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September 14, 2009

Dr. Constance Clark  
Superintendent of Schools  
Westbury Union Free School District  
Two Hitchcock Lane  
Old Westbury, New York 11568

Report Number: S9-9-45

Dear Dr. Clark and Members of the Board of Education:

A top priority of the Office of the State Comptroller is to help school district officials manage their districts efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support district operations. The Comptroller oversees the fiscal affairs of districts statewide, as well as districts' compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished through our audits, which identify opportunities for improving district operations and Board of Education governance. Audits also can identify strategies to reduce district costs and to strengthen controls intended to safeguard district assets.

In accordance with these goals, we conducted an audit of 20 school districts throughout New York State to determine whether school districts are ensuring that all food available to students during the school day and at school activities meets established nutritional guidelines to promote healthy eating habits and proper nutritional goals. We included the Westbury Union Free School District (District) in our audit. The audit period was from September 1, 2007 to January 31, 2009.

This report of examination letter contains our audit results specific to the District. We discussed the findings and recommendations with District officials and considered their comments, which appear in Appendix A, in preparing this report. District officials agreed with our audit report and began to initiate corrective actions. At the completion of our audit of the 20 school districts, we prepared a global report that summarizes the significant issues identified at the districts audited.

### **Summary of Findings**

While District officials have taken some steps to ensure that students may purchase healthy food and beverages items, the District still offers à la carte snacks that do not meet established nutritional guidelines and compete with the healthier choices offered. The District has adopted a

wellness policy, established a nutrition committee, and the most recent State Education Department (SED) review found that the school lunch program complied with Federal guidelines. In addition, no foods or beverages are sold in school stores, and interviews of District personnel that conduct school events indicate that they are aware of the District's wellness policy.

We found that the District could improve its efforts to promote healthy eating habits. The wellness policy does not establish an implementation plan as required, nor does it name the nutritional standards referenced in the policy that guide the food and beverage choices provided or sold to students. District officials told us they use comprehensive nutritional standards (i.e., Choose Sensibly) to guide food and beverage choices for students.

There are no prescribed standards in the State regarding competitive foods available in school districts. Based on the lack of guidance, the Comptroller's Office met with various health professionals from NYSHEPA, American Cancer Society, American Heart Association, New York State Nutrition Association and Department of Health. After these meetings, we decided to compare district offerings to the Institute of Medicine (IOM) guidelines. Currently, school districts are not required to follow these guidelines, which were used during our audit for comparison purposes.

An IOM report,<sup>1</sup> conducted with the Center for Disease Control at the direction of Congress, concluded that federally reimbursable school nutrition programs should be the main source of nutrition at schools, and that opportunities during the school day for competitive foods (e.g., snacks and beverages) should be limited. In contrast, the District provides its students with a wide variety of snacks and beverages in its à la carte and vending machine choices. Specifically, all 10 items tested were in compliance with the District's standards. However, when compared to the IOM guidelines, none of the 10 items would have met the standards.

Finally, District officials adequately prevented students from accessing prohibited foods and beverages before the end of the last scheduled meal period, as required by Education Law and SED guidelines. However, foods and beverages restricted per IOM standards were available for purchase during lunch periods. Items made available include granola bars, multi-grain bars, rice cakes, cookies, crackers, dried fruit rolls, buttered popcorn, and chips. By making such products available to students, District officials are limiting the impact of their efforts to encourage healthy food choices.

## **Background and Methodology**

The District is located in Nassau County. There are six schools in operation within the District, with approximately 4,100 students attending during 2008-09. The District's budgeted expenditures for 2008-09 are approximately \$99.5 million for the general fund and \$1.9 million for the cafeteria fund. During 2007-08, 77 percent of the District's students qualified for Free and Reduced Meals and the District had a 97 percent minority student population.

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<sup>1</sup> A 2007 report entitled, "Nutrition Standards for Healthy Schools: Leading the Way Toward Healthier Youth" authored by the IOM and the Food and Nutrition Board organizations.

The New York State Department of Health (DOH) has declared childhood obesity a major health problem. The DOH estimates that one in four New Yorkers under the age of 18, or approximately 1.1 million young people, are obese. Over the past 30 years, the obesity rate has nearly tripled for children ages 2 to 5 and youth ages 12 to 19, and it has quadrupled for children ages 6 to 11. According to the United States Centers for Disease Control and Prevention, 28 percent of New York high school students are overweight or at risk of becoming overweight. Further, New York ranks second in the United States in adult obesity medical expenditures, with annual spending estimates at nearly \$6.1 billion. The childhood obesity crisis is fueling a health care cost crisis. Estimated annual health care costs attributed to obese children total \$242 million, which is putting an even greater strain on the New York State budget.

