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STATE COMPTROLLER



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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 3, 2002

Mr. Richard P. Mills
Commissioner
New York State Education Department
State Education Building
Albany, NY 12234

Re: Compliance with Section 215-c of the
State Education Law
Report 2001-S-59

Dear Mr. Mills:

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 audited the State Education Department's efforts to encourage and monitor cost-effective practices in New York State's public school system in compliance with Section 215-c of the State Education Law. Our audit covered the period January 1, 1998 through February 28, 2002.

A. Background

Public schools in New York State are administered by about 700 local school districts. District operations are overseen by the State Education Department (Department), and are funded by a combination of local property taxes and State aid. The New York State Board of Regents (Regents), who are appointed by the State Legislature, direct and oversee the activities of the Department. To promote cost-effectiveness in district operations, the State Legislature enacted Section 215-c of the State Education Law in 1996. As a result of this legislation, the Department was required to: (1) identify current structures, policies, laws and regulations that hinder cost-effectiveness in schools and school districts; (2) identify cost-effective school districts that have demonstrated improvement in resource allocation in all areas related to education; (3) determine cost-effective practices and programs that can be replicated in other school districts; and (4) develop cost-effective ways to recognize and reward academic improvement and success in school districts.

Section 215-c of the Education Law also requires the Commissioner of the Department to consult with school district administrators, teachers, school board members, parents, students, and school support personnel in determining cost-effective programs; and to disseminate information to

school district administrators, school board members and other interested parties describing how cost-effective practices can be used in school districts, individual schools and the classroom. The Commissioner was required to report to the Governor and Legislature by January 1, 1998, and periodically thereafter, on the status of the Commissioner's and the Department's efforts to enhance cost-effectiveness in the public school system.

To accomplish the activities required by Section 215-c of the Education Law, the Department established the Commissioner's Advisory Sub-Committee on Cost Effectiveness (Sub-Committee). The Sub-Committee was composed of Department staff, school district administrators, administrators from the various boards of cooperative educational services (or BOCES, which are regional not-for-profit organizations that provide education and support services to school districts), and representatives of the New York State Association of School Board Officers (NYSASBO) and the New York State Council of School Superintendents (NYSCSS). The Sub-Committee was also directed by the Commissioner to discuss and implement the recommendations contained in a 1995 study on cost-effectiveness in New York's public schools that was undertaken at the request of the New York State Board of Regents.

The Sub-Committee convened in 1996 and disbanded in August 2001. In August 2001, the Sub-Committee submitted a report to the Board of Regents recommending that (1) the Department improve its ability to manage the information it collects and make it available in a timely manner to all school districts; (2) districts become more proficient at systematically addressing educational priorities over a longer period of time; and (3) school leaders increase their efforts to work with leaders in other districts to develop strategies for consolidating useful information and incorporating this information into long-range planning and decision-making. Sub-Committee members also concluded that future efforts to enhance cost-effectiveness should focus on the training of school-level managers to help them improve their administration of general school operations. The Department's present strategy is that ongoing initiatives aimed at improving specific aspects of school district administration and classroom performance can also result in compliance with requirements of Section 215-c of the Education Law. However, no discrete administrative mechanism with close ties to the school districts, such as the Sub-Committee, is presently directing and monitoring efforts to achieve compliance with the Law.

General operating costs for the nearly 700 school districts in New York State increased from \$19 billion for the 1989-90 school year to \$30.2 billion for the 1999-2000 school year, and the amount of State aid provided to the school districts for the 2000-01 school year totaled nearly \$13.7 billion. Section 215-c of the Education Law is intended to promote cost-effectiveness in New York State's public school system. Considering the magnitude of the State and local government investment in the school system, the issue of cost-effectiveness needs to be given sufficient priority.

