City of New York

OFFICE OF THE COMPTROLLER

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COMPTROLLER

MANAGEMENT AUDIT

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Audit Report on the New York City Department of Education's Reporting of Violent and Disruptive Incidents at Its Schools

June 5, 2018

To the Residents of the City of New York:

My office has audited the New York City Department of Education (DOE) to determine whether it has adequate controls in place to ensure that violent and disruptive incidents that occur at public schools attended by middle and high school students are accurately recorded and reported according to certain DOE and New York State Education Department (NYSED) requirements. We perform audits such as this to ensure that City agencies comply with applicable rules and regulations.

The audit found that DOE's controls need to be strengthened to reasonably assure that violent and disruptive incidents at its public schools are consistently recorded in its Online Occurrence Reporting System (OORS) and ultimately reported in the Violent and Disruptive Incident Report (VADIR) system in accordance with NYSED requirements. Among other things, the audit found that although DOE has given general instructions about incident-reporting to school administrators and has provided on-going training to school administrators, DOE has not established adequate controls to ensure that those instructions are followed on a consistent basis. In addition, we sampled 10 schools and found that for School Year 2015-2016, of 114 incidents we identified from School Safety Division records as reportable under DOE's regulations, 24 VADIR-reportable incidents (21 percent) were not recorded in OORS. As a consequence, among other things, these incidents were not considered for inclusion when DOE reported those schools' incidents in the VADIR system.

The audit makes five recommendations, including that DOE: enhance its oversight of the schools' data entry in OORS to ensure that school administrators understand and comply with Chancellor's Regulations and record all incidents as required; and ensure that school administrators routinely and purposefully communicate with the School Safety Division to be fully aware of incidents in their schools that are captured in the School Safety Division records, and verify that the incidents are consistently recorded in OORS.

The results of the audit have been discussed with DOE officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

Scott M. Stringer

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THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
MANAGEMENT AUDIT

Audit Report on the New York City Department of Education's Reporting of Violent and Disruptive Incidents at Its Schools

MJ16-116A

EXECUTIVE SUMMARY

The objective of this audit was to determine whether the New York City (City) Department of Education (DOE) has adequate controls in place to ensure that violent and disruptive incidents that occur at public schools attended by middle and high school students are accurately recorded and reported according to certain DOE and New York State Education Department (NYSED) requirements.

DOE is the largest school district in the United States. According to DOE's website, the agency serves 1.1 million students in over 1,800 schools throughout the City's five boroughs. DOE is responsible for ensuring that its schools are places where students learn and staff teach in a safe, secure and orderly environment. In furtherance of that goal, DOE issues regulations, known as the "Chancellor's Regulations," that all schools are required to follow. In addition, DOE published a booklet, *Citywide Behavioral Expectations to Support Student Learning* (the Discipline Code), for Grades K through 12, which delineates expectations for student conduct, identifies conduct that violates DOE's standards, describes the infraction levels and infractions codes to be used when recording a student's misbehavior, sets forth a range of permissible disciplinary and intervention measures that schools may use to address misbehavior, and contains the bill of student rights and responsibilities.[1] DOE's Office of Safety and Youth Development (OSYD) is responsible for helping schools create and maintain a safe, orderly and supportive environment for students and in that capacity works directly with schools to establish and implement safety, discipline and intervention policies and procedures.

DOE uses its Online Occurrence Reporting System (OORS) to record incidents reported by schools, including those incidents involving students' infractions of the Discipline Code.[2] School principals or their designees are responsible for recording such incidents into OORS, along with the applicable infraction codes as defined in the Discipline Code, within 24 hours of an incident's occurrence. In addition, DOE uses its Suspensions and Office of Hearings Online system (SOHO) to document students' suspensions and removals, as well as to document guidance interventions, in those instances where the corresponding incidents have been properly documented in OORS. These two reporting systems provide school officials with an opportunity to review incident and suspension data that can

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[1] The Discipline Code in use during the audit scope was in effect from April 2015 through March 2017.
[2] Other types of incidents include, but are not limited to, accidents, missing/lost property, injuries (not related to discipline code infractions), and illnesses.

help them identify trends in student behavior and in school climate that could enable schools to address issues in a timely manner.

The New York City Police Department's (NYPD's) School Safety Division helps DOE to provide a safe environment in schools by deploying more than 5,000 school safety agents (SSAs) and 200 uniformed police officers throughout the City's public school system. The SSAs stationed at each of the schools are required to maintain an activity logbook and to chronologically record the daily SSA work assignments and those activities (including incidents) that occur in the school and around the school's perimeter of which the SSAs become aware. The activity logbook is an official document that serves as a memory aid in legal inquiries.

In July 2000, New York State (State) Education Law was amended by the Safe Schools Against Violence in Education (SAVE) Act to improve the safety of children in the public schools across the State. The SAVE Act requires all public schools to collect data and report annually to NYSED violent and disruptive incidents that occur on school property or at school-sponsored events during the school year (July 1 and June 30). In conjunction with the State Division of Criminal Justice Services, NYSED developed a uniform incident reporting system, the Violent and Disruptive Incident Report (VADIR) that requires each public school in New York State to compile records of incidents, organized by designated VADIR categories.[3]

NYSED uses the VADIR data to calculate each school's "School Violence Index" (SVI). The SVI is a ratio that is determined by the number of incidents, the seriousness of the incidents, and the school's enrollment.[4] According to the *NYC Violent and Disruptive Incidents Report,* covering School Year 2015-2016 (posted on the NYSED website in January 2017 of the subsequent school year), there were 1,597 NYC public schools—44 schools had no reported VADIR incidents during School Year 2015-2016, and 1,553 schools reported a total of 41,559 VADIR incidents, ranging from 1 to 271 incidents during that year.[5]

Audit Findings and Conclusion

DOE's controls need to be strengthened to reasonably assure that violent and disruptive incidents at its public schools are consistently recorded in OORS and ultimately reported in the VADIR system in accordance with NYSED requirements. Although DOE, through its Chancellor's Regulations, has given general instructions to school administrators about their responsibilities for reporting incidents that occur at their schools, and provides on-going training to school administrators, it has not established adequate controls to ensure that those instructions are followed on a consistent basis. DOE has no evidence that it performs any types of audits, reviews or reconciliations to assess the degree to which schools are following DOE regulations and appropriately recording incidents involving students' behavioral infractions in OORS.

We sampled 10 schools and found that for School Year 2015-2016, of 114 incidents we identified from School Safety Division records as reportable under DOE's regulations, 24 VADIR-reportable incidents (21 percent) were not recorded in OORS. As a consequence, among other things, these incidents were not considered for inclusion when DOE reported those schools' incidents in the VADIR system.

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[3] During the period covered by this audit, there were 20 reporting categories. In December 2016, the NYSED Commissioner's Regulations 100.2 were revised to reduce the 20 reporting categories to nine categories. The revised changes started in School Year 2017-18.

[4] To calculate the SVI for each school, the incident counts for each type of incident are multiplied by the weight for that type of incident and those products are added together to obtain an overall weighted incident total. This total is then divided by the enrollment, which results in the SVI score. Only those incidents considered "violent" have a weight greater than zero.

[5] The 1,597 NYC schools do not include (1) schools that were closed and opened subsequent to the 2015-16 school year; and (2) Charter Schools, which do not fall under DOE's reporting requirements under NYSED's VADIR regulations.

For those incidents occurring at the 10 sampled schools during School Year 2015-2016 that school administrators did record, our analysis found that the VADIR categories that DOE assigned to them generally corresponded to the incident descriptions recorded in OORS. Of the 3,020 incidents we reviewed, only 56 (less than 2 percent) appeared to be inappropriately categorized.

However, we found that DOE does not require that schools consistently capture all of the information in OORS and SOHO relating to the disciplinary or referral actions taken, which is needed to properly assess whether certain incidents should be reported in VADIR. Without adequate controls in place, DOE is less able to ensure that violent and disruptive incidents are recorded consistently and accurately. As a result, DOE is less likely to report them in accordance with NYSED requirements.

In addition, DOE has not provided evidence that management has instituted an oversight mechanism to ensure that DOE schools take appropriate referral, corrective, or disciplinary action in dealing with incidents involving aggressive or harmful behavior by students, and that the actions that schools do take are properly reported in accordance with DOE and NYSED requirements. In that regard, we found no record of any disciplinary, referral or other corrective action in DOE's SOHO system for 486 of 589 student-behavioral incidents (83 percent) at our sampled schools; of these, 398 incidents (82 percent) were at an infraction level of 3 or above, which are infractions that DOE classifies as serious or relatively serious.

Audit Recommendations

Based on the audit, we make the following five recommendations:

- DOE should enhance its oversight of the schools' data entry in OORS to ensure that school administrators understand and comply with Chancellor's Regulations and record all incidents as required.

- DOE should ensure that school administrators routinely and purposefully communicate with the NYPD School Safety Division to be fully aware of incidents in their schools that are captured in the School Safety Division records, and verify that the incidents are consistently recorded in OORS. Such communications with the NYPD School Safety Division and reviews of incident recordings in OORS should be documented.

- DOE should ensure that violent and disruptive incidents are correctly categorized and included on the VADIR summaries reported to NYSED so that the SVI calculations are accurate.

- DOE should modify and establish controls in the SOHO system to capture all disciplinary and referral actions and the necessary information required by NYSED for these actions, including the licensing and qualification information of school staff providing counseling or treatment services, in order to properly assess whether certain incidents should be reported in VADIR.

- DOE should periodically review the OORS and SOHO systems to identify incidents involving aggressive, harmful, seriously dangerous or violent behavior (Level 4 and 5 infractions) to ensure that school administrators took appropriate actions and recorded in SOHO all disciplinary, referral or other corrective actions taken concerning the students.

Agency Response

DOE stated that it agreed with three of the five recommendations and stated it will take the other two recommendations under advisement. However, to the extent that DOE stated that it agreed with three recommendations, it qualified that "agreement" by stating for two recommendations that it "agrees with this recommendation *inasmuch as it reflects current practice*" and for one recommendation that it

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"agrees with this recommendation to the *extent it reflects current practice.*" [Emphasis added.] Thus, DOE effectively rejected the auditor's recommendation that current practice should be improved in each of these instances. DOE also expressly disagreed with a number of the audit's findings. We address these areas of disagreement in the body of this report. After carefully reviewing DOE's arguments, we find no basis to alter any of the audit's findings.

