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April 5, 2013

Ms. Pamela C. Brown, Superintendent
Members of the Board of Education
Buffalo City School District
65 Niagara Square
712 City Hall
Buffalo, NY 14202

Report Number: S9-12-30

Dear Ms. Brown 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, in part, 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 eight school districts throughout New York State. The objective of our audit was to determine whether school districts have designed Credit Recovery Programs (CRPs) to meet the requirements of Section 100.5(d)8 of the New York State Commissioner of Education's Regulations (Regulations). We included the Buffalo City School District in this audit. Within the scope of this audit, we examined the policies and procedures of the District and reviewed its CRP for the period July 1, 2011, to June 15, 2012.

This report of examination letter contains our findings and recommendations 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 findings and plan to initiate corrective action. At the completion of our audit of the eight school districts, we prepared a global report that summarizes the significant issues we identified at all of the school districts audited.

Summary of Findings

District officials did not document that students were instructed in a manner that conformed to the Regulations of the Commissioner of Education. In 22 of 43 instances examined, the teachers actively instructing students were not certified in the subject areas being taught. The District did

not maintain documentation to demonstrate that subject specific certified teachers interacted with the students or teaching assistants. District officials maintained adequate documentation and controls to demonstrate that the District met the other CRP requirements. For example, the District documented each participating student's progress, and adopted formal procedures for establishing and approving CRPs. In addition, the District designed an adequate system of access controls for online study and the CRP was aligned with NYS learning standards. However, District officials did not maintain documentation to support the approval of the students' participation in the CRPs.

Background and Methodology

The Buffalo City School District is located in the City of Buffalo, in Erie County and has about 33,000 students. The District has 58 schools in operation, 17 of which are high schools and employs approximately 7,900 staff. The District's operating expenditures totaled \$756.8 million in the 2011-2012 school year. Major costs included administration and operations. These expenditures are funded primarily through State aid, aid from the City of Buffalo and grants.

The District is governed by a nine-member Board of Education (Board). The Board's primary function is to provide general management and control of the District's financial and educational affairs. The Superintendent of Schools (Superintendent) is the chief executive officer of the District and is responsible, along with other administrative staff, for the day-to-day management of the District under the direction of the Board.

Typically, a student successfully passes a high school class and, if applicable, a Regents exam, and is awarded credit for the course. If a student is unable to complete a course satisfactorily, then the student can earn the credit by alternative means as listed in the Regulations. A make up credit program may include, but is not limited to, repeating an entire course, taking the course again as part of a summer school program, receiving intensive instruction in the deficiency areas of the course, or pursuing digital learning (online study). The Regulations allow school district officials to provide such programs to students who were previously enrolled in a course, but failed to demonstrate mastery of the intended course outcomes. To receive credit, the student must successfully complete a make-up credit program and demonstrate mastery of the subject by passing the Regents examination in the subject or by completing some other assessment required for graduation.

Our audit focused specifically on students' participation in programs other than summer school or repeating the entire course to make up credit; namely, we examined intensive instruction in deficiency areas and online study. These educational programs are referred to as CRPs.

The Regulations include the following requirements:

- Instruction by a Certified Teacher – The CRP must ensure that the students receive equivalent, intensive instruction in the deficiency areas of the course under the direction of and/or supervised by a teacher certified in the subject area. An official of the New York State Department of Education (Department) told us that a teaching assistant could be the teacher of record, if the teaching assistant is under the supervision of a certified teacher. School districts using this approach should maintain documentation of the

interactions between teaching assistants and the certified teachers overseeing the instruction.

- Alignment with the Learning Standards – The CRP must be aligned with the applicable Learning Standards for such subject.
- CRP Design and Student Participation Approval – A school-based panel (consisting of, at a minimum, the principal, a teacher in the subject area for which the student must make up credit, and a guidance director or other administrator) must approve the student's participation in the CRP.

In the 2010-11 and 2011-12 school years, the District offered 390 and 620 CRP classes, respectively. All of the high schools offer CRPs through online courses. According to District officials, in order to qualify for the CRP a student needs to have failed the course.