B. Audit Scope, Objective and Methodology

We audited the Department's efforts to encourage and monitor cost-effective practices in New York State's public school system for the period January 1, 1998 through February 28, 2002. The objective of our performance audit was to determine whether the Department complied with Section 215-c of the State Education Law. To accomplish our objective, we interviewed officials from the Department, ASBO, NYSCSS and selected school districts. We also reviewed pertinent

documentation regarding the Department's actions to promote and monitor school district efforts to improve cost-effectiveness.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess the operations of the Department that are included in our audit scope. Further, these standards require that we understand the Department's internal control structure and compliance with those laws, rules and regulations that are relevant to the operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach when selecting activities to be audited. This approach focuses our audit efforts on those operations that have been identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, finite audit resources are used to identify where and how improvements can be made. Thus, little effort is devoted to reviewing operations that may be relatively efficient or effective. As a result, our audit reports are prepared on an "exception basis." This report, therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

C. Results of Audit

We found that the Department initiated some of the actions required by Section 215-c of the Education Law, and took other actions that were consistent with the overall objectives of this legislation. However, the Department did not initiate all the required actions, and generally did not follow through to complete the actions that were initiated. We therefore conclude that the Department has not accomplished many of the clear directives contained in Section 215-c of the Education Law, such as identifying current policies, laws and regulations that hinder cost effectiveness.

We acknowledge the value of ongoing Department initiatives to improve school district administration and classroom performance. However, these initiatives already have multiple, high priorities. Therefore, we question whether the Department can accomplish Section 215-c requirements through such initiatives without also providing for a discrete administrative mechanism with close ties to the school districts, such as the Sub-Committee, to direct and monitor efforts to comply. Accordingly, we recommend that the Department consider reestablishing a discrete administrative entity in support of compliance efforts for Section 215-c of the Education Law.

D. Sub-Committee Activities

The Sub-Committee met twelve times between 1996 and 2001. During this period, the Sub-Committee became involved in a number of activities. It developed a working definition of cost-effectiveness, developed and tested a tool (the Assessment Model for Cost-Effectiveness) that was intended to help school district administrators evaluate the cost-effectiveness of their districts'

educational programs and services, and addressed other aspects of cost-effectiveness in New York State's public schools. We examined the actions taken by the Sub-Committee and found that, while the actions were consistent with the requirements contained in Section 215-c of the Education Law, they generally did not fulfill those requirements.

For example, in 1999, the Sub-Committee developed and tested the Assessment Model for Cost-Effectiveness (Model). The Model is a set of instructions that are intended to help school district officials identify opportunities for cost savings by evaluating district programs and services in relation to the district's budget. The Model, which should be used separately for each program or service being assessed, includes instructions for:

- identifying the program or service to be assessed and stating why there is need for the assessment (for example, the microcomputer repair/maintenance fees paid by neighboring school districts could be assessed to determine whether an acceptable level of service could be obtained at a lower cost if the services were shared by the districts),
- reviewing the laws and regulations pertaining to the program or service,
- collecting data that will facilitate formal analysis of the resources needed to provide the program or service and the outcomes expected from the program or service, and
- comparing the expected outcomes of the program or service to the cost of providing the program or service to determine whether the program or service is cost-effective.

To determine whether the Model could be effective in helping administrators identify opportunities for cost savings, the Sub-Committee asked administrators in 38 BOCES to test the Model. In performing the test, the administrators were expected to use the Model to assess two programs or services in their region in which cost savings either could be realized or had recently been realized. In response to its request, the Sub-Committee received 42 examples in which the Model was successfully used, as it either identified potential cost savings or confirmed that past improvements had resulted in cost savings. For example, in one of the 42 responses, officials from the Southern Westchester BOCES indicated that the following cost savings had been realized:

- Prior to the 1994-95 school year, several school districts in the area served by the Southern Westchester BOCES contracted separately with private bus companies to transport more than 2,700 students to and from school at an annual cost of about \$1.8 million. In the 1994-95 school year, these districts began sharing their contracted bus services, as the services were provided by a newly formed transportation consortium that was managed by the Southern Westchester BOCES. By the 1997-98 school year, the transportation costs for these students had been reduced by about \$300,000 a year.

