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September 2018

Dr. Deborah Wortham, Superintendent  
Members of the Board of Education  
East Ramapo Central School District  
105 South Madison Avenue  
Spring Valley, New York 10977

Report Number: S9-18-13

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

We conducted an audit of 10 school districts throughout New York State.<sup>1</sup> 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 East Ramapo Central 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.

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<sup>1</sup> 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<sup>2</sup> for students in grades K-6 (elementary school). The District's PE plan was not filed with the New York State Education Department (SED) as required and did not address or correctly address all items required by the State's regulations.

While the District scheduled all students for PE and students generally attended classes, elementary school students (grades K-6) did not receive the required amount. The District is required to provide elementary school students with 120 PE minutes each week, but provided 80 PE minutes (33 percent less than the minimum required). In addition, the District should have provided grades K-3 with five PE classes a week but provided two; and should have provided grades 4-6 with three PE classes a week but also provided two.

## Background and Methodology

The District serves the Towns of Ramapo, Clarkstown and Haverstraw in Rockland County. It operates 14 schools (9 elementary schools, two middle schools, one combined elementary school and middle school and two high schools) with 8,482 students and 801 employees.<sup>3</sup> District appropriations totaled \$224.4 million for the 2016-17 fiscal year, including approximately \$3.5 million for physical education. The District has 36 certified PE teachers.

A nine-member Board of Education (Board) governs the District. The Board is the policy-making body responsible for the scope, depth and quality of education in the District. The Coordinator of Physical Education, Health & Athletics/Spring Valley High School Athletic Coordinator (Coordinator) is responsible for the day-to-day operations of the physical education program.

New York State Education Law<sup>4</sup> 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)<sup>5</sup> 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 Prevention<sup>6</sup> reviewed multiple studies and released a report<sup>7</sup> 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 associations with academic achievement. Additionally, PE is important for a student's health and

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

<sup>3</sup> Figure excludes substitute teachers and bus drivers.

<sup>4</sup> New York State Education Law Section 803

<sup>5</sup> New York Codes, Rules and Regulations Section 135.4

<sup>6</sup> 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

<sup>7</sup> "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.

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 17 percent and affects 12.7 million children and adolescents.<sup>8</sup>

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 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; however, it is not available for public view, was not Board-approved and was not filed with SED. Further, the plan was insufficient as it did not provide students with the required number of physical education opportunities and minutes each week. Positively, District officials require that all students be scheduled for PE, that student PE grades and attendance 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 also reviewed secondary school student class records and schedules to determine whether PE classes are scheduled for students in accordance with District statements and master schedules and found that they were. However, we could not determine whether the schedules matched the PE plan or whether a PE plan existed because the Coordinator told us he does not maintain a copy of the old plan when he makes updates. The Coordinator told us the District’s PE plan was updated in December 2017 to reflect adjusted PE classes in grades 8-12 for the 2017-18 school year.

The Coordinator told us he was aware of the PE requirements prescribed by SED and that the District needed a detailed PE plan; however, during our audit we found that he did not know the plan had to be Board-approved and filed with SED. By not maintaining a comprehensive PE plan for guiding staff and monitoring the program, District officials risk not complying with regulations and not providing adequate PE for students. This could harm student academic performance and increase the potential for obesity.

