
9	Minor Altercations	6	3	(3)
10w	Intimidation, Harassment, Menacing, Bullying (with weapon)	0	0	0
10	Intimidation, Harassment, Menacing, Bullying	4	0	(4)
11w	Burglary (with weapon)	0	0	0
11	Burglary	1	0	(1)
12w	Criminal Mischief (with weapon)	0	0	0
12	Criminal Mischief	2	1	(1)
13w	Larceny or other Theft Offenses (with weapon)	0	0	0
13	Larceny or other Theft Offenses	0	0	0
14	Bomb Threat	0	0	0
15	False Alarm	0	0	0
16w	Riot (with weapon)	0	0	0
16	Riot	0	0	0
17.1	Weapon(s) confiscated through entry screening	0	0	0
17.2	Weapon(s) found under other circumstances	0	0	0
18	Use, Possession, or Sale of Drugs	1	1	0
19	Use, Possession, or Sale of Alcohol	0	0	0
20	Other Disruptive Incidents	1	3	2
Totals		15	8	(7)

Exhibit C-2

East High School – Unreported Incidents for 2011-12 School Year				
VADIR Code	SED Violent and Disruptive Incident Category	Number of VADIR Incidents Identified by Audit Team	Incidents Publicly Reported Through VADIR	Difference (Unreported Incidents)
1	Homicide	0	0	0
2.1	Forcible Sex Offenses	0	0	0
2.2	Other Sex Offenses	2	0	(2)
3	Robbery	0	0	0
4	Assault with Serious Physical Injury	0	0	0
5	Arson	2	2	0
6	Kidnapping	0	0	0
7	Assault with Physical Injury	8	6	(2)
8	Reckless Endangerment	3	0	(3)
9w	Minor Altercations (with weapon)	0	3	3
9	Minor Altercations	128	57	(71)
10w	Intimidation, Harassment, Menacing, Bullying (with weapon)	0	0	0
10	Intimidation, Harassment, Menacing, Bullying	24	8	(16)
11w	Burglary (with weapon)	0	0	0
11	Burglary	1	1	0
12w	Criminal Mischief (with weapon)	0	0	0
12	Criminal Mischief	6	0	(6)
13w	Larceny or other Theft Offenses (with weapon)	0	0	0
13	Larceny or other Theft Offenses	10	6	(4)
14	Bomb Threat	0	0	0
15	False Alarm	0	0	0
16w	Riot (with weapon)	0	0	0
16	Riot	0	0	0
17.1	Weapon(s) confiscated through entry screening	31	24	(7)
17.2	Weapon(s) found under other circumstances	7	3	(4)
18	Use, Possession, or Sale of Drugs	10	5	(5)
19	Use, Possession, or Sale of Alcohol	3	1	(2)
20	Other Disruptive Incidents	534	140	(394)
Totals		769	256	(513)

Exhibit C-3

Fulton Junior High School – Unreported Incidents for 2011-12 School Year				
VADIR Code	SED Violent and Disruptive Incident Category	Number of VADIR Incidents Identified by Audit Team	Incidents Publicly Reported Through VADIR	Difference (Unreported Incidents)
1	Homicide	0	0	0
2.1	Forcible Sex Offenses	2	0	(2)
2.2	Other Sex Offenses	4	1	(3)
3	Robbery	0	0	0
4	Assault with Serious Physical Injury	3	2	(1)
5	Arson	0	0	0
6	Kidnapping	0	0	0
7	Assault with Physical Injury	64	23	(41)
8	Reckless Endangerment	12	0	(12)
9w	Minor Altercations (with weapon)	0	0	0
9	Minor Altercations	72	59	(13)
10w	Intimidation, Harassment, Menacing, Bullying (with weapon)	1	0	(1)
10	Intimidation, Harassment, Menacing, Bullying	58	46	(12)
11w	Burglary (with weapon)	0	0	0
11	Burglary	0	0	0
12w	Criminal Mischief (with weapon)	0	0	0
12	Criminal Mischief	11	0	(11)
13w	Larceny or other Theft Offenses (with weapon)	0	0	0
13	Larceny or other Theft Offenses	2	2	0
14	Bomb Threat	0	0	0
15	False Alarm	1	1	0
16w	Riot (with weapon)	0	0	0
16	Riot	0	0	0
17.1	Weapon(s) confiscated through entry screening	0	0	0
17.2	Weapon(s) found under other circumstances	2	2	0
18	Use, Possession, or Sale of Drugs	2	2	0
19	Use, Possession, or Sale of Alcohol	1	1	0
20	Other Disruptive Incidents	133	150	17
Totals		368	289	(79)