To promote the use of the Model statewide, the Sub-Committee, in conjunction with NYSASBO, conducted a series of workshops for school district superintendents and business officers. At the workshops, which were held in 1999, the administrators learned about the benefits of the Model and were instructed in how to use it. About 265 school district administrators attended these workshops.

In developing, testing and promoting the Model, the Sub-Committee advanced a practice that could address many of the requirements contained in Section 215-c of the Education Law. The Model could help administrators identify current structures, policies, laws and regulations that hinder cost-effectiveness; could help Department officials identify cost-effective practices that can be replicated in other districts; and could provide a basis for the exchange of information about cost-effective practices among the Department, the school districts, and other interested parties.

However, when we contacted seven of the administrators (from seven different school districts) who participated in the workshops, we found that only two of the seven had attempted to use the Model. In general, these administrators stated that they did not have enough time or personnel to perform the tasks prescribed by the Model. Moreover, the administrators told us that the Department has done little to follow up on, or actively promote, the issue of cost-effectiveness since the workshops were held in 1999. We note that the Department has not provided training in the use of the Model since the workshops were held in 1999, and has not followed up with district officials to determine whether the Model is being used. We further note that, while the Sub-Committee formally tested the Model, neither the Sub-Committee nor the Department formally assessed the results of the test to determine whether changes were needed in the design of the Model. We therefore conclude that, while the Model has the potential to promote cost-effective practices in public schools, the Department has not followed through on this initiative to ensure that its potential benefits are being realized.

We also note that the Department did not publish, or otherwise share with other districts, any of the 42 examples of cost savings that were obtained during the test of the Model, even though Section 215-c of the Education Law explicitly requires the Department to identify cost-effective practices that can be replicated in other districts. When we asked Department officials why they had not shared any of these examples with other districts, they told us they wanted to validate the examples before they were shared to ensure that the cost-saving practices were viable, but lacked the resources to perform the validation. While we recognize the benefits of such validation, we also note that it is unclear when, or even if, the Department will have the resources to validate the cost-saving practices in the examples. We therefore recommend that the Department assess the viability of these cost-saving practices, share with other districts the practices that appear to be viable, and inform the districts that the practices have not been validated. (We reviewed several of these examples, and most of the examples we reviewed appear to contain viable cost-saving practices.) If the Department does not share some of these potentially cost-saving practices with other districts, it will lose an excellent opportunity to promote cost-effectiveness in the very manner required by the Education Law.

Section 215-c of the Education Law also requires the Department to identify current structures, policies, laws and regulations that hinder cost-effectiveness in schools and school districts. In 1996, the Department conducted a survey of school district officials to determine their perspectives on cost-effectiveness. Among other questions, the survey requested district officials to identify laws, rules, regulations or policies that hinder cost-effectiveness. Department officials told us they received responses to this question, but neither the Department nor the Sub-Committee compiled the responses for further study or dissemination. We analyzed and summarized the responses and noted that of the 480 responses that were received, 90 or more districts addressed problems with the Labor Law, Capital Programs, Special Education and the Education Law in

general. Thus, we conclude that the Department initiated an action that could have fulfilled a requirement in Section 215-c of the Education Law, but did not follow through to complete the action.

Section 215-c of the Education Law also requires the Department to identify cost-effective school districts that have demonstrated improvement in resource allocation, and to develop cost-effective ways to recognize and reward academic improvement and success in school districts. We found that neither the Department nor the Sub-Committee fulfilled these requirements. While the test of the Model did obtain a number of examples in which districts reported cost savings, a systematic process was not developed for identifying such districts. Section 215-c further requires the Commissioner (or the Department) to consult with, and disseminate information to, school district administrators, school board members and other interested parties regarding cost-effective practices. While the Department has complied with this requirement to some extent (e.g., in the composition of the Sub-Committee, the development and testing of the Model, and the creation of a website relating to cost-effectiveness), additional actions could be taken to ensure that this kind of communication is maintained on an ongoing basis. For example, an entity like the Sub-Committee could be maintained on an ongoing basis.

