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September 2018

Dr. Tonia Thompson, Superintendent
Members of the Board of Education
Binghamton City School District
164 Hawley Street
Binghamton, NY 13901

Report Number: S9-18-9

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

We conducted an audit of 10 school districts throughout New York State.¹ The objective of our audit was to determine whether school districts are providing physical education classes consistent with the regulations of the Commissioner of the New York State Education Department (Commissioner). We included the Binghamton City School District (District) in this audit. Within the scope of this audit, we examined schedules, attendance and the physical education plan for the period July 1, 2016 through June 30, 2017. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

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. Except as specified in Appendix A, District officials generally agreed with our recommendations and indicated they planned to initiate corrective action. Appendix B includes our comments on the issues raised in the District's response. At the completion of our audit of the 10 school districts, we prepared a global report that summarizes the significant issues we identified at all of the school districts audited.

¹ Baldwinsville Central School District, Binghamton City School District, Brockport Central School District, Camden Central School District, Corning City School District, East Ramapo Central School District, Kenmore-Town of Tonawanda Union Free School District, Plattsburgh City School District, South Colonie Central School District, South Huntington Union Free School District

Summary of Findings

The District did not comply with the physical education (PE) requirements of the New York State Education Department's (SED) Commissioner.² Although District officials were required to file the school's PE plan with SED, they did not do so. In addition, the District's PE plan was not approved by the school board. It does not accurately reflect the school's PE program and, while the District scheduled all students for PE and students generally attended PE classes, elementary school students (grades K-5) did not receive the required number of PE classes or the required amount of exercise time.

Elementary students are required to have at least 120 PE minutes each week but the District provided an average of 97 PE minutes or 19 percent less than the minimum amount of time required each week. The District also should have provided five PE classes for grades K-3 each week but kindergarteners were provided two PE classes and students in grades 1-3 were provided an average of 2.5 classes a week. Grades 4 and 5 must have three PE classes a week; however, on average, the District provided 2.5 PE classes.

Background and Methodology

The District serves the City of Binghamton and the Town of Fenton in Broome County. It operates 10 schools (seven elementary schools, two middle schools and one high school) with 6,307 students and 1,111 employees. District appropriations totaled \$112.2 million for the 2016-17 fiscal year, including approximately \$1.2 million for PE. The District has 23 certified PE teachers.

A seven-member Board of Education (Board) governs the District. The Board's responsibilities are to set local policy, levy property taxes to help meet the District budget, and hire a Superintendent to run the District schools. The Director of Health, Physical Education and Athletics (Director) is responsible for the day-to-day operations of the PE program.

New York State Education Law³ generally directs that school districts should provide PE to elementary and secondary school students, under the direction of the Commissioner. As a result, the New York Codes, Rules and Regulations (NYCRR)⁴ require a PE plan to be prepared and filed with SED, indicate what should be in the plan and set the time requirements for students on a grade-by-grade basis.

The federal Centers for Disease Control and Prevention⁵ reviewed multiple studies and released a report⁶ indicating there is evidence that physical activity can improve academic achievement, including grades and standardized test scores. In 11 of 14 studies reviewed, increasing PE time improved students' academic achievement, while three studies found that it had no significant

² Chapter 11 of the New York Code of Rules and Regulations (NYCRR), Section 135.4

³ New York State Education Law Section 803

⁴ New York Codes, Rules and Regulations Section 135.4

⁵ A federal agency that conducts and supports health promotion, prevention and preparedness activities in the United States, with the goal of improving overall public health

⁶ "The association between school-based physical activity, including physical education, and academic performance" (Centers for Disease Control and Prevention, U.S. Department of Health and Human Services), 2010

associations with students' academic achievement. Additionally, PE is important for a student's health and well-being, as childhood obesity continues to be a serious problem in the United States. The prevalence of obesity has remained fairly stable, between 2003-2004 and 2011-2012, at about 17 percent and affects 12.7 million children and adolescents.⁷

To complete our audit objective, we reviewed the PE plan, interviewed staff, reviewed student schedules, calculated student attendance and verified compliance with PE regulations. We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). More information on the standards and the methodology used in performing this audit are included in Appendix C of this report. Unless otherwise indicated in this report, samples for testing were selected based on professional judgment, as it was not the intent to project the results onto the entire population. Where applicable, information is presented concerning the value and/or size of the relevant population and the sample selected for examination.