Exhibit C-4

Institute of Technology at Syracuse Central – Unreported Incidents for 2011-12 School Year				
VADIR Code	SED Violent and Disruptive Incident Category	Number of VADIR Incidents Identified by Audit Team	Incidents Publicly Reported Through VADIR	Difference (Unreported Incidents)
1	Homicide	0	0	0
2.1	Forcible Sex Offenses	0	0	0
2.2	Other Sex Offenses	0	0	0
3	Robbery	0	0	0
4	Assault with Serious Physical Injury	0	0	0
5	Arson	1	1	0
6	Kidnapping	0	0	0
7	Assault with Physical Injury	2	1	(1)
8	Reckless Endangerment	0	0	(0)
9w	Minor Altercations (with weapon)	0	0	0
9	Minor Altercations	34	25	(9)
10w	Intimidation, Harassment, Menacing, Bullying (with weapon)	0	0	0
10	Intimidation, Harassment, Menacing, Bullying	15	4	(11)
11w	Burglary (with weapon)	0	0	0
11	Burglary	0	0	0
12w	Criminal Mischief (with weapon)	0	0	0
12	Criminal Mischief	0	0	0
13w	Larceny or other Theft Offenses (with weapon)	0	0	0
13	Larceny or other Theft Offenses	1	1	0
14	Bomb Threat	0	0	0
15	False Alarm	0	0	0
16w	Riot (with weapon)	0	0	0
16	Riot	1	0	(1)
17.1	Weapon(s) confiscated through entry screening	1	0	(1)
17.2	Weapon(s) found under other circumstances	0	0	0
18	Use, Possession, or Sale of Drugs	2	3	1
19	Use, Possession, or Sale of Alcohol	1	1	0
20	Other Disruptive Incidents	105	101	(4)
Totals		163	137	(26)

Exhibit C-5

Pleasantville High School – Unreported Incidents for 2011-12 School Year				
VADIR Code	SED Violent and Disruptive Incident Category	Number of VADIR Incidents Identified by Audit Team	Incidents Publicly Reported Through VADIR	Difference (Unreported Incidents)
1	Homicide	0	0	0
2.1	Forcible Sex Offenses	0	0	0
2.2	Other Sex Offenses	0	0	0
3	Robbery	0	0	0
4	Assault with Serious Physical Injury	0	0	0
5	Arson	0	0	0
6	Kidnapping	0	0	0
7	Assault with Physical Injury	1	0	(1)
8	Reckless Endangerment	0	0	0
9w	Minor Altercations (with weapon)	0	0	0
9	Minor Altercations	5	6	1
10w	Intimidation, Harassment, Menacing, Bullying (with weapon)	0	0	0
10	Intimidation, Harassment, Menacing, Bullying	16	6	(10)
11w	Burglary (with weapon)	0	0	0
11	Burglary	0	0	0
12w	Criminal Mischief (with weapon)	0	0	0
12	Criminal Mischief	1	1	0
13w	Larceny or other Theft Offenses (with weapon)	0	0	0
13	Larceny or other Theft Offenses	0	0	0
14	Bomb Threat	0	0	0
15	False Alarm	1	1	0
16w	Riot (with weapon)	0	0	0
16	Riot	0	0	0
17.1	Weapon(s) confiscated through entry screening	0	0	0
17.2	Weapon(s) found under other circumstances	0	0	0
18	Use, Possession, or Sale of Drugs	1	1	0
19	Use, Possession, or Sale of Alcohol	0	0	0
20	Other Disruptive Incidents	11	1	(10)
Totals		36	16	(20)