Section 215-c of the Education Law also requires the Department to report to the Governor and Legislature by January 1, 1998, and periodically thereafter, on the status of its efforts to enhance cost-effectiveness in the public school system. In January 1998, the Department complied with the initial reporting requirement by submitting a report called *Cost-Effectiveness in Education: A First Report*. The report highlighted the work of the Sub-Committee and indicated that the Department would make a long-term commitment to promoting cost-effectiveness. The report stated that a Department unit would be made responsible for coordinating efforts to promote cost-effectiveness in the school districts. (Subsequently, the Department assigned responsibility to the Facilities, Management and Information Services Unit. We concluded, however, that little activity took place to formally coordinate efforts to promote cost effectiveness in the school districts.) Also, the Department would add a new website pertaining to cost-effectiveness (this was done after we initiated our audit). The report also indicated that the Sub-Committee would (1) continue to collect information on cost-effective initiatives; (2) consult with pertinent groups to study individual strategies for achieving greater cost-effectiveness (including further development of techniques to be used in the Model); and (3) periodically report to the Governor and the Legislature on its progress.

While the Department complied with the initial January 1998 reporting requirement, it has yet to comply with the second part of the reporting requirement (“and periodically thereafter”), because it has not subsequently reported on the status of its efforts to promote cost-effectiveness. In addition, even though the report submitted in 1998 stated that the Sub-Committee would continue to collect information on cost-effective initiatives and continue to consult with pertinent groups, the Sub-Committee was disbanded in 2001.

When we asked Department officials why they disbanded the Sub-Committee before the requirements contained in Section 215-c of the Education Law had been fulfilled, they stated that the cost-effectiveness effort is too broad to be undertaken as a single discrete project. Rather, the Department has tried to incorporate a general focus on cost-effectiveness within routine school operations through program initiatives that are aimed at improving specific aspects of school district

administration or classroom performance. We acknowledge the value of ongoing Department initiatives to improve school district administration and classroom performance as well as the objective to create a focus on cost-effectiveness in routine school operations. However, programs for improving school district administration and classroom performance include multiple, high priorities. Therefore, we question whether the Department can accomplish Section 215-c requirements through such initiatives without also providing a discrete administrative mechanism with close ties to the school districts, such as the Sub-Committee, to direct and monitor efforts to comply. We therefore recommend that the Department consider reestablishing such a mechanism in support of compliance efforts for Section 215-c of the Education Law.

E. Other Department Initiatives

Department officials maintain that foremost among urgent issues is improving academic performance in the State's large and small cities. They further state that two years of performance data for every public school building in the State presents a compelling case for focusing resources and energy to reform urban education. The Department has concluded that current strategies to close the student performance gap between high need urban districts and the rest of the State's districts must be intensified, resources targeted, and new State and local partnerships forged.

Concerning Section 215-c, Department officials stated that they focus on cost-effectiveness in a number of areas. They stated that their goal is to minimize duplication of effort, leverage interdepartmental resources and incorporate cost-effectiveness in their core work. The Department accomplishes this through a review of existing and emerging processes/initiatives and the development of new processes/initiatives that respond to the legislation. Officials believe that the following programs should lead to improved cost-effectiveness of the school district operations.

- In the mid 1980s, the Department developed a program called Sharing Success. Performed largely through the work of a contractor, Sharing Success evaluates research-based educational programs and disseminates information on successful programs that districts might be able to replicate. Department officials indicate that Sharing Success has helped some low performing schools to improve student achievement on the statewide standardized tests for assessing competency in basic skills such as reading, writing and math.
- In 1997, the Department developed the Comprehensive District Education Plan (CDEP) for school districts outside New York City and the District Comprehensive Education Plan (DCEP) for school districts in New York City. The objective of CDEP and DCEP was to consolidate into a single plan some of the many complex plans that school districts are required by the Department to prepare, and thereby eliminate much of the paperwork associated with the preparation of the many individual plans. According to Department officials, the preparation of CDEPs and DCEPs compels district officials to assess programs and their related costs more carefully. Officials added that both program and fiscal staff at districts must work

