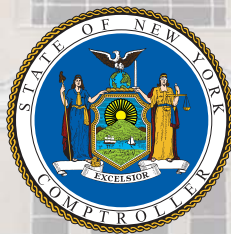




# New York City Department of Education School Nutrition

Report 2008-N-15



Thomas P. DiNapoli



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# State of New York Office of the State Comptroller

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## Division of State Government Accountability

June 10, 2009

Dear Chancellor Klein:

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.

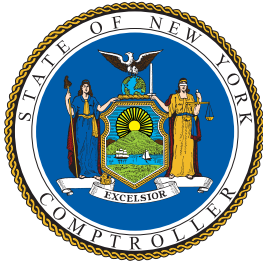
Following is a report of our audit of School Nutrition. The audit was performed according to the State Comptroller's authority under Article V, Section 1, of the State Constitution; and Article III, Section 33 of the General Municipal Law.

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  
Division of State Government Accountability*





## State of New York Office of the State Comptroller

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### EXECUTIVE SUMMARY

#### **Audit Objectives**

Our objectives were to determine whether the New York City Department of Education (DoE) ensures that the food that is made available to students during the school day meets established nutritional guidelines and promotes healthy eating habits among the students.

#### **Audit Results - Summary**

We identified widespread non-compliance with DoE requirements for promoting good nutritional practices in New York City's public schools. We conclude that there has been a serious and significant failure on the part of DoE to provide an appropriate degree of oversight in this important area of school operations.

The meals that are served to students in New York City public schools must meet nutritional guidelines promulgated by the Federal government. The meals are also expected to conform to daily menus developed by DoE's Office of SchoolFood. We tested the October 2008 daily menus to determine whether they met the Federal nutritional guidelines for the following categories: calories, cholesterol, sodium, fiber, iron, calcium, vitamin A, vitamin C, iron, protein, total fat percentage, and saturated fat percentage. We found that the menus generally met the nutritional guidelines and the meals served conformed to the menus. We commend SchoolFood officials for developing such healthy and nutritious menus.

In addition to the meals that are offered in school cafeterias, 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 promote good nutritional practices, DoE has placed certain restrictions on these competitive foods. For example, only approved nutritional items may be sold in the vending machines and school stores, and to prevent competition with school lunches; none of these items may be sold either before or during a school's lunch periods.

However, these restrictions were routinely violated by many of the schools in our sample. For example, at 20 of the 30 schools, school stores and/or vending machines were routinely selling items during the schools' lunch periods, in direct competition with the lunches, and at 21 of the 30 schools, many of these items had not been approved for sale because they were non-nutritional items such as candy and high-fat/sugar snacks.

School Principals are responsible for ensuring that their schools comply with the restrictions on competitive foods, and the Office of SchoolFood is responsible for monitoring the schools' compliance. We found that the Principals at the non-compliant schools were generally aware of their schools' non-compliance, as was the Office of SchoolFood. However, the officials were either unwilling, or felt unable, to bring the schools into compliance, primarily because the money from the sale of the competitive foods was used to subsidize extracurricular activities at the schools.

By allowing unrestricted quantities of non-nutritional items to be readily available to students throughout the school day, and by actively promoting, in some cases, the sale of such items, New York City's public schools have seriously undermined their efforts to promote healthy eating habits among the students. We recommend DoE's oversight in this important area of school operations be significantly strengthened.

Our report contains a total of nine recommendations for strengthening DoE's oversight of nutritional practices in its schools. In their response to our draft report, DoE officials agreed with our recommendations.

This report, dated June 10, 2009, is available on our website at: <http://www.osc.state.ny.us>.

Add or update your mailing list address by contacting us at: (518) 474-3271 or

Office of the State Comptroller

Division of State Government Accountability

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## Introduction

### Background

The New York City Department of Education (DoE) is responsible for the New York City public school system, which contains more than 1,400 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 breakfast's one-fourth, of the recommended dietary allowances of protein, vitamin A, vitamin C, iron, calcium, and calories.

Effective school nutritional policies can help promote healthy nutritional choices and reduce obesity. The maintenance of a healthy weight, starting in childhood, helps individuals avoid the health risks associated with obesity, such as type 2 diabetes, high blood pressure, high cholesterol levels, and some forms of cancer. The maintenance of a healthy weight also helps students avoid low self-esteem and depression, which can lead to poor school performance. In May 2003, officials of the New York City Department of Health and Mental Hygiene and the DoE surveyed a sample of elementary school children in the city public school system. They reported, in Volume 2, No. 5, June 2003 issue of the NYC Vital Signs report, that 24 percent of elementary school children in DoE schools were obese and that another 19 percent were overweight. Further, health professionals have reported that, over the last 20 years, the number of overweight children in the U.S. has increased by more than 50 percent.