District officials have the responsibility to provide a safe and healthy learning environment for children. That responsibility requires District officials to ensure that all food available to students during the school day and at school activities meets established nutritional guidelines to promote healthy eating habits and proper nutritional goals.

The District has a food service management company that provides two employees, a Director of Nutrition and a Food Service Director, who oversee the food service program and vending operations, which include 39 District employees working in six buildings. There are four elementary schools, one middle schools and a high school:

- One elementary school is composed of students in Pre-K and K. Lunch periods start as early as 11:00 am and end at 12:50 pm.
- Another elementary school is composed of students in grades 1 and 2. Lunch periods start at 11:05 am and end at 1:20 pm.
- The remaining two elementary schools are composed of students in grades 3 through 5. Lunch periods in each school start as early as 11:20 am and end as late as 12:55 pm.
- The middle schools are composed of students in grades 6 through 8. Lunch periods start at 10:28 am and end at 12:53 pm.
- The high school is composed of students in grades 9 through 12. Lunch periods start at 10:27 am and end at 12:32 pm.

The District has six cafeterias for student use, which serve approximately 2,800 lunches per day. The daily lunch menu options at the middle and high schools include an entrée, or hot dog, hamburger, or cheeseburger on a roll, with milk (white, chocolate, and strawberry), hot or cold vegetables, and canned or fresh fruit. At the high school, pizza and an assortment of deli sandwiches are available to students as well. The daily lunch menu options at the elementary schools include a choice of one of two entrée selections or a peanut butter and jelly sandwich with milk (white, chocolate, and strawberry), hot or cold vegetables, and canned or fresh fruit.

The District has two vending machines for student use located in the high school. The vendors order and stock the machines with beverage items allowed by the District. District officials stated

that the “Choose Sensibly” guidelines are given to the vendors to inform them of the approved food items allowed by the District. Informally, food service personnel review the food choices stocked by the vendors through observation of the machines and communication with the vendor.

We interviewed District officials to determine if the District had adopted a local school wellness policy and had established a child nutrition committee. We reviewed the District’s most recent School Meals Initiative report from the State Education Department, compared the wellness policy to the school’s chosen external guidelines and/or other standards, and assessed whether the food and beverage choices available to students complied with the District’s policies and SED requirements, where applicable.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective.

## **Audit Results**

### **Local School Wellness Policy**

The Child Nutrition and WIC Reauthorization Act of 2004 (Reauthorization Act of 2004) provides that not later than the first day of the school year beginning after June 30, 2006, each school district participating in a National School Lunch Program (NSLP) must establish a local school wellness policy that, at a minimum:

- Includes goals for nutrition education, physical activity and other school-based activities that are designed to promote student wellness in a manner that the local educational agency determines is appropriate
- Includes nutrition guidelines selected by the local educational agency for all foods available on each school campus under the local educational agency during the school day with the objectives of promoting student health and reducing childhood obesity
- Provides assurance that nutrition guidelines for the NSLP are met
- Establishes a plan for measuring implementation of the policy
- Involves parents, students, and representatives of the school food authority, school board, and school administrators in the development of the policy.<sup>2</sup>

The District has adopted a local school wellness policy. However, the policy does not establish a plan for measuring implementation of the policy, as required. District officials stated that the implementation of the policy and continued evaluation was conducted informally, with no formal

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<sup>2</sup> Section 204 of Public Law 108-265—June 30, 2004 Child Nutrition and WIC Reauthorization Act of 2004

written guidelines. In addition, the policy refers to the following goal, “all foods and beverages made available on campus (including vending, concessions, à la carte, student stores, parties, and fundraising) during the school day are consistent with the current Dietary Guidelines for Americans.” However, the policy could be enhanced by including more direction. For example, although District officials use the “Choose Sensibly” guidelines for all snacks and beverages sold within the District, the guidelines are not specifically referenced in the policy. In addition, while we recognize that the Reauthorization Act of 2004 does not establish nutritional standards for District officials to use when adopting their policy,<sup>3</sup> we believe that the more stringent guidelines promoted by the IOM should be considered by District officials to promote healthier eating habits.

The lack of a comprehensive local school wellness policy increases the risk that the food and beverages available to students will not meet established nutritional guidelines to promote healthy eating habits and proper nutritional goals.

### **Child Nutrition Advisory Committee**

Every school district is authorized and encouraged to establish a child nutrition advisory committee.<sup>4</sup> Committee members, who represent all aspects of school nutrition, are encouraged to meet at least quarterly to review topics that relate to the current nutritional policies of the district. The law encourages parents of students to be notified of the committee’s existence, ability to participate, and scheduled meeting dates. Lastly, the Committee is encouraged to formally update the Board of Education once a year to give the status of the District’s programs to improve student’s nutritional awareness and to promote healthy diets.