Audit Results

Physical Education Plans – The Commissioner's regulations state that the Board of Education is responsible for developing and implementing school district plans to provide PE experiences for students. Such plans should be kept on file in the school district office and shall be filed with the SED Division of Physical Education, Fitness, Health, Nutrition and Safety Services. In addition, the NYCRR indicates specific items that the PE plan must address, such as program plans, required instruction, attendance, personnel, facilities and administrative procedures.

The District has a PE plan that is not available for public view. In addition, the plan was not filed with SED, was not Board-approved, and was insufficient as it did not provide students with the required number of PE opportunities and minutes each week. The plan also needs to be updated to reflect the District's current elementary school structure of grades K-5, rather than K-4 as stated in the plan. Positively, District officials require that all students be scheduled for PE, that student PE grades and notes be maintained each year and that teachers ensure students are attending PE classes. We confirmed students are scheduled for PE classes and that students generally attend the classes.

We reviewed secondary school student class records and schedules and found that PE classes are scheduled for students in accordance with District statements, the PE plan and master schedules.

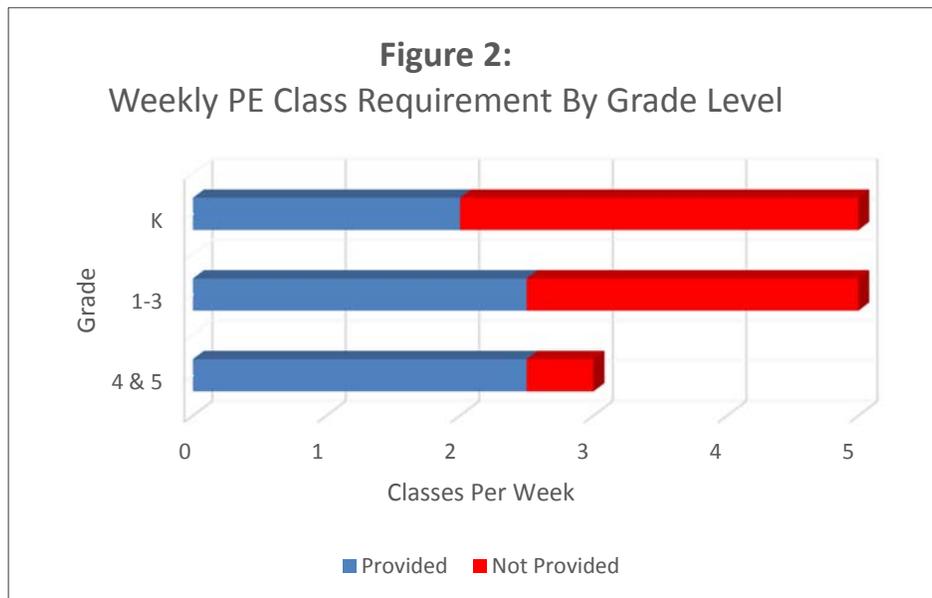
The Director told us he was aware of SED's regulations and requirements but during our audit we found that not all of the PE plan requirements were addressed. Further, the Director stated that he believed the District had filed the PE plan with SED in 2008, but SED officials told us there was no PE plan for the District on file. By not maintaining a fully compliant PE plan for guiding staff and monitoring the program, District officials did not ensure that the required amount of PE instruction was provided. This could harm student academic performance and increase the potential for obesity.