- together to prepare a CDEP or DCEP, and thus, must develop a broader understanding of how dollars are spent.
- In 2001, Department officials developed new automated procedures that districts can use to enhance their procurement functions. This initiative identified problems in district purchasing and provided possible solutions. The new procedures are in the process of being tested and evaluated.
- The Department continues to publish the school report card to measure public school performance. The annual statewide school report cards provide data on school expenditures and academic performance that permits local communities to make judgments about the relative cost-effectiveness of their schools. In addition, the report card is used to direct funding and the Department's limited resources for technical assistance and monitoring.

We acknowledge that programs such as these can help districts operate more effectively, and may result in cost savings. However, while these programs may be consistent with the overall objectives of Section 215-c of the Education Law, they do not fulfill the specific requirements contained in the Law.

Recommendations

1. *Consider having a discrete administrative entity similar to the Sub-Committee, to direct and monitor strategy for complying with Section 215-c of the Education Law's requirements for:*
 - *the identification of structures, policies, laws and regulations that hinder cost-effectiveness in schools and school districts;*
 - *the identification of cost-effective school districts that have demonstrated improvement in allocating resources;*
 - *the determination of cost-effective practices and programs that can be replicated in other school districts;*
 - *the development of cost-effective ways to recognize and reward academic improvement and success in school districts;*
 - *ongoing communication between the Department and affected parties in the school districts about cost-effective practices; and*
 - *periodic reporting to the Governor and Legislature on the status of the Department's efforts to promote cost-effectiveness in the public schools.*

(Department officials agree in part with recommendation number 1. They indicate that the Office of Facilities, Management and Information Services is charged with promoting and coordinating the Department's initiatives for cost effectiveness. Also, officials state that

cost-effectiveness of public education is best improved by incorporating cost-effectiveness into public education's core mission.)

- 2. Update, formally review and summarize the 1996 survey responses that identified structures, policies, laws and regulations that hinder cost-effectiveness in schools and school districts. Assess the need for changes to the structures, policies, laws and regulations identified, and take action to bring about changes, as appropriate.*

(Department officials disagreed with recommendation number 2 stating the Regents have already taken positions on several relevant policies, laws and regulations.)

Auditor's Comments: It is not evident that the results of the survey were taken into account in establishing these positions.

- 3. Assess the viability of the cost-saving practices described in the responses obtained during the field test of the Model. Share with other school districts the practices that appear to be viable, and, as necessary, inform the districts that the practices have not been validated.*

(Department officials agree in part with recommendation number 3. They state that a majority of the responses lacked the quantitative fiscal data necessary to determine the degree of cost-effectiveness. However, officials indicate that they will consider the feasibility of using a consortium to develop a valid and reliable method to survey and assess cost-effective practices.)

- 4. Formally assess the results of the Sub-Committee's field test of the Assessment Model for Cost-Effectiveness. If the test results indicate that changes are needed in the design of the Model, make the needed changes and retest the Model. On an ongoing basis, monitor the use of the Model and formally evaluate its effectiveness in promoting cost-effective practices.*

(Department officials agree with recommendation number 4.)

We provided a draft copy of this report to Department officials for their review and comment. We considered their comments in the preparation of this report and have included them in Appendix A.

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 therefor.

Major contributors to this report were Jessica Feltman, Alex Marshall, Donald Wilson, Arthur F. Smith, Brian Mason and Dana Newhouse.

We wish to thank the management and staff of the State Education Department for the courtesies and cooperation extended to our auditors during this audit.

Very truly yours,

Jerry Barber
Audit Director

cc: Ms. Deirdre Taylor
Mr. Richard Cate
Mr. Thomas Sheldon



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August 6, 2002

Mr. Jerry Barber
Audit Director
Office of the State Comptroller
110 State Street
Albany, New York 12236

Dear Mr. Barber:

I am responding to the "working draft" of the audit of the State Education Department's efforts to encourage and monitor cost-effective practices in New York State's public school system in compliance with Section 215-c of the State Education Law (Report 2001-S-59).