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. They also told us that they do not allow manufacturers to use unhealthy substances such as artificial colors, flavors or sweeteners or trans fats in the production of student menu items.

Over the past four years, SchoolFood officials stated that they have begun various additional initiatives to increase the nutritional value of school meals. For example, they have increased the amounts of fresh fruits and vegetables, implemented salad bars in high schools, begun offering 1 percent, skim and chocolate skim milk as the beverage of selection for all meals, begun offering only whole wheat breads, and begun offering healthy snacks.

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 the following restrictions on all competitive foods:

- Only foods and beverages approved by SchoolFood may be sold to students during the school day. A list identifying the approved snack items (e.g., low-fat snacks) is made available on the SchoolFood website.
- The schools are not allowed to sell any food, whether in vending machines, school stores, or otherwise, that competes with the School Meals Program from the beginning of the school day until the end of the last lunch period.
- The food sold at fundraising events does not have to meet SchoolFood’s requirements; however, such events are limited to one per month per school.
- While Regulation A-812 is not intended to limit the sale of food and beverages in lounges or other space only accessible to teachers and school staff, school administrators must ensure that students are not afforded access to vending machines or other items for sale at these locations.

School Principals are responsible for ensuring that their schools comply with Regulation A-812, and SchoolFood’s Food Service Managers are responsible for monitoring the food and beverages in vending machines and school stores to ensure that only acceptable items are available for sale to students. The Food Service Managers are responsible for monitoring three to five schools each. Any instances of non-compliance must be reported to the school Principal as well as the SchoolFood regional directors. A failure to comply with Regulation A-812 may result in a directive to remove vending machines from the school or to cease the sale of certain food and/or beverage items at the school store.

**Audit Scope and Methodology**

We audited the nutritional practices in DoE schools for the period October 1, 2008 through January 8, 2009. We reviewed Chancellor Regulation A-812 and DoE's Wellness Policy. We also interviewed officials at DoE, including SchoolFood, and private vending companies.

We selected a judgmental sample of 30 schools and/or educational campuses (educational campuses were formerly large high schools that were converted to campuses housing four or more high schools), and visited each school in our sample. Our sample consisted of 15 high schools, 10 middle schools, and five elementary schools. We selected our sample based on schools with large student populations within each of the five boroughs of New York City. The 30 schools are listed in Exhibit A.

At each of the 30 schools, we compared the actual meals to the approved menus for that day, and tested a sample of approved snack items to determine whether they met the standards in the Wellness Policy. In addition, we interviewed school officials about their nutritional practices and observed these practices ourselves.

We conducted our 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 objective. 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 the 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**

This audit was performed in accordance with the State Comptroller's authority under Article V, Section 1 of the State Constitution, and Article III, Section 33 of the General Municipal Law.

**Reporting Requirements**

We provided a copy of this report, in draft, to DoE officials for their review and formal comments. We have considered these comments in preparing this report. DoE officials agreed with our recommendations and provided

details regarding the actions they are taking to address these matters. A copy of the agency's response is included as Appendix A.

Within 90 days after the final release of this report, we request that the Chancellor of the New York City Department of Education report to the State Comptroller, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

**Contributors to the Report** Major contributors to this report were Steven Sossei, Kenrick Sifontes, Stephen C. Lynch, Tania Zino, Harry Maher, Mostafa Kamal, Trina Clarke, Elijah Kim, Katrina Lau, Dino Jean-Pierre, Natalie Sherman, Hugh Zhang and Dana Newhouse.

## Audit Findings and Recommendations

### School Meals

We visited a total of 30 selected schools. During these visits, we compared the meals actually offered at the schools to the daily menus prepared by SchoolFood. We found that the meals generally conformed to the approved menus. However, two of the schools (DeWitt Clinton HS, and Susan E. Wagner HS) were offering students cheeseburgers on a daily basis, in addition to what was listed on the menu. We recommend the schools be instructed to discontinue this practice. DoE officials agree that schools should not offer cheeseburgers every day.