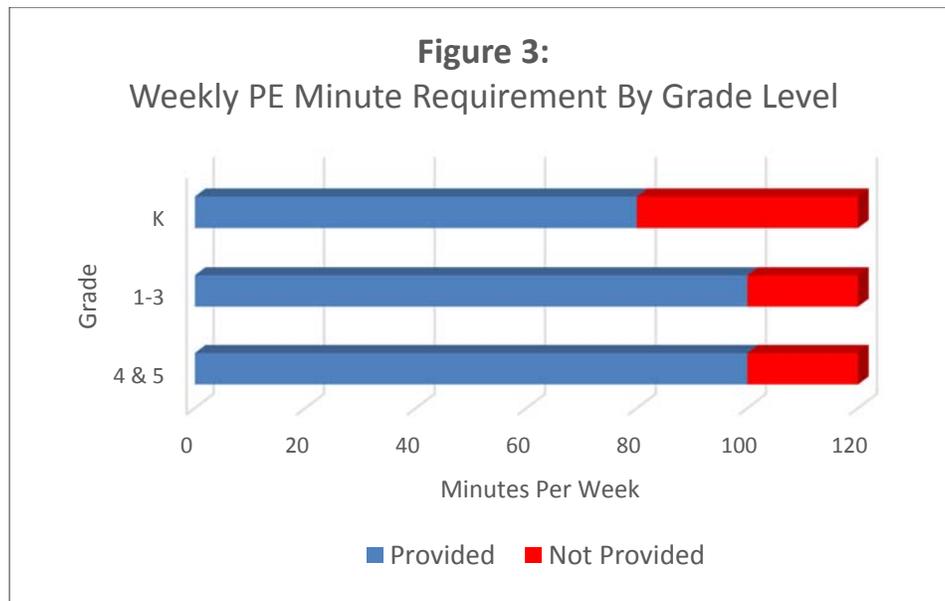
⁷ Ogden CL, Carroll MD, Fryar CD, Flegal KM. "Prevalence of obesity among adults and youth: United States, 2011–2014." NCHS data brief, no 219. (National Center for Health Statistics), 2015

Compliance With Physical Education Regulations – The Commissioner’s regulations set forth minimum standards for PE programs. This includes a minimum number of times and minutes per week that a student should receive PE (Figure 1). The regulation also allows adjustments for districts to tailor the PE program to their own needs. For example, fifth graders can be subject to elementary school or secondary school standards depending on which school they attend.

Figure 1: Regulation PE Requirements		
Grade	Total Minute Requirement	Times Per Week Requirement
K-3	120 Minutes	5
4-6	120 Minutes 5 th and 6 th graders have option to meet secondary school standards (grades 7-8).	3
7-8	Three times per week one semester, two times per week second semester or a comparable time if school is organized in another pattern. Should average 90 minutes per week.	
9-12	Three times per week one semester, two times per week second semester or a comparable time if school is organized in another pattern. Should average 90 minutes per week.	

For grades K-5, the students did not receive the required number of PE classes (Figure 2) or the minimum minutes required (Figure 3), as prescribed by SED:





The District provides elementary school students with 40-minute PE classes twice a week at the kindergarten level (80 minutes), rather than the required five classes per week totaling 120 minutes. Students in grades 1-3 were provided with 40-minute PE classes three times one week and twice the following week (averaging 2.5 classes and 100 minutes a week) rather than the required five classes per week totaling 120 minutes. Students in grades 4 and 5 were provided with 40-minute PE classes three times one week and twice the following week (also averaging 2.5 classes and 100 minutes a week) rather than the required three classes per week totaling 120 minutes. District officials explained that the District’s participation in the Race to the Top initiative took the focus away from a previous program called Patriots in Motion⁸ which would have helped them meet the elementary level PE requirements.

The District provides students in grades 6-12 with the required amount of PE. Grades 6-8 receive PE three times a week for 39 minutes per class one week and two times a week for 39 minutes per class the other week. Students in grades 9-12 receive PE three times a week for 40 minutes per class one week and two times a week for 40 minutes per class the other week.

By not providing the required level of PE for elementary school students, the District is noncompliant with State regulations and risks negatively affecting its students’ academic performance as well as contributing to childhood obesity.