The District allows students to take part in the following CRPs online: English 9, English 10, English 11, English 12, Algebra, Geometry, Algebra 2, Biology, Environmental Science, Earth Science, Chemistry, Physics, Global 9, Global 10, U.S. History, Economics, Participation in Government, and Health.

To complete our objective, we interviewed District officials, and reviewed policies, procedures, student information, the CRP course list, and the online learning program. We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit is included in Appendix B of this report.

Audit Results

District officials did not document that students were instructed in a manner that conformed to the Regulations of the Commissioner of Education. In 22 of 43 instances examined, the teachers actively instructing students were not certified in the subject areas being taught. The District did not maintain documentation to demonstrate that subject specific certified teachers interacted with the students or teaching assistants. District officials maintained adequate documentation and controls to demonstrate that the District met most other CRP requirements. For example, the District documented each participating student's progress, and adopted formal procedures for establishing and approving CRPs. In addition, the District designed an adequate system of access controls for online study, and the CRP was aligned with NYS learning standards. However, District officials do not maintain documentation to support the approval of the students' participation in the CRPs.

Instruction by a Certified Teacher – The District is not ensuring that the students have received equivalent, intensive instruction in the deficiency areas under the direction of and/or supervised by a teacher certified in the subject area.

The District offers an online learning program for students enrolled in a CRP. The CRPs take place in computer labs that are staffed by certified teachers and class monitors (not certified teachers). The monitors are the primary contact for the student, and if questions arise, then a teacher certified in the subject area will assist the student.

We judgmentally tested the records of 43 CRP classes and found in 22 of the 43 classes, the teachers were not certified in the subject areas. For nine of these instances, the computer lab was staffed by multiple certified teachers. However, we could not determine the level of contact the student had with the applicable certified teacher. These students were assigned to study hall for the CRP and thus had no teacher of record. In all 43 instances we found no documentation that the assigned certified teachers had any interactions with the students.

Alignment With the Learning Standards – The CRP courses we reviewed were aligned with the Learning Standards. According to District officials, all of the CRP courses are aligned with the Learning Standards. The District held meetings to review the content of the CRP courses against the various standards. These meetings were attended by a certified teacher as well as a Department Head who is certified in the field of study. The District provided documentation for attendance during the reviews and details from such meetings held to ensure alignment with the Learning standards.

CRP Design and Student Participation Approval – The District has adopted formal guidelines for establishing and approving CRPs, to help in the administration of CRPs, and to ensure that each school is following Regulations. During the end of the school year, students are identified by the guidance department based on recommendations of teachers, guidance counselors, and administration. The District determines the most effective method of recovering credit and eventually the student is scheduled for credit recovery and assigned a username and password. Credit recovery teachers are notified of the decision and the teachers give the students orientation of the online CRP system.

However, the District does not always have documentation to support the approval of each student's participation in the CRP, as the Regulations require. There is not always formal documentation maintained at the various schools. We tested the records of 43 students enrolled in CRPs in the 2010-11 and 2011-12 school years, and we found no formal documentation of approval of the student's participation in 24 instances. There was documentation of the approval for the other 19 students, including credit recovery contracts and emails.

Documentation of Participation and Progress – Good practice dictates, and Department staff told us, that District officials should maintain documentation of a student's participation and learning progress to manage and evaluate the success of CRPs and demonstrate that students have achieved mastery of the learning outcomes of a subject. Further, the Regulations state that online learning programs should provide for documentation of satisfactory student achievement.

The District has maintained documentation to support the participation and learning progress of students in CRPs. This includes reports for each student enrolled in the CRP. The reports also serve as progress reports for the students. The reports show the student's progress throughout the CRP, along with pre-unit and post-unit tests.

Online Access Controls – School districts should have access controls in place over online CRPs to ensure the individual working on the computer is the student approved to participate in the CRP. We found the District's designed system controls are adequate for qualifying students before enrollment and mitigating the risk of cheating.