We also tested the October 2008 daily menus to determine whether they met the Federal nutritional guidelines for the following categories: calories, cholesterol, sodium, fiber, iron, calcium, vitamin A, vitamin C, iron, protein, total fat percentage, and saturated fat percentage. We found that the menus generally met the nutritional guidelines. We commend SchoolFood officials for developing such healthy and nutritious menus.

### 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.

### Competitive Foods

Chancellor Regulation A-812 places restrictions on the types of food that may be sold in school stores and vending machines (only nutritious items that have been approved by SchoolFood), and the times when these items may be sold (only after lunch has been served in the school cafeteria). The purpose of these restrictions is to minimize the availability of unhealthy foods that could compete with nutritious school lunches. For the same reason, Regulation A-812 restricts fund-raising bake sales to once a month and requires school administrators to deny students access to the lounges and unregulated vending machines used by school staff.

However, we found that many of the schools in our sample were routinely violating these restrictions. For example, at 20 of the 30 schools in our sample, school stores and/or vending machines were routinely selling items during the schools' lunch periods, in direct competition with the lunches, and at 21 of the 30 schools, many of the items sold by the school stores and/or vending machines had not been approved by SchoolFood because they were not nutritious. In addition, at six schools, bake sales were routinely held two or more times a week.

During our visits to the schools, we observed that some students would bypass the lunch line and head straight to the vending machines, school

stores and/or bake sales. Once, when we asked a student purchasing items from a vending machine what she was eating for lunch, she replied that she was having “gummi” snacks and a bottle of water for lunch.

We conclude that there has been a serious and significant failure on the part of DoE to provide an appropriate degree of oversight in this important area of school operations. Details about our findings follow. In addition, certain of our observations are summarized in Exhibit A.

### **Vending Machines, School Stores and Bake Sales**

Sixteen of the 30 schools in our sample had vending machines selling an assortment of beverages and food items to students (not including vending machines with Snapple beverages – a DoE contract). Contrary to Chancellor Regulation A-812, at 15 of these 16 schools, the vending machines were routinely selling items during the schools’ lunch periods. In addition, at 15 of the schools, many of the items in the machines had not been approved by SchoolFood. These items included Cheez-Its, Doritos, Cheese Doodles, and Cheetos (see the photos in Exhibit B). We observed students purchasing items from these machines at all 15 schools.

Eighteen of the 30 schools in our sample operated a school store. We determined that 11 of the 18 stores contained snacks items that had not been approved by SchoolFood, such as candy bars, soda and ice cream. Moreover, at several of the schools, signs were posted advertising the unapproved items (see the photos in Exhibit B). One Principal told us that the items sold by the store in his school had “no nutritional value.”

We further determined that 10 of these 11 school stores were selling food to students during the schools’ lunch periods. In fact, in some cases, the school stores were obtaining candy for student fundraising functions and providing it to students, who then sold it to other students during the lunch periods.

At one school, officials told us that, in 2007, their school store generated between \$40,000 and \$70,000 in candy sales. The officials said that, to promote healthy nutrition, the store no longer sold candy. However, we found this was not true.

When we arrived at the store, we noticed an open box containing an assortment of candy (e.g. Snickers, Hershey bars, M&M’s, and Skittles). In addition, we observed students entering the store and repeatedly asking to purchase candy, until store workers abruptly started refusing to sell it to them. When we spoke with some of the students, they told us candy was sold at the store on a regular basis and had been available the day before our visit. We were able to extract sales reports from the store’s accounting

system and determine that, between October 1 and October 29, 2008, the store had sold a total of 431 candy items.

We also noted that one of the school stores was managed by a teacher on a full-time basis. Although teachers managed such stores in other schools, they performed those duties in addition to their full-time teaching activities. However, in this case, the only job of this teacher, who earns a base salary of \$94,154 annually, was the operation of the school store, and the planning of senior class trips and the senior prom.

According to Chancellor Regulation A-812, any food and beverages sold in school stores must be purchased through a central DoE contract. Similarly, schools using vending machines must order the food and beverages through a central DoE contract. They may not enter into vending machine or food and beverage purchase contracts with any other vendors. In fact, the schools are supposed to remove or shut down all vending machines not ordered through a central DoE contract.

DoE has a central contract for the vending machines with Snapple beverages. However, DoE has no other central contracts for food and beverages in school stores and vending machines. Instead, each school obtains these items independently. Some have their own contracts with vending machine operators, and some have staff members shop at local stores for the snack items to be sold in the school stores.

