

THOMAS P. DiNAPOLI
STATE COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 13, 2007

Dr. John B. Clark
Interim Chancellor
State University of New York
State University Plaza
Albany, New York 12246

Re: Report 2007-F-29

Dear Chancellor Clark:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution, and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the State University of New York (SUNY) to implement the recommendations contained in our audit report, *Fire Safety at Dormitories* (Report 2005-S-61).

Background, Scope and Objectives

SUNY has 64 campuses (including 34 State-operated institutions, of which 5 are statutory colleges affiliated with private institutions, and 30 community colleges) located throughout the State. Thirty-seven of these campuses (including 28 State-operated institutions and 9 community colleges) have on-campus dormitories for students. For the 2006-07 academic year, SUNY had a total enrollment of about 418,000 students (including the State-operated campuses and community colleges). About 70,000 of these students resided in campus dormitories. (Note: SUNY does not have direct oversight responsibility over community college operations. In addition, most community college dormitories are owned and operated by independent parties who are responsible for ensuring compliance with applicable fire safety codes.)

According to Section 807-b of the State Education Law, public and independent colleges must have their dormitories inspected annually for fire hazards that could endanger the welfare of students and others. The Governor's Task Force on Campus Fire Safety (Task Force) was established to recommend policies and practices relating to fire safety in dormitories at public and independent colleges and universities throughout New York State. In July 2000, the Task Force issued its Comprehensive Fire Safety Plan. The Plan directed the Department of State's Office of Fire Prevention and Control (OFPC) to develop fire and safety guidelines and to monitor compliance with the guidelines through inspections of colleges and universities throughout the State. In addition, Section 807 of the Education Law requires campuses to perform fire drills at certain times

during the academic year. The inspection process includes steps to verify that the required fire drills have taken place.

After an initial fire safety inspection, OFPC prepares a report that notes any violations for each building inspected. Based on these reports, the campuses should take appropriate actions to ensure that any code violations are corrected promptly. OFPC subsequently performs follow-up inspections of buildings to determine if the violations have been corrected. If a violation is time-consuming or costly to correct, the campus can submit a formal compliance plan to OFPC for approval of additional time to correct the violation. If there are no violations, OFPC grants the building a certificate of compliance. Furthermore, OFPC submits its fire inspection reports to the State Education Department, pursuant to provisions of the Education Law, on behalf of the SUNY campuses.

OFPC is statutorily responsible for the annual fire safety inspections of all SUNY campuses, except those located in New York City (or NYC). Nevertheless, OFPC had an informal agreement with SUNY to conduct initial and follow-up inspections of SUNY's NYC-based campuses to help implement the Task Force's Fire Safety Plan. (SUNY's State-operated, NYC-based campuses with dormitories are the Downstate Medical Center and Maritime College. In addition, the Fashion Institute of Technology, a SUNY-affiliated community college located in NYC, has dormitories.) OFPC began inspections of SUNY's NYC-based campuses and assessed fines when follow-up inspections showed violations were not corrected. These fines prompted the NYC-based campuses to challenge OFPC's legal authority. As a result of this challenge, OFPC officials concluded that they did not have the legal authority to fully administer the inspection process, as intended per the informal agreement with SUNY. Consequently, the OFPC continues to conduct initial inspections of the SUNY-affiliated NYC-based campuses, but it no longer conducts follow-up inspections of or assesses fines to these campuses.

SUNY System Administration (System Administration) has a limited role in campus fire safety. The individual SUNY campuses are primarily responsible for complying with established fire safety laws and regulations, and they may establish their own policies and procedures to ensure that their fire safety programs are effective. In addition, System Administration requires each State-operated campus to submit an annual fire safety report detailing their policies and procedures including information regarding student responsibilities and participation in fire safety instruction.

Our initial audit report, which was issued on August 22, 2006, examined SUNY's compliance with fire safety laws and regulations at dormitories for the period July 1, 2003 to June 30, 2005. The objective of our performance audit was to determine whether the SUNY campuses (including both state-operated campuses and community colleges with on-campus housing) were complying with sections 807 and 807-b of the State Education Law and the related requirements of the OFPC. Our initial audit concluded that SUNY, as a whole, complied with prescribed fire safety laws and requirements at its dormitories. Dormitories at SUNY campuses were inspected, and campus officials conducted fire drills, as required by the Education Law.

However, we identified opportunities for SUNY to strengthen certain aspects of its dormitory fire safety programs. As noted previously, the OFPC conducts annual initial inspections of all SUNY campuses, including those in NYC, to identify violations of the State fire safety code. However, NYC-based campuses do not receive follow-up inspections from the OFPC, and consequently, there

is increased risk that the NYC-based campuses may not correct fire safety violations timely. We also determined that System Administration's monitoring of individual campus' fire safety policies and procedures could be enhanced through better technical reviews of campuses' annual fire safety reports. The objective of our follow-up, which was conducted in accordance with generally accepted government auditing standards, was to assess the extent of implementation, as of August 15, 2007, of the three recommendations included in our initial report.

Summary Conclusion and Status of Audit Recommendations

We determined that SUNY officials made significant progress in addressing the matters we identified in our initial report and have implemented the three recommendations made in the report.

Follow-up Observations

Recommendation 1

Consider proposing changes to the applicable law and regulations to enable OFPC to annually inspect, re-inspect, and assess penalties (when necessary) to the State-operated campuses located in NYC.

Status - Implemented

Agency Action - System Administration and OFPC officials held meetings to address OFPC's lack of legal authority to conduct fire safety inspections and assess penalties at the SUNY-affiliated campuses within New York City. As a result of the meetings, the Department of State drafted legislation to amend section 807-b of the Education Law and authorize the OFPC to inspect the State-affiliated campuses within New York City. The amendment would also have authorized the OFPC to assess penalties against campuses that did not correct fire code violations timely. System Administration officials supported this proposed legislation.

Recommendation 2

Work with the OFPC and/or the City of New York to identify the appropriate agency to perform follow-up inspections on New York City-based SUNY campuses and the Fashion Institute of Technology to ensure that violations are corrected timely.

Status - Implemented

Agency Action - As noted previously, System Administration officials supported the proposed legislation authorizing the OFPC to conduct fire safety inspections and to assess penalties at SUNY-affiliated campuses within New York City. In addition, System Administration officials shared our initial report with the NYC Fire Department and formally requested Fire Department officials to help ensure that the recurring violations identified at the Fashion Institute of Technology were corrected.

Recommendation 3

Enhance System Administration's monitoring and oversight of campus fire safety programs. Specifically, the University Office of Finance and Business should formalize its reviews of campus annual fire safety reports and document the input received from fire safety experts from other organizations.

Status - Implemented

Agency Action - System Administration officials enhanced their monitoring and oversight of campuses' fire safety programs. Specifically, in November 2006, SUNY Office of Finance and Business officials informed the campuses that they would share the campuses' annual fire safety reports with the fire safety professionals at the OFPC for their review. In March 2007, OFPC officials provided the observations, concerns and recommendations from their reviews of the annual reports to the Office of Finance and Business for dissemination to the appropriate SUNY campuses.

Major contributors to this report were Bill Clynes, Don Collins and Nisha Thomas.

We thank the management and staff of SUNY for the courtesies and cooperation extended to our auditors during this process.

Very truly yours,

Brian E. Mason
Audit Manager

cc: Dr. Kimberly Cline (SUNY)
Mr. Michael Abbott (SUNY)
Ms. Lisa Ng (Division of Budget)