AUDIT REPORT

Background

DOE is the largest school district in the United States. According to DOE's website, the agency serves 1.1 million students in over 1,800 schools throughout the City's five boroughs. DOE is responsible for ensuring that its schools are places where students learn and staff teach in a safe, secure and orderly environment. To accomplish that goal, among other things, DOE issues regulations, known as the "Chancellor's Regulations," that all schools are required to follow. In addition, DOE published a booklet, the Discipline Code, for Grades K through 12, which delineates expectations for student conduct, identifies conduct that violates DOE's standards, describes the infraction levels and infractions codes to be used when recording a student's misbehavior, sets forth a range of permissible disciplinary and intervention measures that schools may use to address misbehavior, and contains the bill of student rights and responsibilities. DOE's OSYD is responsible for helping schools create and maintain a safe, orderly and supportive environment for students and in that capacity works directly with schools to establish and implement safety, discipline and intervention policies and procedures.

DOE uses OORS to record incidents reported by schools, including those incidents involving students' infractions of the Discipline Code. School principals or their designees are responsible for recording such incidents into OORS, along with the applicable infraction codes as defined in the Discipline Code, within 24 hours of an incident's occurrence. During School Year 2015-2016, the Discipline Code included 62 infractions for DOE's middle to high school students (grades 6 through 12), grouped into five levels, depending on the severity of the infraction, with Level 1 being the least serious and Level 5 being the most serious. (A list of the different levels is shown in Appendix I.) In addition, DOE uses SOHO to document students' suspensions and removals, as well as to document guidance interventions, in those instances where the corresponding incidents have been documented in OORS. These two reporting systems provide school officials with an opportunity to review incident and suspension data that can help them identify trends in student behavior and in school climate that could enable schools to address issues in a timely manner.

NYPD's School Safety Division helps DOE to provide a safe environment in schools by deploying more than 5,000 SSAs and 200 uniformed police officers throughout the City's public school system. The SSAs stationed at each of the schools are required to maintain an activity logbook and to chronologically record the daily SSA work assignments and those activities (including incidents) that occur in the school and around the school's perimeter of which the SSAs become aware. The activity logbook is an official document that serves as a memory aid in legal inquiries.

In July 2000, State Education Law was amended by the SAVE Act to improve the safety of children in the public schools across the state. The SAVE Act requires all public schools to collect data and report annually to NYSED violent and disruptive incidents that occur on school property or at school-sponsored events during the school year (July 1 and June 30). In conjunction with the State Division of Criminal Justice Services, NYSED developed a uniform incident reporting system, VADIR that requires each public school in New York State to compile records of incidents, organized by designated VADIR categories. Public schools are required to submit an annual summary of VADIR-reportable incidents to their respective district offices, each of which in turn compiles the summaries from its schools and submits a report to NYSED after the close of each school year. DOE generally submits the summary in the October following the close of the prior school year, reporting on VADIR-reportable incidents including, but not limited to, behavioral infractions, Levels 1 to 5, and some non-behavioral incidents that DOE determines to align with an NYSED category as defined by the State. DOE's infraction codes assigned to incidents recorded in OORS are not designed to align with NYSED's VADIR categories. In

order to compile the necessary data to report the VADIR-reportable incidents to NYSED, OSYD's team of reviewers, which include OSYD's Emergency Information Center (EIC) personnel and OSYD officials, are responsible for reviewing all incidents recorded in OORS and, using an application in the OSYD portal called the Internal Audit Tool, assign them to the appropriate VADIR categories, if applicable. After categorization, OSYD officials are responsible for reviewing the categorized incidents, identifying those that are reportable to NYSED, and compiling the necessary data to report the VADIR-reportable incidents to NYSED.

NYSED uses the VADIR data to calculate each school's SVI. The SVI is a ratio that is determined by the number of incidents, the seriousness of the incidents, and the school's enrollment. Table I, below, identifies the types of VADIR incidents considered by NYSED to be violent incidents and their weight, which would affect schools' SVI.

Table I

VADIR Incident Categories Considered by NYSED
to Be Violent Incidents and Their Associated
Weight

Incident Category	Weight
Homicide	100
Forcible Sex Offense	60
Other Sex Offense	45
Robbery	40
Assault with Serious Physical Injury	40
Arson	30
Kidnapping	30
Assault with Physical Injury	30
Reckless Endangerment	25
Weapon Possession	15
All Other Incident Categories Involving the Use of a Weapon	25

Schools that for two consecutive school years have either (1) an SVI of 1.5 or greater, or (2) an SVI of 0.5 or greater <u>and</u> a total of 60 or more violent incidents, are identified as "Persistently Dangerous" (PD). Schools that meet the criteria for one year are identified as "Potentially Persistently Dangerous" (PPD). Officials of PD schools are required to notify parents of their option to enroll their children in another school within the district that is not designated as PD.

According to NYSED's *NYC Violent and Disruptive Incidents Report,* covering School Year 2015-2016 (published on the NYSED website in January 2017 of the subsequent school year based on the information reported to NYSED by DOE), there were 1,597 NYC public schools—44 schools had no VADIR-reportable incidents during School Year 2015-2016, and 1,553 schools had a total of 41,559 VADIR-reportable incidents, ranging from 1 to 271 incidents during that year. This audit focused only on the schools that included students attending middle and high school grades.

A number of audits previously conducted by our office and the Office of the State Comptroller (OSC) have identified deficiencies in the reporting and categorization of incidents that occur in the City's schools. In Fiscal Year 2008, our office's audit found that DOE did not have adequate controls in place to ensure that incidents at City public high schools were consistently entered into DOE's OORS; more than one-fifth (21 percent) of the incidents for 10 sampled schools were not entered in OORS.[6] Of the

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[6] *Audit Report on the Department of Education's Reporting of Violent, Disruptive and Other Incidents at New York City Public High Schools* (MG06-140A, issued September 19, 2007).

incidents not entered, more than 60 percent were designated as serious (i.e., those incidents that NYSED regulations require be included in the VADIR reporting). In another prior audit that focused on bullying, harassment, and/or intimidation, we found that DOE did not adequately ensure that such incidents were treated in a consistent manner among schools and that OORS had not been modified to allow officials to identify all incidents recorded in OORS that were bias-related, as required by Chancellor's Regulation A-832 (*Student-to-Student Discrimination, Harassment, Intimidation, and/or Bullying*).[7] In Fiscal Year 2015, OSC released an audit that examined whether DOE officials accurately recorded and reported violent and disruptive incidents and found that DOE staff did not include over 400 reportable incidents in accordance with VADIR requirements in 10 sampled NYC schools (two schools in each of the five boroughs) during the period July 1, 2011 through July 30, 2013. That audit also found that many of the incidents that were reported were not correctly categorized.[8]

Objective

The objective of this audit was to determine whether DOE has adequate controls in place to ensure that violent and disruptive incidents that occur at public schools attended by middle and high school students are accurately recorded and reported according to certain DOE and NYSED requirements.

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. 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. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit scope covered School Year 2015-2016. The Detailed Scope and Methodology section at the end of this report describes the specific procedures and tests that were conducted.

Discussion of Audit Results with DOE

The matters covered in this report were discussed with DOE officials during and at the conclusion of this audit. A preliminary draft report was sent to DOE and was discussed at an exit conference held on March 28, 2018. On April 24, 2018, we submitted a draft report to DOE with a request for comments. We received a written response from DOE on May 8, 2018. In its response, DOE ostensibly agreed with three of the five recommendations and stated they it will take the other two recommendations under advisement. However, to the extent that DOE stated that it agreed with three recommendations, it qualified that "agreement" by stating for two recommendations that it "agrees with this recommendation *inasmuch as it reflects current practice*" and for one recommendation that it "agrees with this recommendation to the *extent it reflects current practice.*" [Emphasis added.] Thus, DOE effectively rejected the auditor's recommendation that current practice should be improved in each of these instances.

In its response, DOE additionally disagreed with several of the audit's findings, and in the process, misstated matters relating to the audit's methodology. Among other things, DOE criticized the audit's use of the SSA logbooks and its comparison of SSA logged incidents with OORS records, stating that

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[7] *Audit Report on the Department of Education's Efforts to Address Student-to-Student Harassment, Intimidation, and/or Bullying in Compliance with Chancellor's Regulation A-832* (MJ12-073A, issued March 1, 2013).

[8] *Public School Safety: Incident Reporting and Unauthorized Student Departures* (2014-N-1, issued April 29, 2015)

DOE and NYPD have different means of collecting and using data and, thus, the DOE and the NYPD data "are not measurable by a common standard." However, this objection is incorrectly based on the assumption that the information contained in the two records was treated as equivalent. As is clear from the audit report, that is not the case. Rather, the audit looked to the SSA logbooks as a supplemental, independent source of incident records, and evaluated the information they contained for its applicability to the audit because, notwithstanding their differences, both OORS and the SSA logbooks record incidents that occur in and around the schools.

DOE wrongly infers in its response that due diligence was not taken during the audit in the evaluation of SSA reported incidents reported in the sampled schools, particularly when those schools were located in buildings that contained multiple schools. DOE stated,

> During the course of the audit there were instances where the Comptroller shared what they believed was a discrepancy between the SSA's logbook and OORS data, however, the DOE identified that the student named in the SSA report was not registered to the school.

However, DOE's statement ignores the rules that govern its reporting of disruptive and violent incidents. According to NYSED regulations, incidents that occur on school property or during a school-sponsored or school-authorized extracurricular event or activity are reportable, whether or not the person committing the act was an enrolled student. Therefore, regardless of whether or not a student was enrolled in a school, incidents that meet the above criteria should be recorded in OORS.