Exhibit C-6

Schenectady High School – Unreported Incidents for 2011-12 School Year				
VADIR Code	SED Violent and Disruptive Incident Category	Number of VADIR Incidents Identified by Audit Team	Incidents Publicly Reported Through VADIR	Difference (Unreported Incidents)
1	Homicide	0	0	0
2.1	Forcible Sex Offenses	0	0	0
2.2	Other Sex Offenses	2	0	(2)
3	Robbery	1	0	(1)
4	Assault with Serious Physical Injury	3	1	(2)
5	Arson	1	0	(1)
6	Kidnapping	0	0	0
7	Assault with Physical Injury	19	5	(14)
8	Reckless Endangerment	1	0	(1)
9w	Minor Altercations (with weapon)	0	1	1
9	Minor Altercations	143	142	(1)
10w	Intimidation, Harassment, Menacing, Bullying (with weapon)	0	0	0
10	Intimidation, Harassment, Menacing, Bullying	102	69	(33)
11w	Burglary (with weapon)	0	0	0
11	Burglary	1	3	2
12w	Criminal Mischief (with weapon)	0	0	0
12	Criminal Mischief	8	3	(5)
13w	Larceny or other Theft Offenses (with weapon)	0	0	0
13	Larceny or other Theft Offenses	11	6	(5)
14	Bomb Threat	0	0	0
15	False Alarm	3	3	0
16w	Riot (with weapon)	0	0	0
16	Riot	0	0	0
17.1	Weapon(s) confiscated through entry screening	0	1	1
17.2	Weapon(s) found under other circumstances	33	31	(2)
18	Use, Possession, or Sale of Drugs	57	46	(11)
19	Use, Possession, or Sale of Alcohol	5	2	(3)
20	Other Disruptive Incidents	1,434	1,221	(213)
Totals		1,824	1,534	(290)

Exhibit D

Misclassified Incidents for Six of Seven Schools Visited		
Violent and Disruptive Incident Category Assessed per Audit	Violent and Disruptive Incident Category Assessed by School	Number of Occurrences
Forcible Sex Offenses (VADIR Code 2.1)	Other Disruptive Incidents (VADIR Code 20)	1
Other Sex Offenses (VADIR Code 2.2)	Intimidation, Harassment, Menacing, Bullying (VADIR Code 10)	1
Robbery (VADIR Code 3)	Intimidation, Harassment, Menacing, Bullying (VADIR Code 10)	1
Assault with Serious Physical Injury (VADIR Code 4)	Assault with Physical Injury (VADIR Code 7)	1
Assault with Physical Injury (VADIR Code 7)	Minor Altercations (VADIR Code 9)	7
Assault with Physical Injury (VADIR Code 7)	Other Disruptive Incidents (VADIR Code 20)	1
Reckless Endangerment (VADIR Code 8)	Minor Altercations (VADIR Code 9)	3
Reckless Endangerment (VADIR Code 8)	Other Disruptive Incidents (VADIR Code 20)	2
Reckless Endangerment (VADIR Code 8)	Weapon(s) found under other circumstances (VADIR Code 17.2)	1
Minor Altercations (VADIR Code 9)	Intimidation, Harassment, Menacing, Bullying (VADIR Code 10)	7
Minor Altercations (VADIR Code 9)	Other Disruptive Incidents (VADIR Code 20)	15
Intimidation, Harassment, Menacing, Bullying (VADIR Code 10)	Other Disruptive Incidents (VADIR Code 20)	21
Intimidation, Harassment, Menacing, Bullying (VADIR Code 10)	Criminal Mischief (VADIR Code 12)	2
Intimidation, Harassment, Menacing, Bullying with weapon (VADIR Code 10w)	Weapon(s) found under other circumstances (VADIR Code 17.2)	2
Criminal Mischief (VADIR Code 12)	Other Disruptive Incidents (VADIR Code 20)	6
Weapon(s) found under other circumstances (VADIR Code 17.2)	Weapons(s) confiscated through entry screening (VADIR Code 17.1)	1
Minor Altercations (VADIR Code 9)	Assault with Physical Injury (VADIR Code 7)	1
Intimidation, Harassment, Menacing, Bullying (VADIR Code 10)	Minor Altercations (VADIR Code 9)	1
Larceny or other Theft Offenses (VADIR Code 13)	Minor Altercations (VADIR Code 9)	1
Weapons(s) confiscated through entry screening (VADIR Code 17.1)	Weapon(s) found under other circumstances (VADIR Code 17.2)	1
Other Disruptive Incidents (VADIR Code 20)	Intimidation, Harassment, Menacing, Bullying (VADIR Code 10)	5
Other Disruptive Incidents (VADIR Code 20)	Minor Altercations (VADIR Code 9)	1
Totals		82