In the absence of central contracts, the beverages and food items are less likely to conform to SchoolFood's nutritional requirements. Vending machine operators may not be aware of or concerned about the nutritional quality of the items sold in their machines, and if they are not required by their contracts to comply with certain nutritional guidelines, they are not obliged to do so. We recommend DoE establish central contracts, with nutritional requirements, for vending machines and school stores.

We also observed that 6 of the 30 schools in our sample were operating bake sales, fundraisers, or both, on the day of our visit. Some of the food items sold at these events included candy, cookies, cakes, and brownies. When we inquired about these activities, school officials told us that they regularly have bake sales and other fundraising food sale events multiple times per week. However, according to Chancellor Regulation A-812, such events should be limited to no more than once a month.

We also noted that SchoolFood officials need to modify their listing of approved snack items to include the product serving size. SchoolFood officials stated that the approved listing is based on a single serving size



only. However, if the serving size is not specified, it may not be clear that some items would not be approved because they exceed that size.

## **Control Environment**

School Principals are responsible for ensuring that their schools comply with Chancellor Regulation A-812, and SchoolFood's Food Service Managers are responsible for monitoring the schools' compliance. We found that the Principals at the non-compliant schools in our sample were generally aware of their schools' non-compliance, as were the SchoolFood Food Service Managers responsible for those schools. However, the officials were either unwilling, or felt unable, to bring the schools into compliance. This indicates a weak control environment, and we believe this environment is the primary reason for the non-compliance.

SchoolFood officials were aware that unhealthy foods were being sold to students during lunch periods; however, they did nothing to stop it. In fact, a 2005 SchoolFood survey identified numerous non-approved food items being sold at the schools. SchoolFood officials told us that if they see unapproved products in the vending machines, they mention the violation to the school Principal. However, they noted that SchoolFood employees do not supervise school Principals, and as a result, they find it difficult to enforce compliance with Regulation A-812. In fact, several Food Service Managers expressed frustration and a sense of powerlessness regarding the implementation of the Regulation.

We acknowledge SchoolFood's lack of direct authority over school Principals. However, SchoolFood officials could make their concerns known to Integrated Service Center (ISC) officials who have authority over the Principals. ISC officials could require compliance from the Principals at the non-compliant schools. However, we found no documentation indicating that SchoolFood officials had attempted to do this.

SchoolFood can also issue directives to non-compliant Principals, ordering them to remove vending machines with unapproved items or to cease the sale of unapproved food and/or beverage items at school stores. SchoolFood officials acknowledge this authority, but they said it was not practical to exercise the authority because the schools need the funds that are generated from the sale of the unapproved items.

Eight Principals and other school officials we interviewed acknowledged this need. They told us they permitted the sale of unapproved food and beverages during lunch periods because their schools needed the money that was earned through these sales to subsidize extracurricular activities, such as student clubs.



We also identified other instances in which Principals were aware of the non-compliance with Regulation A-812. For example, a Principal told us that some teachers were giving students the key to the teacher's lounge in order to purchase snacks for them. The vending machine in this lounge contained candy such as M&M's, Snickers, and Skittles. However, the Principal did nothing to stop the practice.

In another school, officials posted a note on a soda vending machine, located near the adult bathrooms, indicating that it was for faculty use only. However, the vending machine was located in an open area where it was easily accessible to students. At another school, we observed that electronic timers were used in an attempt to control the time when vending machine purchases could be made. This is an example of a best practice that can be applied in all schools that have vending machines.

We believe that the sale of competitive foods during lunch periods conveys a mixed message. While nutrition education in the classroom supports healthy food choices, this message is undermined when foods that are high in fat and sugar are available in school vending machines, school stores and alongside school meals. We even note that students in one school were given chocolate bars, candy and soda as incentives through a points-reward program at the school.

Parents entrust schools with the care of their children during the school day. The sale of low-nutrition foods in schools makes it more difficult for parents to be sure their children are eating well.

DoE officials noted that Principals must follow the Chancellor's Regulations, and if SchoolFood employees find non-compliance at the schools, they need to report the violations to the highest level possible so corrective action can be taken. DoE officials also advised us that a committee has been formed to address our recommendations.

- Recommendations**
2. Direct schools to immediately stop the sale of competitive foods in school stores prior to the end of the last school lunch period.
  3. Install electronic timers that turn off vending machines until the last lunch period has ended.
  4. Ensure that bake sales do not exceed the once per month limit.
  5. Establish DoE central contracts, with nutritional requirements, for all the foods and beverages sold in school vending machines and school stores.

