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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

September 26, 2024

Betty A. Rosa, Ed.D.
Commissioner
State Education Department
State Education Building
89 Washington Ave.
Albany, NY 12234

Re: Privacy and Security of Student Data
Report 2024-F-11

Dear Dr. Rosa:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the State Education Department to implement the recommendations contained in our initial audit report, *Privacy and Security of Student Data* (Report [2021-S-29](#)).

Background, Scope, and Objectives

The State Education Department (SED or the Department) is part of the University of the State of New York, one of the most complete, interconnected systems of educational services in the United States. SED administers school aid, regulates school operations, maintains a performance accountability system, oversees the licensing of numerous professions, certifies teachers, and administers a host of other educational programs. Its responsibilities include oversight of more than 700 school districts with 3.2 million students, 12 Regional Information Centers (RICs), and 37 Boards of Cooperative Educational Services (BOCES). The BOCES and RICs work to provide shared educational programs and services to schools throughout the State and host various schools' student information systems and the student data reporting processes. SED is responsible for safeguarding its data and ensuring the confidentiality, integrity, and availability of its systems.

SED is charged with the general management and supervision of all public school districts and all the educational work of the State. It is also responsible for ensuring compliance with relevant laws and regulations, including Section 2-d of the Education Law (Education Law §2-d) and Part 121 of the Regulations of the Commissioner of Education (Part 121), which was adopted in January 2020.

Education Law §2-d requires the Commissioner of Education to establish standards for data security and privacy policies, which shall include, but not be limited to:

- Data privacy protection
- Data security protections, including data systems monitoring

- Data encryption
- Incident response plans
- Limitations on access to personally identifiable information (PII)
- Safeguards to ensure PII is not accessed by unauthorized persons when transmitted over communication networks
- Application of all such restrictions, requirements, and safeguards to third-party contractors

The objectives of our initial audit, issued on May 16, 2023, were to determine whether SED consistently followed all laws and regulations regarding the safety and privacy of students' data and was monitoring New York State school districts to ensure they are complying with the legislation and regulations that govern data privacy and security. The audit covered the period from March 2020 through November 2022. Overall, the audit found that SED did not fully comply with its policies related to information security and data privacy, including completing the data classification for all types of information that it creates, collects, processes, or stores, some of which contain student PII. Additionally, SED didn't provide sufficient oversight of school districts to ensure compliance with key requirements of Part 121, such as security policies, incident reporting, and the Parents' Bill of Rights.

The objective of our follow-up was to assess the extent of implementation, as of July 16, 2024, of the three recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

SED officials made significant progress in addressing the problems we identified in the initial audit report. Of the initial report's three audit recommendations, two were implemented and one was partially implemented.

Follow-Up Observations

Recommendation 1

Develop and implement controls to monitor school districts' compliance with Part 121.

Status – Implemented

Agency Action – Since our original audit, SED officials have implemented a program to monitor school districts' compliance with Part 121. As part of this effort, SED has begun a program to review school district websites to ensure all required elements of Part 121 and the Family Educational Rights and Privacy Act (FERPA) are posted as required and easily found, such as an updated data security and privacy policy, FERPA Annual Notification, and the Parents' Bill of Rights. We found SED has reviewed the websites of 120 districts at the time of our follow-up. SED officials noted that, as they review school district websites, they work with the school districts to ensure any missing or difficult to find information is added and easily accessible for parents. Additionally, SED has developed a new reporting mechanism for erroneous or accidental disclosures of students' data and/or teachers and principals' annual professional performance review data due to an employee at the educational agency. To report an erroneous or accidental disclosure, school districts can now complete an online form on SED's website. Within the form, the school provides details of the incident and actions that have been taken.

SED officials also use a correspondence log to track communications with the school district for all incidents until they are closed.

Recommendation 2

Continue to work on completing a full data and asset classification of all current Department systems and data.

Status – Implemented

Agency Action – Since our original audit, SED officials have developed a program to classify data used throughout SED. To properly classify data used, offices within SED identify the data assets that are used, complete a data classification worksheet for each, and rate them on their confidentiality, integrity, and availability. As the classification worksheets are completed, they are reviewed by the Information Security Office. SED has fully completed the data classification process within three of its eight offices.

Recommendation 3

Implement the recommendations detailed in the preliminary report to strengthen technical controls over the selected systems reviewed.

Status – Partially Implemented

Agency Action – During our initial audit, we issued one technical preliminary report, which contained four recommendations. Of the four recommendations, two were implemented, and two were partially implemented.

Major contributors to this report were Justin Dasenbrock, Dan Raczynski, Christopher Bott, Madison Adams, Cosmos Houndonougbo, and Mariia Shavel.

SED officials are requested, but not required, to provide information about any actions planned to address the unresolved issues discussed in this follow-up within 30 days of the report's issuance. We thank the management and staff of SED for the courtesies and cooperation extended to our auditors during this follow-up.

Very truly yours,

Amanda Eveleth, CFE
Audit Manager

cc: James Kampf, State Education Department