Exhibit E

2012-13 Department List of Persistently Dangerous Schools for Districts Outside of New York City Based on Violent and Disruptive Incident Reports		
SCHOOL NAME	SCHOOL DISTRICT	YEAR DESIGNATED
Hillcrest School	Peekskill City School District	2012-13
Caroline Elementary School	Ithaca City School District	2012-13
Little Flower School	Little Flower Union Free School District	2008-09
Berkshire Junior-Senior High School	Berkshire Union Free School District	2006-07
Greenburgh Eleven Elementary School	Greenburgh Eleven Union Free School District	2011-12
South Seneca Elementary School	South Seneca Central School District	2011-12
Sidney Middle School	Sidney Central School District	2011-12
Andover School	Andover Central School District	2011-12

Agency Comments



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

DEPUTY COMMISSIONER
Office of Performance Improvement and Management Services
O: 518.473-4706
F: 518.474-5392

August 11, 2014

Ms. Andrea Inman
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, NY 12236-0001

Dear Ms. Inman:

The following is the New York State Education Department's (Department) response to the draft audit report (2013-S-71) of the State Education Department Compliance with the Safe Schools Against Violence in Education Act.

Recommendation 1:

Conduct and document a risk assessment related to compliance with the SAVE Act and VADIR requirements. Decide where to best focus limited resources to help schools:

- **enhance school safety and**
- **improve the completeness and accuracy of VADIR reporting**

We share the concern about the accuracy of district data reporting. In 2013, the Board of Regents directed the Department to re-establish the NYS Safe Schools Task Force to address critical issues related to school safety. This Task Force, comprised of specialists in the areas of youth, safety and education, has been meeting since May 2013. A significant component of the ongoing work of this Task Force is the assessment of the current Violent and Disruptive Incident Reporting (VADIR) process. In June 2014, draft recommendations were presented to the Board of Regents including, among other things, recommendations for improving the completeness and accuracy of VADIR reporting. Some of these recommendations involve significant changes to the current VADIR system and may also require changes to statute and regulations.

At its July 2014 meeting, the Board of Regents directed Department staff to work with the Task Force to develop a recommendation to implement a single comprehensive data reporting system to track both the data required for VADIR and for the Dignity for All Students Act (DASA) in lieu of the two separate reporting requirements that are currently in place. The Regents directed that such system identify data reporting elements necessary to promote and measure positive school climates, and that Department staff recommendations include the development of budget requests for appropriate monitoring of and technical assistance to school districts as well as the expansion of the

Center for School Safety. Department staff will report back to the Board in September 2014. We look forward to working with the Office of the State Comptroller (OSC) to secure the additional resources in the State Budget required to provide technical assistance as well as additional OSC auditing.

To address the immediate concerns of complete and accurate VADIR reporting, on July 25, 2014, the Department issued a risk assessment survey to gather information from district and school administrators. Feedback from this survey will be received in August 2014 and the information will be used to strengthen and improve VADIR incident reporting starting with the 2014-2015 school year. The Department will also work with the Center for School Safety (NYCSS) to analyze the survey results and to work with individual districts based on their identified needs. NYCSS and Department staff will work with the NYS Safe Schools Task Force members and the Board of Regents to convene Regional meetings to address the findings and offer technical assistance and guidance on improving complete and accurate collection, reporting and retention of VADIR data and/or records.

Recommendation 2:

For Burgard and Fulton, review the incident records for the 2011-12 school year and other years as applicable; determine if either school should have been designated persistently dangerous for the 2011-12 or subsequent years; and take appropriate corrective action.

We share OSC's concern about the validity of the data reporting for Burgard and Fulton. The Department has begun to review incident records for the 2011-12 school year for both Burgard Vocational High School and Fulton Junior High School and will conduct on-site visits at both schools in the fall of 2014 to review current reporting procedures and provide technical assistance, as needed. The Department will also review incident data for subsequent school years where applicable and initiate corrective action as needed. We look forward to working with OSC to secure additional resources in next year's State Budget in an effort to provide further technical assistance to districts.