Recommendation # 1

Consider having a discrete administrative entity similar to the Sub-Committee, to direct and monitor strategy for complying with Section 215-c of the Education Law's requirements for:

- *The identification of structures, policies, laws and regulations that hinder cost-effectiveness in schools and school districts;*
- *The identification of cost-effective school districts that have demonstrated improvement in allocating resources;*
- *The determination of cost-effective practices and programs that can be replicated in other school districts;*
- *The development of cost-effective ways to recognize and reward academic improvement and success in school districts;*
- *Ongoing communication between the Department and affected parties in the school districts about cost-effective practices; and*
- *Periodic reporting to the Governor and Legislature on the status of the Department's efforts to promote cost-effectiveness in the public schools.*

We agree, in part, with the recommendation.

The Office of Facilities, Management and Information Services is charged with promoting and coordinating cost-effectiveness within the Office of Elementary, Middle, Secondary and Continuing Education. We believe the cost-effectiveness of public education is best improved by incorporating cost-effectiveness into its core mission.

Recommendation # 2

Update, formally review and summarize the 1996 survey responses that identified structures, policies, laws and regulations that hinder cost-effectiveness in schools and school districts. Assess the need for changes to the structures, policies, laws and regulations identified, and take action to bring about changes, as appropriate.

We disagree with the recommendation.

The survey on cost-effectiveness identified nine major areas that administrators considered to be hindrances to cost-effectiveness:

- The Wicks Law
- Special Education
- Civil Service Laws governing recruitment and retention
- Teacher tenure
- The difficulty of projecting future State Aid
- Collective bargaining
- The requirement to use the lowest bidder
- Asbestos regulations
- Prevailing wage rates

The Regents have proposed repealing the Wicks Law; proposed simplifying and consolidating State Aid formulas; recommended a multi-year approach to State Aid; proposed reforms to special education; modified the 3020-a process (teacher discipline); proposed the use of Requests for Proposals in lieu of bidding for appropriate services; and recommended that schools be allowed to use the services of the Dormitory Authority of the State of New York to construct schools more economically.

Issues such as collective bargaining, prevailing wage rates or eliminating State and federal asbestos regulations have broad involvement across State agencies. Education Law 3602(6)(a)(1) was modified to reduce State building aid for buildings that are not properly maintained. A BOCES Technology Cost-Effectiveness policy [Education Law 1950 (4)(d)(2-a) was implemented and laws and regulations are reviewed annually and recommendations put forth to improve cost-effectiveness.

Recommendation # 3

Assess the viability of the cost-saving practices described in the responses obtained during the field test of the Model. Share with other school districts the practices that appear to be viable, and, as necessary, inform the districts that the practices have not been validated.

We agree, in part, with the recommendation.

As stated in the May 1, 2002 response to this recommendation, a majority of the responses lacked the quantitative financial data necessary to determine the degree of cost-effectiveness. The Department will consider the feasibility of using the Educational Finance Research Consortium to develop a valid and reliable method of surveying and assessing cost-effectiveness practices.

Recommendation # 4

Formally assess the results of the Sub-Committee's field test for the Assessment Model for Cost-Effectiveness. If the test results indicate that changes are needed in the design of the Model, make the needed changes and retest the Model. On an ongoing basis, monitor the use of the Model and formally evaluate its effectiveness in promoting cost-effective practices.

We agree with the recommendation.

Feedback from the cost-effectiveness workshops indicated that lack of fiscal benchmarks made it difficult to get school personnel to embrace the assessment model. The Department is developing fiscal benchmarks and identifying best practices for schools. The model then can be retested, modified, monitored and evaluated as appropriate. In addition, the Department is developing a self-evaluation tool for school financial officers that will include elements of the Assessment Model for Cost-Effectiveness. The evaluation tool is being developed with input from school administrators and will include best practices.

If you have any questions, please contact Charles Szuberla at 474-2238.

Sincerely,



Richard H. Cate

cc: Charles Szuberla