Recommendations

The Board should:

1. Develop and adopt a comprehensive PE plan that meets the Commissioner’s regulations and file it with SED, as required.

⁸ Patriots in Motion was a District program designed to help elementary schools meet the PE requirements. The program consisted of eight- to 10-minute interactive videos for classroom teachers to use daily.

2. Ensure that all students in the District receive the required amount of PE.

The Board has the responsibility to initiate corrective action. Pursuant to Section 35 of General Municipal Law, Section 2116-a (3)(c) of the New York State 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 District Clerk's office.

We thank the officials and staff of the Binghamton City School District for the courtesies and cooperation extended to our auditors during this audit.

Sincerely,

Gabriel F. Deyo
Deputy Comptroller

APPENDIX A

RESPONSE FROM DISTRICT OFFICIALS

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



Binghamton City School District

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August 2, 2018

Ann C. Singer, Chief Examiner
Statewide Audit
State Office Building, Suite 1702
44 Hawley Street
Binghamton, NY 13901-4417

Dear Ms. Singer:

The Binghamton City School District is in receipt of the Draft Audit Report based on the audit of the district's Physical Education Plan as enacted for the period July 2016 through June 30, 2017. Please consider this letter as the response to the audit, as pursuant to General Municipal and NYS Education Law.

See
Note 1
Page 9

On behalf of the Board of Education and administration, we would first like to thank the local staff of the Comptroller's Office for their professionalism while conducting the audit. The staff was courteous throughout the process and actively listened to the objections raised regarding the content of the report and the process currently used to communicate preliminary findings to my office and members of the Board of Education. The district specifically requested references to individuals be removed as the audit was a review of the district's physical education plan, not that of any one individual who was a participant during the audit process.

The district is pleased that the audit resulted in minimal findings in the content of the district's plan and no findings in terms of the quality of programming and attendance in the programs offered. As a result, the material findings cited in the audit were the failure to maintain a filed copy approved by the Board of Education and additionally filed with the New York State Department of Education, along with the need to provide additional time in Physical Education class at the elementary level.

See
Note 2
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The district is in agreement with the material findings of the audit. The District's Corrective Action Plan (CAP) will be submitted once a final report is issued and within the required timeframe.

In closing, I would like to once again thank the field staff of the Comptroller's Office for their assistance throughout the review. If you have any questions regarding our response, please feel free to contact me.

Respectfully,

Tonia Thompson, Ed.D.
Superintendent of Schools

Educating, empowering and challenging all students to become productive, global citizens through innovative approaches to learning.

APPENDIX B

OSC COMMENTS ON THE DISTRICT'S RESPONSE

Note 1

The objective of our audit was to determine whether the District was complying with the Commissioner's regulations regarding PE, which included an evaluation of the PE plan. We did not conduct a review solely of the PE plan.

Note 2

We reviewed the District's compliance with PE regulations. This encompassed determining whether students were provided with the minimum number of PE classes and minutes required and whether the District maintained a Board-approved PE plan that was filed with SED.

APPENDIX C

AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed District officials and staff to gain an understanding of the District's policies and procedures for PE.
- We obtained the District's PE plan and compared it to the NYCRR put forth by SED to determine whether the plan met the requirements of the regulations.
- We obtained a list of all District PE teachers and their certifications to determine whether they received certifications as physical education teachers.
- We obtained a list of all District students and selected a sample of 100 secondary school students (1.6 percent), using a random number generator, to determine whether they were scheduled for a PE class. If they were, we determined whether the schedule matched the PE plan, information shared by the District and the school's master schedule.
- We obtained the master schedules for each school that indicated the PE teacher, section ID,⁹ days of the week attended and number of students in the class. We then obtained a list of all students' attendance of PE classes and determined the attendance percentage per grade and school based on total students per class, total days of class and total absences.
- We compared the District's PE class scheduling practices to the NYCRR to determine whether they were in compliance with the required amount of classes per week and total minutes per week.

We conducted this performance audit in accordance with 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

⁹ The ID assigned to a class that identifies the grade, teacher and period (for secondary school).