The guidance counselors enroll the students in CRP. The students will then obtain usernames and passwords from the credit recovery teachers. The District has established controls to mitigate the risk of cheating. Per discussions with various teachers, the tests are proctored and unlocked by the credit recovery teachers. Teachers are able to monitor the student's progress in real time so they can see what the student is working on at all times.

Recommendations

1. The District should ensure that teachers who are certified in the subject areas being taught are available to direct or supervise the equivalent, intensive instruction received by students in the CRPs.
2. The District should maintain documentation regarding the approval of students' participation in CRPs.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of the General Municipal Law, 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 forwarded to our office within 90 days. 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 Clerk's office.

Our office is available to assist you upon request. If you have any further questions, please contact Ann Singer, Chief of Regional and Statewide Projects, at (607) 721-8306.

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.



Dr. Pamela C. Brown
Superintendent of Schools

Will Keresztes, Ed.D.,
Associate Superintendent for Educational Services

TO: [REDACTED]

FROM: Will Keresztes, Ed.D., Associate Superintendent

RE: District Response to Audit Report of October 18, 2012

DATE: October 24, 2012

The Buffalo Public School District participated in a Comptroller's Office audit of digital online credit recovery program practices within schools. The purpose of the audit was to measure district compliance with requirements contained in CR 100.5.

Over the several days in which the audit was completed, the school district collaborated with NYSOSC staff and enjoyed a valuable partnership. The collaboration was considered beneficial to all who participated, including district and building level staff.

Credit recovery programs are recognized by the Board of Regents as valuable tools to support all students. Faced with increased graduation requirements, all students from all backgrounds need additional support in order to graduate on time. The advantages of digital learning are recognized by all school districts and we expect greater recognition of this value in the future.

Our district was particularly encouraged by the audit findings that recognized our written procedures that assured alignment of our program with state learning standards, subject by subject. The audit also recognized the district procedures established for the purpose of approving credit recovery courses and the necessary professional development provided to practitioners.

Among other validations of our program, audit findings recognized our procedures for documenting and monitoring student progress—a critical element for successful credit recovery.

The audit provided two recommendations regarding documentation of the subject area specific teacher of record and procedures for formal student approvals to participate in CRPs. We concur with the findings. Our corrective actions are provided on page 2 of this response:

Item 1 (Documenting Subject Area-Specific Teachers of Record):

In at least 13 of 43 possible instances, although a certified teacher supervised the students in the digital learning lab, they may not have been certified in the specific course completed by the student. The school did not adequately document the teacher of record (specific to the subject area) that would be made available for support of the student.

As a correction, the school district will require that schools document the subject-certified teacher of record who will monitor and support the specific students completing courses in their certification area. To meet this requirement, the teacher of record will be documented by the principal to align with subject areas for which students are enrolled. Such documentation shall be established in the electronic student information system master schedule assuring compliance with CR 100.5.

Item 2 (Student Approval Documentation):

In 24 of 43 instances, documentation was lacking that formally approved students for the online digital courses they were completing. Although students were approved by administrators, teachers of record, and school counselors, documentation was insufficient in the 24 cases.

As a correction, the district will establish a standard form required for completion prior to commencing credit recovery activity. The form shall be on kept on file at the school and shall be signed by an administrator, subject area teacher of record, and school counselor.

APPENDIX B

AUDIT METHODOLOGY AND STANDARDS

We interviewed District staff to find out and review any documentation that was kept on the credit recovery program. We reviewed core alignment documentation and discussion with District teachers. We reviewed the teachers that taught the credit recovery course, Teacher Certification certificates, the 2010-11 and 2011-12 report cards of the students participating in the credit recovery program, student transcripts, student progress reports, to show that the program was addressing student needs and that the students were receiving equivalent, intensive instruction under the direction of a certified teacher. Using a non-biased judgmental sampling method we tested a sample of 43 instances of credit recovery to determine the level of documentation maintained and compliance with regulations. We also reviewed documentation that the District maintained to support student learning progress and participation.

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.