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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 10, 2010

Mr. Joel I. Klein, Esq.
Chancellor
NYC Department of Education
52 Chambers Street
New York, NY 10007

Re: Report 2010-F-12

Dear Chancellor Klein:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution; and Article III, Section 33 of the General Municipal Law, we have followed up on the actions taken by officials of the New York City Department of Education to implement the recommendations contained in our audit report, *School Nutrition* (Report 2008-N-15).

Background, Scope and Objective

The New York City Department of Education (DoE) is responsible for the New York City public school system, which contains more than 1,600 schools with nearly 1.1 million students. These schools serve approximately 860,000 meals a day to their students. Lunch is the main meal that is served, but breakfast, dinner and snacks are also served.

DoE participates in the National School Lunch Program. Accordingly, DoE is required to develop a Wellness Policy that addresses and promotes nutritional education in its schools, and the meals served by the schools must meet the Federal nutritional guidelines outlined in the Department of Health and Human Services' Dietary Guidelines for Americans. For lunches and breakfasts, the guidelines recommend that no more than 30 percent of an individual's calories come from fat, and less than 10 percent from saturated fat. The guidelines also recommend that school lunches provide one-third, and breakfasts one-fourth, of the recommended dietary allowances of protein, vitamin A, vitamin C, iron, calcium, and calories.

DoE's Office of SchoolFood (SchoolFood) administers the School Meals Program in DoE schools. SchoolFood officials told us that they are committed to promoting healthy food choices among students and maintaining high nutritional standards by offering attractive menu options every day. In addition to the meals provided through the School Meals Program, other "competitive" foods are also made available to students during the school day through vending machines, school stores, and bake sales. In an effort to ensure the nutritional quality of this food, DoE published Chancellor Regulation A-812, which places restrictions on all competitive foods.

Our initial audit report, which was issued on June 10, 2009, covering the period October 1, 2008 through January 8, 2009 examined whether the DoE ensured that the food that is made available to students during the school days meets established nutritional guidelines and promotes healthy eating habits among the students. The objective of our follow-up was to assess the extent of implementation as of June 9, 2010 of the nine recommendations included in our initial report.

Summary Conclusions and Status of Audit Recommendations

We found that DoE officials have made significant progress in correcting the problems we identified. Of the nine prior audit recommendations, six recommendations have been implemented and three recommendations have been partially implemented.

Follow-up Observations

Recommendation 1

Instruct the Principals at DeWitt Clinton HS and Susan E. Wagner HS to ensure that their school meals do not include cheeseburgers on a daily basis and the meals otherwise conform to the menus approved by SchoolFood.

Status - Implemented

Agency Action - During our follow-up review, we were told that DoE officials had verbally instructed the SchoolFood staff at the DeWitt Clinton and Susan E. Wagner High Schools to conform to the menus approved by SchoolFood. We visited the Susan E. Wagner High School on May 14, 2010 and observed that cheeseburgers were not being served on that day. Moreover, we determined that meals offered to students on the day of our visit were consistent with the menu approved by SchoolFood.

Recommendation 2

Direct schools to immediately stop the sale of competitive foods in school stores prior to the end of the last school lunch period.

Status - Partially Implemented

Agency Action - DoE officials advised us that they had instructed school stores employees not to sell competitive foods prior to the end of the last lunch period each day. We visited a sample of five schools to ensure that school stores were complying with this advice. We found that a school store at one of the five schools was selling competitive foods during the lunch period. Although the competitive food items met DoE's nutritional requirements, school stores are not allowed to sell these items until after the last lunch period.

Recommendation 3

Install electronic timers that turn off vending machines until the last lunch period has ended.

Status - Partially Implemented

Agency Action - DoE officials amended Chancellor's Regulation A-812 to require that timers be set to lock the snack vending machines during the breakfast meal and then again, during the lunch periods. We visited a sample of five schools to ensure that timers were installed on vending machines and that the timers did not allow students to make purchases from the vending machines during the lunch periods. We found that timers were installed on the vending machines at all five schools. However, at one of the schools, the timers were not activated.

Recommendation 4

Ensure that bake sales do not exceed the once per month limit.

Status - Partially Implemented

Agency Action - In February 2010, DoE officials changed Chancellor Regulation A-812 to remove the once per month limit regarding student organization bake sales (and sales of other fund raising food items). The new Chancellor Regulation A-812 allows students to hold sales more frequently as long as the sale is outside of the cafeteria and the items sold are all approved food items. We tested this new regulation in lieu of the prior regulation at five schools. At one of the five schools we visited, we observed students conducting a fundraiser which offered unapproved food items such as donuts and candy for sale. Although this fundraising activity occurred outside the cafeteria, the food items were not on the DoE approved food list.

Recommendation 5

Establish DoE central contracts, with nutritional requirements, for all the foods and beverages sold in school vending machines and school stores.

Status - Implemented

Agency Action - DoE officials have established two central contracts for the procurement of all foods and beverage items sold in school vending machines and school stores. Some items may require a specific type of vending machine. Included in the two contracts is a listing of all SchoolFood approved foods and beverages.

Recommendation 6

Modify SchoolFood's listing of approved snack items to include the product serving size.

Status - Implemented

Agency Action - DoE officials established a new approved snack item listing for snack and beverages sold in schools. This new listing included product serving size.

Recommendation 7

Develop a mechanism for reporting schools that are not in compliance with Chancellor Regulation A-812. Instruct ISC officials to review this report and follow up with the Principals at the non-compliant schools, and take corrective action if the schools do not become compliant.

Status - Implemented

Agency Action - DoE officials have developed a mechanism for reporting schools that are not in compliance with Chancellor Regulation A-812. SchoolFood officials are currently in the process of sending surveys to SchoolFood Food Service Managers to determine their compliance with Chancellor Regulation A-812. During our follow up review, we saw emails from SchoolFood officials notifying select Principals that their school was in violation of Chancellor Regulation A-812.

Recommendation 8

Provide training to all Principals and SchoolFood employees on the requirements and importance of Chancellor Regulation A-812.

Status - Implemented

Agency Action - During our follow-up review, we saw documentation which confirmed that DoE officials had provided training to Principals and SchoolFood employees on the requirements and importance of Chancellor Regulation A-812.

Recommendation 9

Ensure that the Principals are aware of the Wellness Policy and the need to comply with the Policy.

Status - Implemented

Agency Action - DoE officials provided us with documentation which showed that information on the Wellness Policy was provided to all school Principals. The information also showed that training on the Wellness Policy was provided to all Superintendents.

Major contributors to this report were Stephen Lynch, and Tania Zino.

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 also thank the management and staff of DoE for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Kenrick Sifontes
Audit Manager

cc: Brian Fleischer, Auditor General - DoE
George Davis, Mayor's Office of Operations