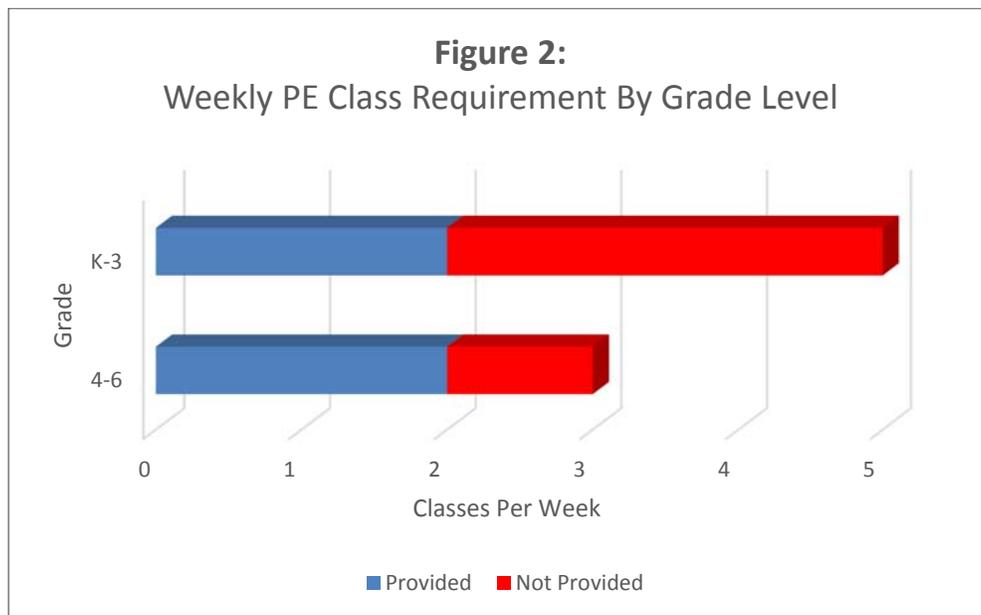
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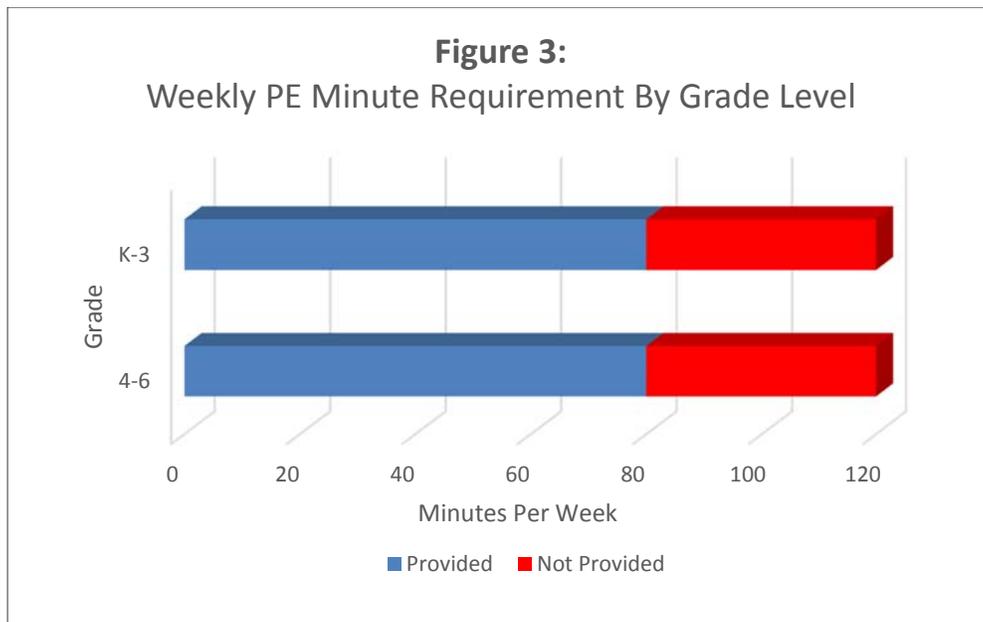
<sup>8</sup> Ogden CL, Carroll MD, Fryar CD, Flegal KM. “Prevalence of obesity among adults and youth: United States, 2011–2014.” NCHS data brief no. 219 (National Center for Health Statistics), 2015.

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 regulations also allow 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.

<b>Figure 1: Regulation PE Requirements</b>		
<b>Grade</b>	<b>Total Minute Requirement</b>	<b>Times Per Week Requirement</b>
K-3	120 Minutes	5
4-6	120 Minutes 5 <sup>th</sup> and 6 <sup>th</sup> 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-6, the students did not receive the required number of PE classes (Figure 2) or the minimum minutes required (Figure 3), as prescribed by SED:





While the District provides students in grades 7-12 with the required amount of PE, it does not provide elementary school students with the required amount. The District provides elementary school students PE twice a week at all grade levels (K-6). However, students in grades K-3 received two 40-minute classes (80 minutes) per week rather than the required five classes totaling 120 minutes. Students in grades 4-6 also received two 40-minute classes (80 minutes) per week rather than the required three classes totaling 120 minutes.

District officials explained that they are not meeting the requirements because they thought recess,<sup>9</sup> dance class and “brain breaks”<sup>10</sup> counted toward PE participation. However, SED guidance specifically states that unstructured recess does not count toward PE requirements. In addition, dance class and “brain breaks” do not satisfy the Commissioner’s PE Regulations, in part, because they are not provided by or overseen by a certified PE teacher and the District did not maintain documentation to support the attendance, duration or frequency. In addition, the District’s PE Coordinator said during the 2016-17 school year only four elementary schools provided dance class and a Principal from one of these schools said dance class was not offered to all students, instead, it was held in nine of the school’s 23 classes. A District elementary PE teacher also said “brain breaks” were performed during the March Forward event in the month of March and they had no further knowledge of “brain breaks” being performed outside this event.

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.

<sup>9</sup> SED guidance and Decision No. 12,934 of the SED Office of Counsel state that unstructured recess does not count toward PE class requirements.

<sup>10</sup> Brain breaks are brief exercises students can perform at their desks.

## 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.
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 East Ramapo Central 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 officials' response to this audit can be found on the following pages.