The District has established a nutrition committee, which is composed of 15 members including district administrators, faculty, a parent, a school nurse, a doctor, a guidance counselors, the director of pre-k, the director of nutrition, the food service director and the director of athletics. The committee meets approximately once per month to discuss topics related to nutrition, health, and physical activity. This includes discussing healthy snack options and implementing the “Choose Sensibly” guidelines for items sold through the vending machines, designated March as nutrition month, working on a \$25,000 grant to make breakfast available to all students as well as a variety of other topics related to nutrition and promoting physical activity.

### **School Lunch Program**

Schools that participate in the NSLP must meet Federal nutrition guidelines as outlined in the Department of Health and Human Services’ “Dietary Guidelines for Americans.”<sup>5</sup> In March 2008, the State Education Department (SED) issued a memo “Incorporating the 2005 Dietary Guidelines for Americans into School Meals,” which instructs school districts to implement the 2005 guidelines within the current meal pattern requirements and nutritional standards. The

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<sup>3</sup> Section 204 of Public Law 108-265—June 30, 2004 Child Nutrition and WIC Reauthorization Act of 2004

<sup>4</sup> Section 918 of NYS Education Law Article 19, Section 918 – School District Nutrition Advisory Committee

<sup>5</sup> For example, the guidelines recommend that no more than 30 percent of calories come from fat, with less than 10 percent from saturated fats. In addition, school lunches should provide one-third of the recommended dietary allowances of protein, vitamins A and C, iron, calcium and calories.

memo further outlines the promotion of “increased consumption of whole grains, fruits and vegetables, fat-free or low-fat milk, and dairy products.”

The SED conducts School Meals Initiative (SMI) reviews for each school district on a five-year rotating basis to determine if the lunch program complies with Federal nutrition guidelines. For these reviews, SED conducts a nutrient analysis test, for at least five menu days, using supporting documentation including menus, production reports, standard recipes and nutritional labels. In addition, an on-site observation is performed to confirm that the reported ingredients and recipes are used, and tests are conducted using nutrition analysis software to compare food products to requirements.

The last SMI review was conducted for the Drexel Ave. Elementary School (Grades 3 through 5) for the period January 8 through 12, 2007. The review findings, dated June 22, 2007, are summarized into two areas — Menus, production records and standardized recipes are used and Nutritional Analysis. The report states: “the Child Nutrition Program of Westbury UFSD is currently meeting the nutritional requirements of the Child Nutrition Program’s School Meals Initiative.”

## **Vending**

In addition to the foods and beverages provided by the School Lunch Program, “competitive foods”<sup>6</sup> (snacks and beverages) are available to students from two vending machines, à la carte items in the cafeteria, and fundraising events. While such foods and beverages are allowed by the District’s wellness policy, IOM guidance would suggest that federally reimbursable school nutrition programs should be the main source of nutrition at schools, and that opportunities for competitive foods (e.g., snacks and beverages) be limited.<sup>7</sup>

Competitive foods are not included in the basic school lunch program and there are no Federal nutrition guidelines for these items. However, in New York State, a District may not serve soda or candy before the last lunch period ends. Education Law, Article 19, Section 915 provides that “from the beginning of the school day until the end of the last scheduled meal period; no sweetened soda water, no chewing gum, no candy including hard candy, jellies, gums, marshmallow candies, fondant, licorice, spun candy and candy coated popcorn, and no water ices except those which contain fruit or fruit juices, shall be sold in any public school within the state.” SED guidelines also provide that beverages labeled as “aerated” or that bubble and fizz for several minutes after opening are to be categorized as “Soda Water.” However, other than this clarification, the SED has not published or endorsed criteria for competitive foods. An SED official told us “we do not provide an approved listing because it would be too extensive and would change every day as new products come on to the market.”

The New York State School Nutrition Association has created the “Choose Sensibly” guidelines for snacks and beverages. According to the guidelines, sensible snack choices should have no more than:

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<sup>6</sup> Child Nutrition and WIC Reauthorization Act of 2004 section 210.11

<sup>7</sup> A 2007 report entitled, “Nutrition Standards for Healthy Schools: Leading the Way Toward Healthier Youth” authored by the IOM and the Food and Nutrition Board organizations.

- 7 grams of fat
- 2 grams of saturated fat
- 360 milligrams of sodium
- 15 grams of sugar.