6. Modify SchoolFood's listing of approved snack items to include the product serving size.
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.
8. Provide training to all Principals and SchoolFood employees on the requirements and importance of Chancellor Regulation A-812.

## **Wellness Policy**

The Federal Child Nutrition and WIC Reauthorization Act of 2004 stated that, by the first day of the school year beginning after June 30, 2006, each district participating in the National School Lunch Program must establish a local school Wellness Policy that, at a minimum, did the following:

- includes goals for nutrition education, physical activity, and other school-based activities that are designed to promote student wellness;
- includes nutrition guidelines for all foods available on each school campus during the school day with the objectives of promoting student health and reducing childhood obesity;
- provides an assurance that guidelines for reimbursable school meals shall not be less restrictive than the regulations and guidance issued by the Secretary of Agriculture;
- establishes a plan for measuring implementation of the local Wellness Policy, including designation of one or more persons within the local educational agency [i.e., DoE] or at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local Wellness Policy; and
- involves parents, students, representatives of the school food authority, the school board, school administrators, and the public in the development of the school Wellness Policy.

We found that DoE, in coordination with officials from the New York City Department of Health and Mental Hygiene, has developed a comprehensive Wellness Policy that mirrors Chancellor Regulation A-812. However, implementation of the Wellness policy has not occurred throughout the DoE. We found that 10 of 30 Principals, and/or Assistant Principals we spoke with stated they were not aware of DoE's Wellness Policy.

If Principals are not aware of the Policy, they may be less likely to fully promote the nutritional goals advocated by DoE. We further note that the U.S. Department of Agriculture has stated that developing and adopting a sound Wellness Policy is only the beginning, because the adoption of the Policy does not automatically mean that the Policy will be implemented. According to the U.S. Department of Agriculture, implementation requires good planning and management skills, the necessary resources, consistent oversight, and widespread buy-in by school staff and the local community.

DoE officials told us their Wellness Policy was emailed to all school Principals as a guide to promoting student health and reducing childhood obesity. We recommend that the DoE ensure that all Principals are, in fact, aware of the Wellness Policy. We also recommend DoE emphasize to the Principals the importance of complying with the Policy.

- Recommendation**      9. Ensure that the Principals are aware of the Wellness Policy and the need to comply with the Policy.



## Exhibit A

School	Borough	Type	Vending Machines		School Stores	
			Available during lunch	Unauthorized items	Available during lunch	Unauthorized items
DeWitt Clinton	Bronx	High School	-	-	X	X
John F. Kennedy Educational Campus	Bronx	High School	X	X	X	X
Kingsbridge Heights	Bronx	Elementary School	-	-	-	-
Lehman	Bronx	High School	X	X	X	X
Monroe Campus	Bronx	High School	-	-	X	X
Thomas C. Giordiano	Bronx	Junior High School	-	-	-	-
William W. Niles	Bronx	Junior High School	X	X	-	-
Arthur Cunningham	Brooklyn	Junior High School	X	-	-	-
Brooklyn Tech	Brooklyn	High School	X	X	-	-
Brooklyn Transition	Brooklyn	High School	-	-	-	X
Dyker Heights	Brooklyn	Junior High School	X	X	X	X
Edward R. Murrow	Brooklyn	High School	X	X	-	-
The Blythebourne	Brooklyn	Elementary School	X	X	-	-
LaGuardia	Manhattan	High School	X	X	-	-
Murray Bergtraum	Manhattan	High School	X	X	-	-
PS 189	Manhattan	Elementary School	-	-	-	-
Robert F. Wagner	Manhattan	Junior High School	-	-	-	-
Simon Baruch	Manhattan	Junior High School	-	-	-	-
Stuyvesant	Manhattan	High School	-	-	-	-
Benjamin Cardozo	Queens	High School	X	X	X	X
Elizabeth Blackwell	Queens	Junior High School	-	-	-	-
Francis Lewis	Queens	High School	X	X	-	-
Leonardo Da Vinci	Queens	Junior High School	-	-	X	X
Oakland Gardens	Queens	Elementary School	-	-	X	X
Queens OTC	Queens	High School	-	-	X	X
Graniteville	Staten Is.	Elementary School	-	-	-	-
Myra S. Barnes	Staten Is.	Junior High School	X	X	-	-
Rocco Laurie	Staten Is.	Junior High School	-	X	-	-
Susan E. Wagner	Staten Is.	High School	X	X	-	-
Tottenville	Staten Is.	High School	X	X	X	X
<b>Total</b>			15	15	10	11



Exhibit B







## Appendix A - Agency Comments



Kathleen Grimm  
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April 20, 2009

Mr. Steven E. Sossei  
Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236

Dear Mr. Sossei:

This letter constitutes the New York City Department of Education's (Department's) response to the Office of the State Comptroller's March 18, 2009 draft report (Report) on School Nutrition (Audit Report # 2008-N-15).