# EAST RAMAPO CENTRAL SCHOOL DISTRICT

*"A unified community educating the whole child."*

105 South Madison Ave., Spring Valley, NY 10977 | (845) 577-6000

**Harry Grossman**  
President, Board of Education

**Yehuda Weissmandl**  
Vice-President

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**Joel Freilich**  
**Pierre Germain**  
**Yoel T. Trieger**  
**Ephraim Weissmandl**

**Dr. Deborah L. Wortham**  
Superintendent

August 2, 2018

Mr. Gabriel F. Deyo  
Deputy Comptroller  
Division of Local Government and School Accountability  
110 State Street  
Albany, New York 12236

Audit Report Number: S9-19-13  
Physical Education Audit Response Draft

Dear Mr. Deyo:

Your office conducted an audit to determine whether school districts are providing physical education classes consistent with the regulations of the Commissioner of the New York State Education Department. Kindly accept our response letter and corrective action plan for your Report Number S9-19-13:

The findings in the report indicate two areas to address.

1. Develop and adopt a comprehensive Physical Educational Plan which meets the Commissioner's regulations, maintain it in the District's office, have it available for public view, and file it with the New York State Education Department; and
2. Comply with the physical education requirements of the New York State Education Department's Commissioner's regulations for students in grades K-6, ensuring that all students receive the required amount of physical education instruction.

The East Ramapo Central School District will be in full compliance with the Commissioner's Regulations by December 31, 2018.

The East Ramapo Central School District has established a Physical Education Committee comprised of all stakeholders, including Board of Education members, central office administrators, and teachers. The committee has begun updating the Physical Education Plan. The contents of the Plan are in accordance with the New York State Education Law and will include physical education time requirements by grade. Student schedules will match the Physical Education Plan. The Plan will be approved by the Board of Education in December 2018 and immediately filed with the New York State Education Department's Division of Physical Education, Fitness, Health, Nutrition and Safety Services. The new plan will correctly address all items required by the State's regulations. It will be maintained in the District Clerk's Office and during all work hours will be available for public view.

The report states that while our students were scheduled for physical education and attended classes, students in kindergarten through grade six did not receive the required number of minutes of instruction per week, and did not receive the required number of sessions per week. However, in 2015, we were directed by the New York State Education Department to schedule time for Brain Breaks for our students. Our Brain Breaks included physical activities such as running, skipping, dancing and jumping. We implemented Brain Breaks each day in the schedules of all of our elementary students. Furthermore, the audit findings state that we did not take attendance for these Brain Breaks. It should be noted that the New York State Education Department does not require that we take attendance for individual subjects in elementary school. An elementary teacher takes attendance for his or her classroom at the beginning of the day. Brain Breaks which occur during the school day are reflective of that day’s student attendance. The New York State Education Department specifically directed us to employ Brain Breaks and advised us that the Brain Breaks would count toward the physical education requirement.

The elementary physical education program for all kindergarten through sixth-grade students will meet the required one hundred-twenty (120) instructional minutes, in accordance with the REGULATIONS OF THE COMMISSIONER § 135.4 as follows:

**Kindergarten to Grade 6 Schools**  
**Physical Education daily for a minimum of 120 minutes per week.**

INSTRUCTION	MINUTES	DESCRIPTION	SUCCESS MEASURE
Physical Education Class	40 minutes two days per week (80 minutes total)	<ul style="list-style-type: none"> <li>• under the instruction of a certified physical education teacher</li> <li>• instructed in the gymnasium/field</li> </ul>	<ul style="list-style-type: none"> <li>• Classroom attendance</li> <li>• SparkPE Curriculum Map</li> <li>• Curriculum-based formative and summative assessments (e.g., performance rubrics and unit assessments)</li> </ul>
Activity Breaks	10 minutes daily (50 minutes total)	<ul style="list-style-type: none"> <li>• under the direction and supervision of a certified physical education teacher</li> <li>• taught by an elementary classroom teacher</li> </ul>	Classroom attendance PE Curriculum-aligned Activity Calendar Classroom Physical Activity Tracker
<b>TOTAL:</b>	130 minutes		

The East Ramapo Central School District’s physical education program meets the Commissioner’s regulations and National Physical Education Standards.

Regards,  
  
 Dr. Deborah L. Wortham  
 Superintendent of Schools

## **APPENDIX B**

### **OSC COMMENT ON THE DISTRICT'S RESPONSE**

#### Note 1

The District could not provide documentation to support that the Brain Break program was in use by teachers. During interviews with District staff, only one PE teacher described the March Forward program which takes place in the month of March. No other PE teacher or any of the principals interviewed indicated there was a supplemental PE program in place at the District, such as Brain Breaks.

## **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 130 secondary school students (1.5 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 list of all student 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.