Beverage choices include low-fat milk and low-fat flavored milk, juice with 25 percent or more fruit juice, water or flavored water with no added sugar, artificial sweeteners or caffeine, and beverages with 10 milligrams or less of caffeine per serving.

Based on the lack of competitive food guidance in New York State, the Comptroller's Office met with various health professionals from NYSHEPA, American Cancer Society, American Heart Association, New York State Nutrition Association and Department of Health. After these meetings, we decided to compare district offerings to the Institute of Medicine (IOM) guidelines. The IOM standards were not required to be adopted and followed by school districts as part of our audit. The IOM report entitled "Nutritional Standards for Foods in Schools" also establishes standards for nutritive food components. The report concludes that if competitive foods are made available, they should consist of nutritious fruits, vegetables, whole grains, and combination products<sup>8</sup> and non-fat or low-fat milk and dairy products. It also recommends imposing restrictions on the sale of foods and beverages with high fat, saturated fat, sodium, etc.

According to the report, snack choices should have no more than 200 calories, and no more than 35 percent of the calories should be from fat while no more than 10 percent of the calories should be from saturated fat. Further, snack choices should have no more than 200 mg of sodium or 480 milligrams of sodium if served à la carte as an entrée portion. They also should be trans-fat-free, and have no more than 35 percent of total calories from sugars. Acceptable beverage choices include water without flavoring, additives or carbonation; low-fat and non-fat milk; portion sized 100 percent fruit juice; and, beverages that are caffeine-free with the exception of trace amounts of naturally occurring caffeine substances. Sports drinks should not be available except when provided for student athletes participating in sports programs that involve vigorous activity of more than one-hour's duration.

#### Compliance with Policy and IOM Standards

District officials indicated that vending and à la carte items were subject to the "Choose Sensibly" guidelines, although the District's local school wellness plan did not clearly specify this was the case. We judgmentally selected 10 snack items to test for compliance with the District's own nutritional standards and comparisons to the more stringent IOM standards. We found that all 10 items met the District's own standards for fat, saturated fat, sodium and sugar. Conversely, had the District adopted the IOM standards, none of the items tested met the IOM standards, as detailed in the following table:

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<sup>8</sup> Combination products must contain a total of one or more servings as packaged of fruit, vegetables or whole grain products as portioned.

VENDING AND À LA CARTE ITEMS		
Snack Item	Meets District Standards	Meets IOM Standards
Berry flavored low-calorie sports drink	Yes	No
Strawberry flavored low-calorie sports drink	Yes	No
100% fruit juice –10 oz.	Yes	No
100% grape juice – 10 oz.	Yes	No
100% apple juice – 10 oz.	Yes	No
Cheese thin crisps	Yes	No
Buttered popcorn	Yes	No
Baked cheese crunches	Yes	No
Ranch flavored tortilla chips	Yes	No
Caramel flavored rice cakes	Yes	No

Compliance with Education Law and SED Guidelines

We also found that District officials adequately limited access to prohibited foods and beverages until the end of the last lunch period as required by Education Law and SED guidelines. Specifically:

- À La Carte Items — The middle and the elementary schools do not offer à la carte snack items to students. The selection of à la carte items offered to students at the high school include granola bars, multi-grain bars, rice cakes, cookies, crackers, dried fruit rolls, chips, and popcorn. Students are not restricted as to the number of items they can purchase.
- Vending Machines —We found that all vending machines were operated in accordance with Education Law and SED guidelines (during the lunch period). The vending machines did not contain items restricted by Education Law and SED guidelines. Further, both machines were on a timer and not made available until the end of the school day.

The District offers food and beverage choices that provide minimal nutritional value and compete with school meal options. For example, students can purchase items such as granola bars, multi-grain bars, rice cakes, cookies, crackers, dried fruit rolls, buttered popcorn, and chips during lunch period rather than eat the meal that the District is serving. Further, these items generally do not comply with the IOM guidelines.

We asked District officials why such products were offered on school grounds. District officials indicated there is a need to offer refreshments to students outside of the normal cafeteria hours and for the individuals who participate in the adult education program held at the high school.

The revenues from vending for the scope period were approximately \$66,700 and the 2008-09 cafeteria budget is \$1.9 million. While we recognize the District has a need to offer students refreshments outside of normal cafeteria hours, by making such products available to students, District officials are limiting the impact of their efforts to encourage healthy food choices.

### **School Stores and Events**

District personnel that sell or serve food and beverages on school grounds or at school events must be aware of, and comply with, the District's local school wellness policy to ensure that students are offered nutritious food and beverage choices.