Recommendation 3:

Comply with provisions of the SAVE Act and the corresponding Regulations that require the Department to:

- **annually designate persistently dangerous schools,**
- **notify local educational agencies of the designation so they can notify parents timely of the option to transfer to a safe public school, if one is available**
- **report annual VADIR results to the Governor, the Legislature and the Board of Regents.**

To comply with the law's requirements, on August 1, 2014, the Department issued notices to schools that are on the Persistently Dangerous list for the School Year 2014-15. Such notices also

included data regarding the 2013-2014 school year. As a result, local educational agencies will notify parents of the Persistently Dangerous Schools designation in a timely manner so parents have the option to transfer their children to a safe public school, if one is available, prior to the 2014-15 School Year. In addition, the Department will submit the required annual report to the Governor, the Legislature and the Board of Regents.

During the 2012-2013 school year, the Department convened the New York State Safe Schools Task Force to review the design of district reporting. The Department kept data secure pending recommendations from the Task Force and, during the 2013-14 school year, maintained the list from the 2012-13 school year. During the 2013-14 school year, schools were neither removed from nor added to the list, pending the recommendations from the Task Force.

Recommendation 4:

Improve and enhance training efforts to reach more schools and provide targeted assistance to higher risk schools and school districts. This could include pursuing virtual solutions such as web conferencing and e-learning to reach more schools and allow real-time interaction.

The Department has begun to provide technical assistance to those schools defined as high-risk schools (those that are identified as potentially persistently dangerous (PPD)). The Department will provide increased opportunities for more schools to receive targeted technical assistance and support using a variety of methods, including but not limited to site visits, enhanced resources, webinars, and other appropriate media presentations to improve school culture, climate and safety beginning in August 2014 and continuing throughout the 2014-15 School Year. The Department will also provide targeted training to school personnel who are involved in VADIR reporting using interactive, real-time webinars and also on-site trainings.

We share OSC's concern regarding the need for improved and enhanced technical assistance due to the loss of resources as a result of the elimination of federal Safe and Drug Free Schools funding. The Department stands ready to join OSC in advocating for funding in the State Budget for these purposes.

Recommendation 5:

Revisit the existing VADIR guidance available to schools and make changes as need to emphasize and/or clarify:

- **the descriptions of VADIR-reportable incidents and how to record incident information for accurate reporting,**
- **the requirement to maintain incident records and summary VADIR information, and**

- **the requirement to record and report summer school incidents.**

In recognition of the need to revisit the existing VADIR guidance and support districts' reporting efforts, the Department has begun the review of existing VADIR training materials provided to schools to improve the accuracy of data collection, reporting and records retention of annual VADIR data submitted to the Department. In conjunction with our work with the NYS Safe Schools Task Force, to address the immediate concerns of complete and accurate VADIR reporting, the Department has conducted a risk assessment survey to gather information from district and school administrators. Feedback from this survey will be received in August 2014 and the information will be used to strengthen and improve VADIR incident reporting starting with the 2014-2015 school year. The survey results will also be used to identify areas in which guidance, training and technical assistance are needed and to inform our work with the NYCSS to provide targeted assistance to individual districts based on their identified needs. NYCSS and Department staff will work with the NYS Safe Schools Task Force members and the Board of Regents and issue guidance to all districts with regard to reporting and other related VADIR responsibilities. The Department will convene Regional meetings to address the findings and offer technical assistance and guidance on improving complete and accurate collection, reporting and retention of VADIR data and/or records.

The requirement for schools to report VADIR incidents occurring during summer school, already noted on the annual reporting form, will be emphasized in future trainings and technical assistance. Summer school reporting requirements have also been included in the risk assessment recently sent to district and school administrators.

The Department looks forward to working with OSC to advocate for and secure additional resources in next year's State Budget to provide the supplemental technical assistance required to support these activities and to support additional OSC auditing.

If you have any questions regarding this response, please contact Renee Rider of the Student Support Services Office at (518) 474-4817.

Sincerely,



Sharon Cates-Williams

c: Commissioner King
 Cosimo Tangorra
 Renee Rider
 Sharon Holder
 Maria Guzman