Moreover, as we explained to DOE officials during the course of the audit, for the purposes of the audit, the review of SSA logbooks *did* take into account only information that was related to our sampled schools, even where they were co-located in a building with other schools. As we explained, where a sampled school was co-located with other schools, we only included incidents in our analysis that clearly identified and made reference to the schools in our sample. We identified those schools based on a direct mention in the SSA incident reports of the school name itself, a floor or classroom number assigned to the school, or the name of a student, teacher or administrator belonging to the school. For those records making reference to a room or floor number, or to names of students, teachers or school administrators, we verified the information with the school administration to confirm that the incident belonged to the sampled schools.

Many of the other incidents recorded in the SSA logbooks were discarded as a result of insufficient evidence that the incident occurred in our sampled schools. Notwithstanding the evidence provided to DOE, it repeats this demonstrably erroneous argument in its response without providing any evidence of a specific incident we included in our analysis that was inappropriately applied to our sampled schools. Consequently, we find no basis to alter our findings in this area.

In its response, DOE also argues the wisdom of its progressive discipline, which disfavors student expulsions, stating that "suspensions are not mandated behavioral infractions at Levels 3 and 4" and making reference to its *Discipline Code's* range of supports and intervention that can be offered to students prior to imposing removals or suspensions. However, these statements seem to have no applicability to this audit and do not contradict or undermine any audit findings. While the audit does find that DOE failed to consistently capture disciplinary and referral actions taken in its databases, that finding is not predicated on a view of *what* specific disciplinary and referral action should have been taken. Rather, the audit simply states that DOE does not capture the specific information needed to determine whether the incidents that led to those referrals were VADIR-reportable. In addition, the audit points out that incidents in infraction Level 3 or above are considered relatively serious according to DOE's own classifications, and we found no evidence that DOE has a mechanism in place to review

such incidents, even on a sample basis, so that it can have reasonable assurance that school administrators took appropriate actions.

After carefully reviewing DOE's arguments, we find no basis to alter any of the audit's findings.

The full text of DOE's response is included as an addendum to this report.

FINDINGS AND RECOMENDATIONS

DOE's controls need to be strengthened to provide reasonable assurance that violent and disruptive incidents at its public schools are consistently recorded in OORS and ultimately reported in the VADIR system in accordance with NYSED requirements. Although DOE, through its Chancellor's Regulations, has given general instructions to school administrators about their responsibilities for reporting incidents that occur at their schools, and provides on-going training to school administrators, it has not established adequate controls to ensure that those instructions are followed on a consistent basis. DOE does not have evidence that it performs any types of audits, reviews or reconciliations to assess the degree to which schools are following DOE regulations and appropriately recording incidents involving students' behavioral infractions in OORS.

We sampled 10 schools and found that, for School Year 2015-2016, of 114 incidents we identified from School Safety Division records as reportable under DOE's regulations, 24 VADIR-reportable incidents (21 percent) were not recorded in OORS and consequently were not considered for inclusion when DOE reported those schools' incidents in the VADIR system.

For those incidents occurring at the 10 sampled schools during School Year 2015-2016 that school administrators did record, our analysis found that the VADIR categories that DOE assigned to them generally corresponded to the incident descriptions recorded in OORS. Of the 3,020 incidents we reviewed, only 56 (less than 2 percent) appeared to be inappropriately categorized.

However, we found that DOE does not require that schools consistently capture all of the information in OORS and SOHO relating to the disciplinary or referral actions taken, which is needed to properly assess whether certain incidents should be reported in VADIR. Without adequate controls in place, DOE is less able to ensure that violent and disruptive incidents are recorded consistently and accurately. As a result, DOE is less likely to report them in accordance with NYSED requirements.

In addition, as discussed in the "Other Matter" section of this report, DOE has not provided evidence that management has instituted an oversight mechanism to ensure that DOE schools take appropriate disciplinary or corrective action in dealing with incidents involving aggressive or harmful behavior by students and that the actions that schools do take are properly reported in accordance with DOE and NYSED requirements. In that regard, we found no record of any disciplinary or other corrective action in DOE's SOHO system for 486 of 589 student-behavioral incidents (83 percent) at our sampled schools; of these, 398 incidents (82 percent) were at an infraction level of 3 or above, which are infractions that DOE classifies as serious or relatively serious.

These matters are discussed in greater detail below.

Controls over the Recording of Incidents in OORS Need to Be Strengthened

DOE needs to strengthen its controls to ensure that violent and disruptive incidents at its middle and high schools are consistently entered in OORS. Absent stronger controls, DOE's ability to identify and report the VADIR-reportable incidents in accordance with NYSED requirements is weakened. Further, DOE's failure to record all incidents properly could also inhibit its efforts to identify individual students who might be a danger to themselves and others as a result of there being incomplete incident data in the system. Chancellor's Regulation A-412, *Security in Schools*, requires DOE schools' principals or their designees to report in OORS any school-related crime or incident within 24 hours of the incident's

occurring, and that the incident record should describe the circumstances in sufficient detail to provide a full, factual description of the events.

Although DOE's Central Office, through its Chancellor's Regulations, has given general instructions to school administrators about their responsibilities for reporting incidents that occur at their schools, and further, provides on-going training and reminders to School Administrators, DOE has not established an effective mechanism to determine whether those instructions are being followed on a consistent basis. DOE officials stated that the agency provides guidance through its training of school administrators and through its regulations and discipline code. According to DOE officials, "the [school] principal is [ultimately] responsible for ensuring the accuracy of OORS reports," and they "trust and rely that schools are complying with the Chancellor's Regulations and are accurately reporting all incidents." However, DOE did not identify a mechanism or methodology by which it verifies that the required incident-reporting is being done. For example, DOE's central management does not perform any types of audits, reviews or reconciliations to provide reasonable assurance that schools are accurately recording incidents in OORS.

According to Comptroller's Directive #1, *Principles of Internal Control,*

> [a] sound internal control system must be supported by ongoing activity monitoring at various organizational levels and in the course of normal operations. Such monitoring should be performed continually and be ingrained throughout an agency's operations. It should include appropriate measurements on regular management and supervisory activities, comparisons, reconciliations, and other actions taken by employees in performing their duties. Agency management must perform continual monitoring of activities and programs.

DOE officials informed us that incident data and reports are shared monthly with the Borough Safety Directors (BSDs) and Field Support Centers (FSCs).[9] The BSDs generally support the schools they oversee by providing training in incident-reporting and strategies for improving safety, and the FSCs provide general instructional and operational support to the schools they oversee, including support in student services involving safety, health and wellness concerns. However, according to DOE officials, the monitoring the BSDs and FSCs perform in connection with incident reporting is meant to assess the schools' overall climate in relation to such areas, as opposed to whether the schools are appropriately recording incidents in OORS in accordance with Chancellor's Regulations.

DOE's controls appear to be aimed primarily at ensuring that principals are aware of their reporting responsibilities and to uncover reporting anomalies (e.g., significant increases or decreases in the number of incidents reported). However, DOE has identified few controls designed to monitor whether school administrators—some of whom may have an incentive to underreport the number of incidents that occur at their schools or minimize their severity in order to improve their school's rating—are actually complying with the agency's reporting requirements.

DOE officials stated that if it comes to OSYD's attention that a school administrator failed to report an incident as required, the matter may be referred to DOE's Office of Special Investigations (OSI) or the Special Commissioner of Investigation (SCI) for investigation.[10] DOE considers the threat of being investigated for non-compliance with reporting requirements a control against underreporting by school administrators. However, the circumstances under which OSYD would follow up on an incident are rare

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[9] There are ten Borough Safety Directors (BSDs) and eight Field Support Centers (FSCs) throughout the five boroughs; they serve the schools within their assigned geographic regions.

[10] OSI investigates allegations of improper and unlawful behavior, including corporal punishment and/or verbal abuse against students. SCI, which is part of the City's Department of Investigation, investigates all other allegations of misconduct, such as wrongdoing by teachers and other school employees.

because incidents are usually addressed at the school or district level. Consequently, the extent to which this control would be effective is not clear. DOE has not identified any other control designed to help ensure that school administrators do not consistently underreport the number of incidents at their schools or understate the severity of the ones that are reported.

In such an environment, DOE's ability to assess the degree to which schools are reporting incidents in a consistent manner is weakened by inadequate controls, increasing the risk that reportable incidents will be omitted from OORS, including VADIR-reportable incidents that consequently will not be reported to the NYSED as required. As a result, there is an increased risk that DOE's schools could underreport their numbers of violent and disruptive incidents and thereby receive SVI ratings that are lower than warranted. As discussed in greater detail below, we identified a number of VADIR-reportable incidents that were documented in School Safety Division records but not in OORS, where under applicable DOE rules, they should have been recorded.

More Than 20 Percent of the Sampled VADIR-Reportable Incidents Recorded in NYPD School Safety Division Records Were Not Recorded in OORS

Of the 114 VADIR-reportable incidents documented by the NYPD School Safety Division during our review period for the 10 schools in our sample, 24 of them (21 percent) occurring at 7 schools were not recorded in OORS, and therefore were not considered for inclusion in the schools' VADIR reporting. The omission of VADIR-reportable incidents documented by the NYPD, but not by those schools' administrators in DOE's primary system of record, may have altered the seven affected schools' SVI scores, making them appear better than they actually were. In addition, schools' failures to record such incidents, including threats and assaults, deprives DOE's management and its offices responsible for supporting and monitoring the schools—such as the OSYD, the BSDs, and the FSCs—of information they would need to accurately assess school safety. Further, the failure of the schools to properly record all incidents could potentially reduce DOE's ability to identify individual students who might be a danger to themselves and others by having incomplete incident data in the system.

As noted in the Background section of this report, the NYPD's School Safety Division deploys more than 5,000 SSAs and 200 uniformed police officers throughout the City's public school system to help DOE maintain safety. The 10 schools in our audit sample all had NYPD School Safety Division SSAs assigned.