The District has two school stores, one located in the high school and one located in the middle school. Items for sale include pencils, pens, other school supplies, t-shirts, and sweatshirts. District officials stated that no food or beverages are sold in the stores and we observed that no food was sold in the store located at the high school.

In addition, the District conducted school events, such as in-class activities and fundraisers. We judgmentally selected and interviewed two teachers and two principals to determine awareness of, and compliance with, the local school wellness policy. Each individual stated that he or she was aware of the policy. The high school principal and teacher interviewed stated that food and drink are not permitted in classrooms, hallways, or other areas outside the cafeteria; this is a written policy located in the student handbook. Further, fundraisers such as bake sales were held at the high school in the past, however the Superintendent has eliminated all fundraisers that include food during the school day from taking place. For the elementary schools, there is a birthday party held once a month where the food service department provides a cupcake made from fruit. The elementary principal and teacher interviewed stated that only snacks items that meet the criteria from the "Choose Sensibly" guidelines are allowed for snack time. Further, fundraisers where food is sold are held after school hours.

### **Recommendations**

1. District officials should amend the local school wellness policy to establish a plan for measuring implementation of the policy.
2. District officials should amend the local wellness policy to specify which standards should be used to guide food and beverage choices offered to students.
3. District officials should consider adopting the IOM standards for the local school wellness policy.
4. District officials should consider limiting the competitive foods available to students.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of the GML, Section 2116-a (3)(c) of the Education Law and Section 170.12 of the Regulations of the Commissioner of Education, a written corrective action plan (CAP) that addresses the findings and recommendations in this report must be prepared and provided to our office within 90 days,

with a copy forwarded to the Commissioner of Education. To the extent practicable, implementation of the CAP must begin by the end of the next fiscal year. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. The Board should make the CAP available for public review in the District Clerk's office.

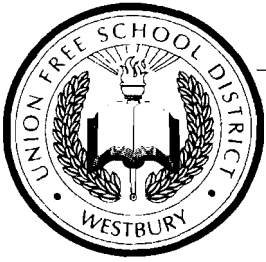
Sincerely,

Steven J. Hancox  
Deputy Comptroller  
Office of the State Comptroller  
Division of Local Government and  
School Accountability

## **APPENDIX A**

### **RESPONSE FROM DISTRICT OFFICIALS**

The District officials' response to this audit can be found on the following pages.



# WESTBURY UNION FREE SCHOOL DISTRICT

2 Hitchcock Lane • Old Westbury, New York 11568-1615  
516-876-5006 • Fax: 516-876-2351

CONSTANCE R. CLARK-SNEAD, Ed.D.  
*Superintendent of Schools*

MARY A. LAGNADO  
*Assistant Superintendent  
for Business and  
Management Services*

June 26, 2009

Mr. Steven J. Hancox  
Deputy Comptroller  
Division of Local Government  
And School Accountability

Subject: Response to Report #S9-9-45

Dear Mr. Hancox,

The Westbury School District thanks you for the review and audit of our School Lunch Program.

The areas in which you have identified as in compliance but could be improved have been addressed. The following is our course of action:

1. Although at the time of the audit there were no prescribed standards in N.Y.S. regarding competitive foods (snacks) served. The Westbury School District in our "Wellness Policy" adopted "The Choose Sensibility" snack list that was recommended by the New York State Child Nutrition Department. In your report you have recommended that we now should use the "Institute of Medicine" guidelines for competitive foods, as our guide. We have followed your recommendation both in the cafeteria and in vending machines and used that list as our specifications when offering snacks. Starting in September of 2009 when the new school year begins, we are also amending our "District Wellness Policy" to reflect that change.
2. Even though the Westbury School District was in compliance with the re-authorization act of 2004. (District Wellness Policy). It was recommended that we establish a plan for measuring the implementations. We immediately met with the members of our Wellness Committee and have prepared a list of the actions necessary to implement the changes being adopted into our policy. An evaluation tool has also been established so that each year we may measure the success of those implementations.

*To Recap our Plan of Action:*

We will amend our local wellness policy in the following manner:

- A. Establish and add to our wellness policy a tool to be used in measuring the implementation of our “Wellness Policy.”
- B. Specify standards to be used in guiding student’s choices in food and beverage by limiting those choices to only items in compliance with the “Institute of Medicine” guidelines for competitive foods as offerings in addition to our daily lunch menu. We will also be removing the “Choose Sensibly” list from our Wellness Policy.
- C. We will further limit the competitive foods offered to our students by eliminating the last two remaining vending machines that were located in the High School.

Thank you once again for your input and be advised that we will adopt your recommendation into our policy.

Sincerely,



Mary A. Lagnado  
Assistant Superintendent  
Business Management Services