We are pleased that the auditors found, on the whole, that the approximately 800,000 meals served daily by the Department's Office of School Food (SchoolFood) were in compliance with Federal nutrition guidelines. That the Department's efforts to offer our students healthy, nutritious meals have proven successful is noteworthy and, certainly, gratifying.

Our concern, however, is that these significant efforts are being undermined, at least in certain respects, by the failure of some schools, generally at the high school level, to conform to the standards articulated in the Department's Wellness Policy and Chancellor's Regulation A-812. In particular, we have taken cognizance of the audit team's findings that items - nutritional and otherwise - are available through vending machines, school store sales and fundraising activities in competition with the meals offered by SchoolFood. That, and other findings, which we have no basis to dispute, has focused the Department management's attention on resolving the issues surfaced by the audit.

In fact, the Department, in consultation with the New York City Department of Health and Mental Hygiene, has developed even stricter nutritional requirements regarding food and beverage items available for sale to students at our schools than those outlined in the current Wellness Policy, and the Department is in the process of amending its Wellness Policy and Chancellor's Regulation A-812

accordingly. As part of this effort, the DOE will be issuing a Request for Proposals (RFP) to identify a central vendor or vendors for supplying both vending machines and nutritious snack items for sale to students in vending machines and school stores. (No vending machines will be permitted in elementary schools.) The RFP will clearly specify the nutritional requirements for all snack foods, including portion sizes, to comport with the amended Wellness Policy, and will require vending machines to be equipped with timers to ensure that snack foods are not sold in competition with the Department's school breakfast or lunch service.

Although federal and state regulations permit the sale of certain non-nutritious snack foods and beverages after the end of the last lunch period, the Department, starting in School Year 2009-2010, will extend the prohibition on the sale of such snacks and beverages to cover the entire school day, plus after-school activities until 6:00 PM on school days. These strict requirements will apply not only to vending machines and school stores, but also to fundraising sales, with the sole exception that a parent association sponsored bake sale may be held no more than once per month after the end of the last lunch period, as permitted under federal and state law and Chancellor's Regulations A-812 and A-660. Additionally, no third-party vendors will be permitted to offer food or beverages for sale on a school's premises at any time.

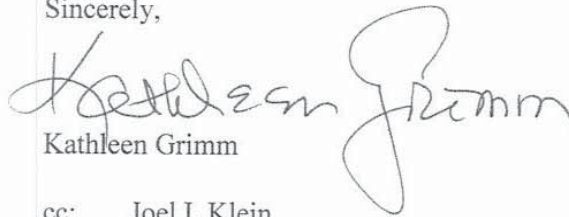
The Department will be working over the spring and summer to communicate and reinforce the importance of compliance with the requirements in the amended Wellness Policy and Chancellor's Regulation A-812 with both school staff and parent groups. Moreover, the Department will establish clear procedures for the monitoring and reporting of school-level compliance with these requirements, as well as processes for intervention, accountability and remediation should schools fail to comply. Specifically, SchoolFood will be responsible for monitoring and maintaining data on compliance, as well as for reporting non-compliance to regional Compliance Officers and School Support Organizations. The School Support Organizations will be responsible for working with the schools to ensure compliance. A failure to correct a compliance deficiency can result in the removal of vending machines from the school as well as have an adverse impact on the principal's compliance performance rating, as measured by the Department's Office of Compliance Services.

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We thank the Comptroller for bringing these important findings to our attention and agree in substance with all of the recommendations in the Report, each of which the Department intends to meet or exceed in the course of implementing the corrective actions detailed herein.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Kathleen Grimm', with a large, stylized 'G'.

Kathleen Grimm

cc: Joel I. Klein  
Photeine Anagnostopoulos  
Marcia Lyles  
Eric Nadelstern  
Michael Best  
Elyssa Siminerio  
Eric Goldstein  
Roger Platt  
Martine Guerrier  
Lori Benson  
Jeffrey Shear  
Gina Romeo  
William Joyce  
Maxine Payne  
Brian Fleischer  
Marlene Malamy  
Nader Francis