The *NYPD School Safety Agent Duties & Responsibilities: A Guide for DOE & NYPD Personnel* states that SSAs are required to chronologically and accurately detail all unusual incidents in the SSA logbook maintained at the schools where they work. According to NYPD officials, once SSAs are made aware of an incident, especially if they are asked to respond, they are required to document the incident information in the SSA logbook, such as: the date, time, and location of the incident; the name(s) of the student(s) involved; a description of the incident events; and the SSAs' responsive action (e.g., removing a student from class and contacting emergency services). In addition, depending on the severity of the incident, SSAs may be required to prepare a Criminal Incident Report (CIR), which are then transferred into the NYPD's School Safety Incident Management System creating an electronic record called a School Incident Index Report (SIIR).[11]

At each of the 10 sampled schools we visited, both the school administrators and the SSAs on duty at the times of our visits informed us that they meet with one another at least daily to discuss school safety

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[11] According to the NYPD School Safety Agent Duties & Responsibilities Guide, the CIR is a formal document that must be prepared when a SSA responds to certain severe incidents, including a felony or misdemeanor offense and incidents involving gangs, weapons, or controlled substances.

and security issues, including any incidents that occurred at the school. Further, according to Chancellor's Regulation A-412, "principals and school safety agents (SSAs) shall consult and work cooperatively with each other on matters pertaining to school security . . . [and] *shall promptly notify each other of incidents that occur on school property*." [Emphasis added.] That daily communication between school officials and the SSAs is intended to ensure that administrators are aware of all incidents that have occurred at their schools. However, DOE has no formal process to ensure that all relevant incidents recorded by SSAs are likewise recorded in OORS.

We reviewed all of the SIIRs prepared by SSAs during School Year 2015-2016 and a four-month sample of entries in the School Safety Division logbooks for each of the 10 sampled schools and identified all incidents that we considered VADIR-reportable, based on the incident-descriptions. We selected only those incidents in which students attending our sampled schools were involved. We then examined the OORS records for the corresponding dates and times to determine whether the VADIR-reportable incidents recorded by the School Safety Division were also reported by the schools.

Our review identified 114 VADIR-reportable incidents (42 from School Safety Division logbooks and 72 from SIIRs) for the 10 sampled schools.[12] We found that 24 (21 percent) of them were not recorded in OORS. The breakdown by school is shown in Table II, below.

Table II

VADIR-Reportable Incidents Identified in School Safety
Division Records and Associated Recording in OORS

Sampled Schools	Borough	Incidents Identified in Logbooks	Identified Incidents Not Recorded in OORS	Incidents Identified in SIIRs	Identified Incidents Not in OORS	Total Incidents Identified in School Safety Division Records	Total Identified Incidents Not in OORS	Percent
1	Manhattan	10	5	7	1	17	6	35%
2	Manhattan	6	4	5	2	11	6	55%
3	Bronx	2	0	0	---	2	0	0%
4	Bronx	0	---	3	0	3	0	0%
5	Brooklyn	7	0	23	1	30	1	3%
6	Brooklyn	7	1	1	0	8	1	13%
7	Queens	1	0	15	0	16	0	0%
8	Queens	6	5	2	0	8	5	63%
9	Staten Island	3	0	14	4	17	4	24%
10	Staten Island	0	---	2	1	2	1	50%
Totals		42	15	72	9	114	24	21%

As shown in Table II, 24 VADIR-reportable incidents (21 percent) recorded in the School Safety Division records—consisting of 15 incidents from the logbooks and 9 incidents from the SIIRs—were not recorded in OORS, and therefore were not considered by DOE for inclusion in the VADIR system. The incidents omitted from OORS were found at 7 of the 10 sampled schools. Those 7 schools accounted for 93 (82 percent) of the 114 incidents sampled from School Safety Division records. (At the remaining three schools, all of the VADIR-reportable incidents recorded in the School Safety Division records were

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[12] In total, NYPD provided us with 228 SIIRs (representing incidents recorded on CIRs) for our ten sampled schools, of which we identified 72 potentially VADIR-reportable incidents in nine of the sampled schools.

also recorded in OORS.) As reflected in Table II, the percentages of omitted incidents at those 7 schools ranged from 3 percent to 63 percent. They included serious incidents, as described below.

For example, following a December 1, 2015 incident at sample school #2, an SSA recorded an entry in the logbook that "a student threaten[ed] to stab a staff member and hit another staff with an ice pack…and was suspended from [the] after school program." When we asked the school principal about the incident, he responded that he was not aware of it. We also asked OSYD officials about the same incident, they responded, in part that "SSAs are assigned to buildings, not schools . . . two other schools were in the building and there was not enough information to determine which school the student attended." However, the description of the incident written in the logbook by the SSA clearly identified the name of the school and the name of the student involved in the incident. Consequently, this incident should have been recorded in OORS.

In another example, an April 14, 2016 incident at sample school #5 was classified in a SIIR as an "assault." The incident description states that two students punched and kicked another student in the face and body, leaving the victim with bruising and substantial pain. The SIIR also mentioned that the parents of the students involved and the school administration were notified about the incident. We provided the incident details to an OSYD official and she confirmed that a report for this incident could not be located.

Unreported incidents reduce the ability of DOE's Central Office, as well as the BSDs, FSCs and school administrators, from accurately assessing the schools' safety, security and overall school climate. In addition, as mentioned above, schools' failure to record incidents in OORS could potentially inhibit DOE from properly assessing individual student's behavior and needs, and from identifying students who might be a danger to themselves and others. As a result, DOE may not take the necessary actions, such as providing additional counseling resources, to help address issues that students may be facing and to minimize the chance of such incidents reoccurring or increasing in severity.

On a related note, during our review of School Safety Division Records for the 10 sampled schools, we identified 126 incidents that, although not VADIR-reportable, should have also been recorded in OORS.[13] However, we found that 32 (25 percent) of them—from six schools— were not recorded in OORS as required. As mentioned above, daily communication between school officials and SSAs is intended to ensure that administrators are aware of all incidents that have occurred at their schools. This deficiency suggests that such communications may need improvement.

Recommendations

1. DOE should enhance its oversight of the schools' data entry in OORS to ensure that school administrators understand and comply with Chancellor's Regulations and record all incidents as required.

   DOE Response: "The DOE agrees with this recommendation inasmuch as it reflects current practice.

   In addition to Chancellor's Regulation A-412, which mandates the reporting of incidents in OORS within 24 hours of the principal being informed, the Office of Safety and Youth Development (OSYD) also provides the *Why Report* guidance document which reminds principals of their obligation to report incidents . . . , the annual *Opening Day Memo,* which provides guidance to schools . . . , and the *Best Practices and Standards for Creating and Sustaining a Safe and Supportive School* guide. OSYD also requires biennial Emergency Readiness and OORS training for every school principal and utilizes

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[13] The 126 incidents included 31 from School Safety Division logbooks and 95 from the SIIRs.

the DOE's Principal's Weekly newsletter to provide reminders on reporting incidents in a timely manner.

In addition, the DOE has a robust school support model in which Borough Safety Directors (BSDs), Student Support Service providers from borough-based field support centers, superintendents, and other central-level stakeholders receive incident and suspension data for their schools to support targeted interventions should a pattern of incidents spiking or a low number of incidents being reported be noted. . . . Finally, instances of non-compliance with the DOE's reporting mandates are referred to the DOE's Special Commissioner of Investigations."

Auditor Comment: DOE's response in essence is that it does not need to do anything differently to address the weaknesses in its processes and performance. In making this argument, it appears to completely disregard the audit findings. Its substantive comments simply reiterate its current practices, which the audit demonstrates, are inadequate. Notwithstanding the training and various means that DOE uses to disseminate information to school administrators about their responsibilities for reporting incidents occurring at their schools, our audit found that DOE has not established adequate controls to ensure that those instructions are followed on a consistent basis. In addition, while DOE's use of incident data to identify possible patterns of incidents spiking or a low number of incidents being reported at its schools could be helpful in assessing a school's climate and to identify schools that may need targeted interventions, this would not be useful to identify school administrators that may be consistently underreporting or minimizing the severity of incidents to improve their school's rating.

Further, as previously mentioned in the report, the effectiveness of DOE's practice of referring non-compliance instances to DOE's Special Commissioner of Investigations is not clear. The circumstances under which OSYD would follow up on an incident are rare because incidents are usually addressed at the school or district level. DOE has not identified any other control designed to help ensure that school administrators do not consistently underreport the number of incidents at their schools or understate the severity of the ones that are reported. Accordingly, we urge DOE to reconsider its position and implement the recommendation.

2. DOE should ensure that school administrators routinely and purposefully communicate with the NYPD School Safety Division to be fully aware of incidents in their schools that are captured in the SSA logbooks and CIRs (or the SIIRs), and verify that the incidents are consistently recorded in OORS. Such communications with the NYPD School Safety Division and reviews of incident recordings in OORS should be documented.

DOE Response: "The DOE agrees with this recommendation to the extent it reflects current practice. . . .

[T]he DOE and NYPD have different means of collecting and using requisite data. To use a comparison of NYPD and DOE data to formulate audit findings is an oversimplification of fact. It also implies that the NYPD data is more accurate than what the DOE has identified in our system of record. The NYPD and DOE personnel share necessary information on a regular basis and this collaborative relationship is paramount to DOE keeping students safe. The DOE does not believe that an additional administrative burden of documenting every contact with NYPD is required at this time."

Auditor Comment: As with its response to Recommendation 1, DOE's response is effectively a justification for its current practices, which the audit found to be inadequate.

Moreover, as noted above, we do not find its criticisms of the audit's use of NYPD's data persuasive and note that, notwithstanding discussions with DOE officials during the audit about the concerns raised in this response, DOE does not provide a single example of SSA data that it contends has been misinterpreted and/or mistakenly relied on. In fact, in its response, DOE states that it works collaboratively with NYPD and that the two agencies share information on a regular basis. In addition, as previously mentioned, Chancellor's Regulation A-412 requires that principals and SSAs work cooperatively with each other on matters pertaining to school security, and promptly notify each other of incidents that occur on school property. It appears that the intent of this regulation is to ensure that administrators are aware of all incidents that have occurred at their schools.

At no time during the audit did we assert that NYPD data is more accurate than DOE data. It is our understanding that since the DOE and SSAs communicate on a daily basis, all incidents recorded by SSAs during that day would be discussed with school administrators, and ultimately would be reconciled with OORS as appropriate.

By not formalizing the process and requiring school administrators to document their communications with the SSAs, DOE has limited assurance that such communications are being performed and that that school administrators are in fact verifying that all relevant incidents recorded by SSAs have been recorded in OORS. Accordingly, we urge DOE to reconsider its position and implement the recommendation.

VADIR Categories Generally Aligned with Incident Descriptions for Sampled OORS-Recorded Incidents, with a Few Notable Exceptions

Our review of DOE's incident records for our 10 sampled schools found that 98 percent of the recorded incidents were assigned to the VADIR categories that appeared to correctly align with the incident-descriptions recorded in OORS. As discussed below, less than 2 percent (constituting 56 incidents) appear to have been miscategorized, with some of those being omitted from the VADIR reporting and some being reported as a less serious incident than they appear to have been.

According to the NYSED's *Instructions Regarding School Safety and the Educational Climate*, "all public schools . . . are required to document incidents occurring on school property, including incidents occurring in, or on, a school bus . . . and at school functions." Thus, the types of "incidents" NYSED requires to be documented is far broader than just violent and disruptive incidents. However, certain categories of incidents must be reported to NYSED under VADIR guidelines. Specifically with regard to violent or disruptive incidents, as well as incidents of intimidation, harassment, menacing and bullying, data is to be compiled in accordance with New York State reporting requirements to determine a school's SVI, which is calculated based in part on the VADIR categories assigned to the incidents, and is used to designate schools that are considered to be persistently dangerous.

OSYD's team of reviewers, which include OSYD's Emergency Information Center (EIC) personnel, the Senior Program Manager for Safety Interventions, the OSYD Chief Executive Officer (CEO) and other readers as necessary, are responsible for reviewing all incidents recorded in OORS using an application in the OSYD portal called the Internal Audit Tool Information system (Internal Audit Tool), and assigning the incidents to the appropriate VADIR categories, if applicable.[14] (Certain types of incidents, such as accidents or illnesses, do not have a NYSED corresponding category in VADIR.) After categorization,

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[14] The Internal Audit Tool Information system receives automatic uploads of incident records from OORS, and is used for VADIR categorization purposes. All records are locked in the Internal Audit Tool so no further changes can be made.

OSYD officials submit a request to DOE's Division Instructional and Information Technology (DIIT) to extract and provide them with a database containing VADIR data. OSYD officials will review the database and—after completing quality data checks—compile all VADIR-reportable incidents and send them to NYSED.

During School Year 2015-2016, the 10 schools in our sample recorded a total of 3,020 incidents in OORS. Using the Internal Audit Tool, EIC personnel assigned 1,259 of those incidents to various VADIR categories, from which 506 were determined to fall into a VADIR-category that is reportable to NYSED, and 753 were deemed not reportable. We reviewed the incident descriptions in OORS for the 3,020 incidents and the VADIR categories that EIC personnel assigned to them. Our analysis found that, based on the incident details recorded in OORS, the EIC personnel appear to have classified 2,964 (98 percent) of the 3,020 incidents appropriately and categorized them accurately for VADIR reporting, when applicable. Table III below shows a breakdown of the remaining 56 incidents that appear to have been incorrectly categorized.

Table III

Summary of 56 Incidents That Appear to
Be Inappropriately Categorized

Categorization	No. of incident records	SVI calculation affected
Incorrect categorization in VADIR report		
o *Assigned a less serious VADIR category*	*8*	*6*
o *Assigned a more serious VADIR category*	*3*	*2*
o *Incorrectly Included in VADIR report*	*2*	*2*
Subtotal	**13**	**10**
Incorrect VADIR categorization assigned to incidents excluded from the VADIR report		
o *Assigned a less serious VADIR category*	*8*	*2*
o *Assigned a more serious VADIR category*	*2*	*0*
o *Assigned a "Do Not Include" category*	*4*	*0*
o *No VADIR category assigned (field was left blank)*	*29*	*0*
Subtotal	**43**	**2**
TOTAL	**56**	**12**

*Further Discussion of Incidents That Appeared to Merit
Classification in More Serious VADIR Categories*

As shown in Table III, 20 of the 56 appear to have been incorrectly categorized incidents and assigned a less serious VADIR category by DOE than may have been warranted (consisting of the highlighted 8 that appeared to be incorrectly categorized in DOE's VADIR report, 8 that were excluded from DOE's VADIR report, and 4 that were assigned a "Do Not Include" category and were therefore excluded from the VADIR report). Our assessments of the 20 incidents are shown in Table IV below. In addition, we identified 29 other incidents that appear to be VADIR-reportable but were not assigned to a VADIR category by DOE personnel (the field calling for that information was left blank). Consequently, the designated OSYD officials did not review those 29 incidents for inclusion in the VADIR reporting. Our assessment of these 29 incidents is shown in Appendix III.

Table IV

Breakdown of the 20 Incidents

Sampled Schools	Incident #	Incorrect VADIR Category Recorded in DOE's Audit Tool (Based on Auditor's Assessment of OORS Recorded Incident Details)	VADIR Category That Should Have Been Used (Based on Auditor's Assessment of OORS Recorded Incident Details)	Incident Was Reported by DOE in VADIR	Incident Should Have Been Included in the School's SVI Calculation
Manhattan 1	1	9: Minor Altercations (No Weapon)	7: Assault with Physical Injury	X	X
Manhattan 1	2	9: Minor Altercations (No Weapon)	2.2: Other Sex Offenses	X	X
Manhattan 1	3	20: Other Disruptive Incidents	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)		
Brooklyn 5	4	20: Other Disruptive Incidents	9: Minor Altercations (No Weapon)		
Brooklyn 6	5	20: Other Disruptive Incidents	18: Use, Possession or Sale of Drugs	X	
Brooklyn 6	6	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)	2.2: Other Sex Offenses	X	X
Brooklyn 6	7	9: Minor Altercations (No Weapon)	8: Reckless Endangerment	X	X
Brooklyn 6	8	20: Other Disruptive Incidents	18: Use, Possession or Sale of Drugs		
Brooklyn 6	9	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)	2.2: Other Sex Offenses		X
Queens 8	10	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)	2.2: Other Sex Offenses		X
Queens 8	11	20: Other Disruptive Incidents	9: Minor Altercations (No Weapon)		
Staten Island 9	12	20: Other Disruptive Incidents	8: Reckless Endangerment	X	X
Staten Island 9	13	20: Other Disruptive Incidents	9: Minor Altercations (No Weapon)	X	
Staten Island 9	14	9: Minor Altercations (No Weapon)	2.2: Other Sex Offenses	X	X
Staten Island 9	15	20: Other Disruptive Incidents	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)		
Staten Island 9	16	20: Other Disruptive Incidents	9: Minor Altercations (No Weapon)		
Staten Island 9	17	Categorized as "Do Not Include"	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)		
Staten Island 9	18	Categorized as "Do Not Include"	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)		
Staten Island 9	19	Categorized as "Do Not Include"	13: Larceny, or Other Theft Offenses		
Staten Island 9	20	Categorized as "Do Not Include"	13: Larceny, or Other Theft Offenses		
			Totals	8	8

Based on our review, and as shown in Table IV, it appears that 8 of the 20 reflected incidents should have been included in the schools' SVI calculations (see highlighted incidents). Those incidents should have been categorized as "other sex offenses," "assault with physical injury," or "reckless endangerment," which would have resulted in their being automatically reportable to NYSED. Under the original categories EIC personnel assigned to the incidents (i.e., Categories 9, 10 and 20), the incidents would be reportable only if the suspect students had associated disciplinary or referral actions as defined by the NYSED regulations. Although DOE reported 8 of the 20 incidents in its VADIR summary, 6 of the 8 reported incidents were not included in the SVI calculations because DOE assigned them to what we believe to be incorrect VADIR categories. The two remaining SVI-level incidents

(Incident #s 9 and 10 in Table IV) were not even included in DOE's VADIR report because EIC personnel assigned them to what we believe to be the wrong categories.

As an example of an SVI-level incident that was not included in the SVI calculation, (Incident #1 in Table IV above), a student repeatedly punched another student in the side (rib area), with a teacher and school aide also being struck. All victims complained about pain and soreness. Although DOE reported the incident to NYSED, it should have been classified in Category 7 (Assault with Physical Injury, No Weapon) rather than as a "minor altercation" under Category 9. Had the incident been correctly classified, it would have been included in the school's SVI. In another case (Incident #14 in Table IV above), a male student slapped a female student on her buttocks. According to VADIR definitions, that incident should have been reported under Category 2.2 (Other Sex Offenses). However, because DOE incorrectly classified it as a "minor altercation" under Category 9, the incident was not included in the school's SVI calculation.

When we shared our analysis with OSYD officials, they generally agreed that the incidents in Table IV were incorrectly categorized, but stated that certain incidents (i.e., those reported in Categories 9 and 10) would not have been reported to NYSED because they did not result in a removal or suspension. Regarding the second example above, and other similar incidents involving buttocks slaps, DOE officials disagreed with our assessment that they should have been assigned to Category 2.2 (Other Sex Offenses) and stated that "OSYD has always stood by Minor Altercation, no Weapon for the butt slaps unless there was derogatory language, gestures, or such that went along with it." However, that practice contravenes NYSED policy, which states that incidents "involving inappropriate sexual contact . . . including touching or grabbing a part of the body, such as: buttocks, breast, genitalia, etc." should be reported in VADIR as Category 2.2: Other Sex Offenses. The regulation makes no reference to the additional element of misbehavior that DOE considers necessary to classify the conduct under Category 2.2.

Recommendation

3. DOE should ensure that violent and disruptive incidents are correctly categorized and included on the VADIR summaries reported to NYSED so that the SVI calculations are accurate.

   DOE Response: "The DOE agrees with this recommendation inasmuch as it reflects current practice.

   DOE reviewers make their categorization based on incident descriptions, updates, and results of injury information, frequently referring back to the NYSED's Glossary of Terms and FAQ documents to ensure accuracy. While the auditor's agreed with 98% of the categories selected by the reviewers, only 0.3% of the incidents that the auditors disagreed with would have affected the SVI calculation for the school. Even taking these additional weighted incidents into consideration, none of the SVI calculations would have exceeded NYSED's threshold."

   Auditor Comment: Although the audit found that the VADIR categories assigned by DOE generally aligned with the incident descriptions for the sampled incidents, we found notable exceptions where incidents were incorrectly categorized and where the misclassifications resulted in DOE failing to report incidents in VADIR that should have been reported. Several of the categorizations we disagreed with involved significant incidents, including incidents that should have been categorized as "Other Sex Offenses." For these incidents, DOE applied an extra requirement for categorizing the incidents as "Other Sex Offenses" that is not required by NYSED regulations and therefore assigned them to an incorrect VADIR category.

While DOE argues that none of the misclassifications we identified in the sampled schools would have caused the school's SVI to exceed the NYSED threshold for identifying a school as dangerous, we note that our sample was limited to 10 middle and high schools out of a population of 1,597 schools. For those schools with SVI scores hovering near NYSED's threshold of identifying them as "Persistently Dangerous" or "Potentially Persistently Dangerous" schools, a small number of erroneous classifications could allow a school to avoid such an identification. This would then result in taking away parents' rights to make an informed decision about their children's education and safety, and could jeopardize the ability of a school and/or a student from receiving the necessary guidance and support. Accordingly, we urge DOE to reconsider its position and implement the recommendation.

DOE Did Not Consistently Capture Disciplinary and Referral Action Information

The DOE Central Office does not require that schools consistently capture all of the information that is needed to properly assess whether certain incidents should be reported in VADIR. As a result, the question of whether 103 disruptive incidents were properly excluded from DOE's VADIR reports could not be properly assessed from the available DOE records. The question of whether the incidents should have been reported under VADIR rules hinged on the type of corrective action taken, and in those 103 instances the critical missing information related to the type of disciplinary or referral action that the schools took with regard to the students involved.

Moreover, our examination of DOE's records of 589 incidents, revealed that the vast majority—486 (83 percent)—resulted in *no* disciplinary or referral action whatsoever, according to the records. That result is discussed in a subsequent section of this report.

The NYSED guidance resource, *Questions and Answers Regarding Reporting Violent and Disruptive Incidents* (VADIR Q&A) states that incidents in the following seven VADIR categories not involving a weapon are reportable for VADIR purposes *only* if the incident resulted in a disciplinary or referral action:

VADIR Incident Category (without a weapon)	VADIR Code
Minor Altercations	9
Intimidation, Harassment, Menacing or Bullying	10
Burglary	11
Criminal Mischief	12
Larceny, or Other Theft Offenses	13
Riot	16
Other Disruptive Incidents	20

NYSED defines the disciplinary or referral action necessary for the abovementioned types of incidents to be reported as one or more of the following:

- referral to formal, multi-session counseling or treatment programs provided by certified or licensed professionals;
- removal of student from class or activity by teacher (teacher removal);

- suspension of student from class, activity, or school;
- involuntary transfer to an alternative education program;
- referral to juvenile justice or criminal justice system; and
- referral to law enforcement.

According to DOE officials, the only types of disciplinary actions that DOE uniformly captured for purposes of VADIR-reporting during the audit period were teacher removals, suspensions and involuntary transfers (included under suspensions). The officials stated that DOE does not refer students to law enforcement or justice systems, as outlined in the last two bullets above. DOE did not require during the audit scope period that schools report whether the students were referred to the types of counseling and treatment programs (described in the first bullet above) that would have made the omitted incidents VADIR-reportable under NYSED definitions.

An OSYD official told us that "schools are advised to use progressive discipline as a best practice measure." However, that statement does not address or explain why DOE did not establish a mechanism to capture the specific information regarding its referrals of students to counseling and treatment programs that it would need to determine whether the incidents that led to those referrals were VADIR-reportable, such as whether the persons providing the counseling and treatment services were certified or licensed.

For the 10 sampled schools, we identified 589 incidents recorded in OORS under the above-mentioned categories that DOE did not include in its School Year 2015-2016 VADIR summaries, but which we considered potentially VADIR-reportable based on the incident-descriptions. To determine whether DOE took the type of disciplinary or referral action that would have made the incidents VADIR-reportable, we reviewed DOE's SOHO system. Of the 589 incidents, *no* disciplinary or referral actions were documented in 486 cases (83 percent). The referral actions recorded for the remaining 103 incidents included conflict resolution, development of an individual behavior contract, a guidance conference, individual and group counseling, peer mediation, positive behavioral interventions, and other approaches. Some of those actions might have constituted referrals to formal multi-session counseling programs provided by certified or licensed professionals, which would have made the incidents VADIR-reportable, but DOE's records contained insufficient information to allow such an assessment.

According to the VADIR Q&A, referrals to counseling or treatment programs are defined as "formal multi-session interventions, provided by certified or licensed professionals, aimed at reducing risk factors and increasing protective factors linked to the identified problem area(s)." However, an OSYD official acknowledged that DOE does not capture the information necessary to assess whether the actions provided were "formal" for NYSED-reporting purposes, stating, "SOHO is the system of record to document removals and suspensions, but the system does not capture which staff members provide the interventions or their professional qualifications." In that regard, it should be noted that DOE's guidance counselors are in fact certified and licensed to administer the kinds of intervention services for which students were referred, which might have qualified their services to the referred students as "formal" programs of the type that should have made the underlying disruptive incidents VADIR-reportable. However, because DOE did not capture sufficient information about the referrals, OSYD officials did not consider whether the referrals qualified as the types of disciplinary and/or referral actions that would have required DOE to report the incidents to NYSED.

According to OSYD's document, *Reporting Requirements Related to Incidents and Suspensions in Schools*, which applied during School Year 2015-2016, the period covered by the audit, DOE required its schools to report and capture *only* student-suspensions and removals in the SOHO system, and not the other types of interventions that NYSED listed in its guidance on the topic. As long as a DOE school reported an incident in OORS, the school *could*, but was not required to, document guidance

interventions in the SOHO system. That DOE policy has since been changed; all interventions in response to behavioral incidents are supposed to be documented in SOHO as of School Year 2017-2018.[15]

Notwithstanding the recent change in its policy, unless DOE ensures that it records the essential facts regarding the types of counseling and treatment programs to which students are referred as a result of behavioral incidents, its policy change will not correct the particular information gap identified in this section of this audit report for purposes of VADIR-reporting. For DOE to properly identify and report the applicable incidents, DOE must establish adequate controls in the SOHO system to capture and determine whether students involved in behavioral incidents were referred for disciplinary or formal counseling, treatment, or guidance interventions, including the identity, license, and certification information of the school staff providing the services.

Recommendation

4. DOE should modify and establish controls in the SOHO system to capture all disciplinary and referral actions and the necessary information required by NYSED for these actions, including the licensing and qualification information of school staff providing counseling or treatment services, in order to properly assess whether certain incidents should be reported in VADIR.

   DOE Response: "The DOE will take this recommendation under advisement but cannot agree to it as written at this time.

   Taking effect at the start of the 2016-2017 school year, the DOE updated the Discipline Code requiring schools to document interventions and supports in the SOHO system. Notwithstanding the aforementioned changes to the SOHO system shared with the Comptroller during the course of the audit, the DOE will, as necessary, have follow-up conversations with NYSED regarding how to provide information as needed."

   Auditor Comment: Under the revised NYSED regulations, which took effect in School Year 2017-2018, DOE is now required to report the total number of each disciplinary and referral action category specified by law that are provided to student offenders, including counseling and treatment programs. As it was with the prior regulation, in order for a counseling and treatment program to qualify as one of the reportable actions, it must be provided by *certified or licensed professionals.* Therefore, unless DOE makes the necessary modifications in the SOHO system, or utilizes a supplemental system to capture the necessary information required by NYSED about the persons providing the referred services (e.g. their certification or licensing information), DOE will not have the needed information to report student referrals to counseling or treatment programs. As a result, DOE will continue to be non-compliant with the VADIR-reporting requirements, and potentially underreport the number of student referrals to counseling or treatment programs. Accordingly, we urge DOE to reconsider its position and implement the recommendation.

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[15] Starting in School Year 2017-2018 and going forward, DOE's Discipline Code, adopted in April 2017, requires that "all interventions and supports provided to a student in response to behavioral incidents must be entered into SOHO, regardless of whether or not a disciplinary action is imposed."

Other Matter

Limited Evidence of Monitoring by DOE Relating to Actions Taken by Schools for Incidents Involving Aggressive and Harmful Behavior

DOE has not provided evidence that it has instituted a mechanism or strategy for management to ensure that DOE schools take appropriate actions (e.g., guidance interventions) in dealing with incidents involving aggressive or harmful behavior, and that appropriate actions have been accurately captured in SOHO. According to the Discipline Code,

> [G]uidance interventions are an integral part of a comprehensive response to misconduct. Schools are expected to provide support services at all stages of the discipline process, including during suspension. When used consistently and appropriately, guidance interventions help improve student behavior, lower the incident of repeated misbehavior, and contribute to a more positive school environment. Support services may include any of the interventions or a combination of services that best meet the needs of the individual student.

As stated in the preceding section of this report, we identified 486 disruptive incidents in DOE's records that were not reported to NYSED because *no information* was recorded in DOE's SOHO system to indicate whether the schools in question took the kinds of disciplinary, referral or other corrective actions necessary to make such reporting mandatory. A further review of those incidents revealed that 398 of them (82 percent) were classified with an infraction level of 3 or above; that is, they were relatively serious, according to DOE's classifications, with no indication recorded in SOHO that any type of action was taken. (See Appendix II for a complete list of OORS codes for Levels 1 through 5 infractions.) The breakdown for each of our 10 sampled schools is shown in Table V below.

Table V

Infraction Level 3 and Above Incidents in OORS with No Disciplinary, Referral or Other Corrective Action Recorded in SOHO

Sampled School	Borough	Incidents for which No Disciplinary, Referral or Other Corrective Action Was Recorded in SOHO			
		Total	Level 3 – Disruptive Behavior	Level 4 – Aggressive or Injurious/ Harmful Behavior	Level 5 – Seriously Dangerous or Violent Behavior
1	Manhattan	22	4	17	1
2	Manhattan	4	0	4	---
3	Bronx	1	1	0	---
4	Bronx	8	3	5	---
5	Brooklyn	22	16	6	---
6	Brooklyn	125	85	40	---
7	Queens	6	2	4	---
8	Queens	48	40	8	---
9	Staten Island	160	109	51	---
10	Staten Island	2	2	0	---
Totals		398	262	135	1

We asked DOE whether anyone from OSYD—the DOE office that works with schools to implement safety, discipline and intervention policies and procedures—or any other DOE office reviews the incidents recorded in OORS, especially those involving higher level infractions, to ascertain whether school administrators took appropriate actions. However, DOE did not respond to our inquiry.

In one example of an incident with no disciplinary, referral or other corrective action recorded in DOE's SOHO system, a Level 4 incident in sample school #1 involved a student who became aggressive and intimidating toward a teacher. The student stepped close to the teacher's face and said "No" when the teacher attempted to "redirect the student from negative behaviors with another scholar." According to the OORS description, the teacher stated that the student "then began pushing him repeatedly . . . with such force that he nearly fell over," and walked away saying that the teacher "could not tell him what to do."

We asked OSYD officials about the Level 4 and 5 infractions for which no actions were recorded in the SOHO system, including the above-described incident, and specifically questioned whether the school administrators should have taken some form of action with respect to the students involved. In response, an OSYD official stated that "the *Citywide Behavioral Expectations To Support Student Learning* emphasize and outline progressive disciplinary measures for every infraction. There are no Level 4 infractions that mandate a suspension or removal. That decision is left to the discretion of the principal. While Level 5 infractions do require a suspension, the final discipline administered is approved by OSYD's hearing office based on the student's involvement in the incident and prior behavioral history."

In DOE's *Progressive Ladder of Support and Disciplinary Responses,* DOE states that its goal is to encourage accountability and behavioral change by helping students learn from their mistakes. It is the school administrators' decision as to which disciplinary responses to use. The administrator must take into consideration a number of factors, including the nature and severity of the misconduct. However, as previously stated, it appears that DOE has not put any oversight mechanism or strategy in place that would enable management to ensure (1) that DOE schools have taken appropriate actions in dealing with incidents involving aggressive or harmful behavior; and (2) that school administrators have accurately captured all actions taken in SOHO.

For example, our review of the 103 incidents with evidence in SOHO of some form of disciplinary, referral or other corrective action (mentioned in the previous section of the report), identified a Level 4 incident (falling under a VADIR Category 9: Minor Altercation, without a weapon) in sample school #5 involving a student's punching another student in the mouth. The student who was punched started yelling and screaming, and the teacher called for security. According to the OORS description, "both boys were taken to the Dean's Office and will be removed from the class for the next 2 days. A Peer Mediaiton [sic] is going to be conducted. Guidance Counselors were contacted and Restorative approaches were sought." Our review of DOE's SOHO system found a reference to the guidance conference, parent outreach and restorative approaches that were provided to the students, but no record to indicate that the students had been removed from the class as was recorded in the OORS description.

We asked OSYD officials about the above-described incident, specifically questioning the fact that the removal of two students from class as reflected in DOE's OORS record was not recorded in its SOHO system, an omission that ultimately resulted in the incident's not being reported to NYSED in accordance with VADIR requirements. An OSYD official confirmed that no removal or suspension record for the student(s) was located in SOHO and followed up with the school. According to the official, the school principal confirmed that the student(s) had been removed, but the school failed to document the removal in SOHO, resulting in the incident's being excluded from the VADIR summary. OSYD did not identify, question, or investigate the discrepancy between the OORS and SOHO entries or the exclusion of the incident from the VADIR summary until after we uncovered the matter and brought it to OSYD's attention.

It is important for school administrators to ensure that all actions taken are recorded in SOHO to enable both the administrators and the DOE Central Office to devise appropriate disciplinary responses for particular infractions and to help ensure that students get the services they need before problems escalate. It is also important for school administrators to ensure that all actions are recorded in DOE's SOHO system so that OSYD will have the necessary information to properly assess whether the triggering incidents are reportable to NYSED. In the above-described example, because the school failed to record the relevant disciplinary action in SOHO, the incident was not reported to NYSED. Consistent—and accurate—recording of actions in SOHO is necessary to provide OSYD officials with the information needed to determine whether incidents are reportable to NYSED.

Recommendation

5. DOE should periodically review the OORS and SOHO systems to identify incidents involving aggressive, harmful, seriously dangerous or violent behavior (Level 4 and 5 infractions) to ensure that school administrators took appropriate actions and recorded in SOHO all disciplinary, referral or other corrective actions taken concerning the students.

   DOE Response: "The DOE will take this recommendation under advisement as work to oversee OORS and SOHO data continues. As mentioned in response to recommendation four, changes to the SOHO system, are currently in place and the DOE is identifying how to utilize the data in ways to support students and foster safe learning environments. . . .

   For Level 5 infractions, DOE's Discipline Code requires that at least a superintendent suspension be imposed. The DOE monitors this regularly by reviewing Level 5 incident data. . . . As for Level 4 infractions, the July 2015 changes pointed to earlier in this response make it impossible to assume that the number of infractions would result in a similar number of disciplinary actions or interventions recorded in SOHO. Prior to 2015, schools were not required to enter counseling interventions and supports into SOHO. The BSDs and Student Support staff in the Field Support Centers regularly review incident data to ensure that schools are documenting incidents properly and as a means to provide targeted supports to schools."

   Auditor Comment: As previously mentioned in the report, during the course of the audit, we asked DOE officials whether OSYD or any other DOE office reviews the incidents recorded in OORS to ascertain whether school administrators took appropriate disciplinary or referral actions. However, DOE did not respond to our inquiry. Although DOE now claims that reviews are being done, especially for Level 5 infractions, it provided no evidence supporting that such reviews are being performed or by whom.

   In fact, our review of the sampled incidents identified a Level 5 infraction at sampled school #1 that did not have an associated suspension, or any other discipline or referral action recorded in SOHO (as shown above in Table V). To date, DOE has provided no explanation for the absence of any record in SOHO of actions taken for the student involved. In the absence of evidence to the contrary, we are unable to place any credence on DOE's claim that reviews are performed. Consequently, we urge DOE to fully implement the recommendation.

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. 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. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit scope covered School Year 2015-2016, which at the time of the audit testing, represented the most recent school year ended for which source documentation was available for audit testing of incidents that were reported to NYSED.

To obtain a general understanding of DOE's policies, procedures and regulations governing DOE's recording and reporting of violent and disruptive incidents at public schools, we reviewed and used as criteria the following:

- No Child Left Behind Act of 2001, Part 120;

- DOE Chancellor's Regulation A-412, *Security In Schools*;

- DOE Chancellor's Regulations A-443, *Student Discipline Procedures*;

- NYPD *School Safety Agent Duties & Responsibilities: A guide for DOE & NYPD Personnel*;

- DOE OSYD Reference Sheets - *Reporting Requirements related to Incidents and Suspensions in Schools* and *Emergency Information Center (EIC)*;

- DOE OSYD *Opening Day Packet - School Year 2015-2016* – section relating to OORS reporting;

- DOE's *Citywide Behavioral Expectations to Support Student Learning – Student Intervention and Discipline Code and Bill of Student Rights and Responsibilities, K-12, Effective April 2015*;

- NYSED, *Glossary of Terms Used in Reporting Violent and Disruptive Incidents – Posted August 5, 2008*;

- NYSED VADIR FAQ, *Question & Answers [Q&A] Regarding Reporting Violent and Disruptive Incidents*;

- NYSED *Uniform Violent and Disruptive Incident Reporting System (VADIR) Questions and Answers for Reporting VADIR School Year Data – Most Recent Revision October 2008*;

- NYSED VADIR Reporting Form, *Reporting of Incidents Concerning School Safety and the Education Climate – July 1, 2015 through June 30, 2016*; and

- NYSED *SVI Calculation Worksheet*

To obtain an understanding of prior reviews of this issue, we reviewed the State Comptroller's audit report, *Public School Safety: Incident Reporting and Unauthorized Student Departures*, issued in April 2015, and an audit from our office, *DOE's Reporting of Violent, Disruptive, and Other Incidents at NYC Public High Schools*, issued in September 2007. We noted the findings from those audits that addressed matters relevant to this audit. We also reviewed DOE's self-assessment of its internal controls covering Calendar Years 2014 and 2015.

To obtain an initial understanding of DOE's organizational structure, as it relates to the recording and reporting of violent and disruptive incidents, we reviewed the OSYD Safety and Security Team

organization chart to identify the reporting structures of the units involved, and the related responsibilities of key personnel, as provided by DOE's officials.

To obtain a general understanding of DOE's responsibilities and activities related to its schools' reporting of violent and disruptive incidents, an understanding of the various roles and responsibilities of DOE personnel involved with the reporting of violent and disruptive incidents at public schools to NYSED, as well as to assess existing internal controls over the recording and reporting of violent and disruptive incidents, we conducted walkthroughs and interviewed key DOE OSYD officials, including the Chief Executive Officer (CEO); the Deputy CEO for Safety and Security; Director for Research, Policy and Strategic Planning; and the Director of Emergency Information Center.

We received a detailed demonstration of the OORS, SOHO and the Internal Audit Tool computer systems to obtain an understanding of these systems' functions and available data fields. We also reviewed: the OSYD manual, *Online Occurrence Reporting System (OORS), Suspension and Office of Hearings Online (SOHO)*; the OSYD training material for Internal Audit Tool, *VADIR Internal Audit Refresher Training* (dated February 16, 2016); and Internal Audit Tool screenshots for a more in depth understanding of these systems.

To obtain an understanding on how incident data is processed, reported and maintained by the NYPD School Safety Agents, we interviewed NYPD School Safety Division officials.

We requested from DOE a list of all DOE public schools and the calculated SVI scores for School Years 2014-2015 and 2015-2016.[16] To assess the completeness of the school lists, we first compared the total number of schools by borough on the DOE list with the total number reported on the NYSED website. We then judgmentally selected 100 schools each (20 schools from each of the five boroughs) from the DOE list and the list of schools from the NYSED website, and traced them to the other respective list.

We also requested from DOE a detailed list of all incidents recorded in OORS during School Year 2015-2016. To determine the completeness of the list, we reviewed the sequentially assigned incident control numbers for each school and identified gaps in the OORS control numbers. For all the missing control numbers identified, we requested an explanation from DOE officials. We reviewed the information DOE provided regarding the gaps and determined whether all gaps were accounted for. In addition, we reviewed the scripts used by DOE to extract the incident data from OORS to ensure that all incidents that occurred within our audit scope period were captured.

In addition, we requested from DOE a list of all actions recorded in SOHO (e.g., suspensions, teacher removals and other guidance and intervention records) and the associated OORS control number for School Year 2015-2016. To determine whether all suspension records have a corresponding OORS incident record, we compared the suspension records provided by DOE to the OORS records to ensure that all suspension records were indeed recorded in OORS with a corresponding incident record.

To evaluate the adequacy of DOE's controls over the recording of incidents by its schools and the reporting of violent and disruptive incidents to NYSED, we randomly selected a total sample of 10 middle and high schools from a population of 933 schools that serviced grades K-12 students during School Year 2014-2015.[17] The 10 sample schools consist of two randomly selected schools from each of the five boroughs—one from the middle school category and one from the high school category—with one

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[16] At the time of our request in September 2017, DOE was in the process of reviewing and categorizing applicable incidents from School Year 2015-2016 for VADIR reporting, and therefore the SVI scores for that school year were not available.

[17] For audit testing purposes, we considered Middle Schools (MS) to consist of grade levels of Junior High-Intermediate-Middle and K-8; and High Schools (HS) to consist of grade levels of High School, Secondary School, and K-12 grades. School Year 2014-2015 was the most recent year with SVI information that was available when selecting our sampled schools.

school having a low SVI (SVI less than 1.5) and the second school having a high SVI (SVI equal or greater than 1.5).

We visited the 10 sampled schools, interviewed principals, OORS designees, teachers, and persons responsible for entering and updating incident records in OORS. During these interviews, we assessed relevant controls and procedures over the recording and reporting of incidents that occurred in schools and determined whether the procedures agreed with Chancellor's Regulations. Further, we met with the SSAs on-duty at the time of our visits and obtained the SSA logbooks for four-months at each school selected from each semester during School Year 2015-2016 (September 2015 through January 2016, and February 2016 through June 2016). To determine whether schools administrators consistently entered in OORS incidents that occurred in the school's premises and its perimeter, we reviewed the SSA entries for the sampled months and determined whether the incidents we considered VADIR-reportable, based on our review of the incident details, were recorded in OORS. In total, we identified 42 incidents we deemed to be VADIR-reportable.

In addition, we requested and reviewed copies of the School Incident Index Reports (SIIRs), which are electronic records of the Criminal Incident Reports (CIRs), maintained by the NYPD School Safety Division for each of the 10 sampled schools. In total, we obtained 228 SIIRs for School Year 2015-2016, and identified 72 incidents that we considered to be VADIR-reportable. We compared those incidents with the OORs records to determine whether school administrators consistently entered incidents in OORS. SIIRs that did not have a unique identifier and therefore could not be attributed to any of the 10 sampled schools were excluded from the test.

To determine the extent of the Borough Safety Directors' (BSDs') and Field Support Centers' (FSCs') oversight and monitoring of the recording and reporting of violent and disruptive incidents at schools, we initially interviewed the Manhattan's BSD and the Manhattan's FSC Director and asked them what is their role relating to incident reporting in OORS in their respective schools. We also emailed questionnaires to the OSYD's Deputy CEO regarding the BSDs role and responsibilities, and to the remaining six FSCs' Directors.

To determine whether DOE accurately categorized and reported the VADIR-reportable incidents in compliance with NYSED requirements, we reviewed all 3,020 incident records collectively reported in OORS by the 10 sampled schools for School Year 2015-2016 (July 1, 2015 through June 30, 2016), applied the VADIR code definitions, and determined whether DOE included the reportable incidents in the VADIR summaries sent to NYSED. In addition, to determine whether the incidents requiring a disciplinary or referral action to be VADIR-reportable were consistently and accurately reported to NYSED for the 10 sampled schools, we reviewed the SOHO records and identified whether the requisite actions were evident.

The results of the above tests, while not projectable to the population of schools, provided a reasonable basis for us to assess the adequacy of DOE's controls over its recording and reporting of incidents in it VADIR summaries.

DOE Infraction Code Levels

Level 1: (codes 1 -12) Uncooperative/Noncompliant Behavior (e.g., cutting classes and engaging in in verbally rude or disrespectful behavior.)
Level 2: (codes 13 – 20) Disorderly Behavior (e.g., smoking and engaging in or causing disruptive behavior on the school bus.)
Level 3: (codes 21 – 32) Disruptive Behavior (e.g., defying or disobeying the lawful authority or directive of school personnel; physical confrontational behavior towards students or school personnel; and vandalism or other intentional damage to school property.)
Level 4: (codes 33 – 49) Aggressive or Injurious/Harmful Behavior (e.g., engaging in harassing, intimidating and/or bullying behavior; engaging in physically aggressive behavior that creates a substantial risk of or results in minor injury; engaging in sexual conduct on school premises; and possessing controlled substances, illegal drugs, synthetic hallucinogens, drug paraphernalia, and/or alcohol.)
Level 5: (codes 50 – 62) Seriously Dangerous or Violent Behavior (e.g., inflicting serious injury on others; physical sexual aggression; selling illegal drugs; and using any weapon/firearm to harm others.)

List of Levels 1 through 5 Infractions for Grades 6 – 12
That Were in Effect during School Year 2015-2016

Infraction Level	Discipline Code	Infraction
1	B01	Unexcused absence from school
1	B02	Failing to wear the required school uniform (applies only to students in grades 6-12 in schools that have adopted a school uniform policy and whose parents have not secured an exemption)
1	B03	Cutting classes (reporting to school and failing to attend one or more programmed classes)
1	B04	Being late for school or class
1	B05	Bringing items to or using items in school in violation of Department of Education or school policy
1	B06	Failing to be in one's assigned place on school premises
1	B07	Behaving in a manner which disrupts the educational process (e.g., making excessive noise in a classroom, library or hallway)
1	B08	Engaging in verbally rude or disrespectful behavior
1	B09	Wearing clothing, headgear (e.g., caps or hats), or other items that are unsafe or disruptive to the educational process
1	B10	Posting or distributing material on school premises in violation of written Department of Education policy and/or school rules
1	B11	Failing to provide school officials with required identification
1	B12	Using school computers, fax machines, telephones or other electronic equipment or devices without appropriate permission
2	B13	Smoking and /or use of electronic cigarettes and/or possession of matches or lighters
2	B14	Gambling
2	B15	Using profane, obscene, vulgar, or lewd language, gestures, or behavior
2	B16	Lying to, giving false information to, and/or misleading school personnel
2	B17	Misusing property belonging to others
2	B18	Engaging in or causing disruptive behavior on the school bus
2	B19	Inappropriate use of electronic technology (e.g., unauthorized audio/video recording)
2	B20	Leaving class or school premises without permission of supervising school personnel
3	B21	Defying or disobeying the lawful authority or directive of school personnel or school safety agents in a way that substantially disrupts the educational process and/or poses a danger to the school community
3	B22	Entering or attempting to enter a school building without authorization or through an unauthorized entrance
3	B23	Using slurs based upon actual or perceived race, ethnicity, color, national origin, citizenship/immigration status, weight, religion, gender, gender identity, gender expression, sexual orientation, or disability
3	B24	Shoving, pushing, or engaging in a minor altercation or similar physical confrontational behavior towards students or school personnel (e.g., pushing past another person), or throwing an object (e.g., chalk) or spitting at another person (for more serious physically aggressive behavior, see B36)
3	B25	Bringing unauthorized persons to school or allowing unauthorized visitors to enter school in violation of written school rules
3	B26	Engaging in gang-related behavior (e.g., wearing or displaying gang apparel and/or accessories, writing graffiti, making gestures or signs)
3	B27	Tampering with, changing or altering a record or document of a school by any method, including, but not limited to, computer access or other electronic means
3	B28	Engaging in vandalism, graffiti or other intentional damage to school property or property belonging to staff, students or others
3	B29	Knowingly possessing property belonging to another without authorization

Infraction Level	Discipline Code	Infraction
3	B30	Violating the Department's Internet Use Policy (e.g., use of the Department's system for non-educational purposes, security/privacy violations)
3	B31	Engaging in scholastic dishonesty which includes but is not limited to:
	a	Cheating (e.g., copying from another's test paper; using material during a test which is not authorized by the person giving the test; collaborating with another student during the test without authorization; knowingly using, buying, selling, stealing, transporting, or soliciting, in whole or part, the contents of an unadministered test; substituting for another student or permitting another student to substitute for one's self to take a test; bribing another person to obtain a test that is to be administered; or securing copies of the test or answers to the test in advance of the test)
	b	Plagiarizing (appropriating another's work and using it as one's own for credit without the required citation and attribution, e.g., copying written work from the Internet, or any other source)
	c	Colluding (engaging in fraudulent collaboration with another person in preparing written work for credit)
3	B32	Posting or distributing libelous material or literature (including posting such material on the Internet)
4	B33	Engaging in sexual conduct on school premises or at school-related functions
4	B34	Making sexually suggestive comments, innuendoes, propositions or similar remarks, or engaging in nonverbal or physical conduct of a sexual nature (e.g., touching, patting, pinching, lewd or indecent public behavior, or sending or posting sexually suggestive messages or images)
4	B35	Posting, distributing, displaying, or sharing literature or material containing a threat of violence, injury or harm, or depicting violent actions against or obscene, vulgar or lewd pictures of students or staff, including posting such material on the Internet
4	B36	Engaging in physically aggressive behavior other than minor altercations as described under B24, which creates a substantial risk of or results in minor injury
4	B37	Engaging in an act of coercion or threatening or instigating violence, injury or harm to another or others
4	B38	Engaging in or causing disruptive behavior on the school bus which creates a substantial risk of or results in injury
4	B39	Engaging in harassing, intimidating and/or bullying behavior, including using electronic communication to engage in such behavior (cyber-bullying); such behavior includes, but is not limited to: physical violence; stalking; verbal, written, or physical conduct that threatens another with harm; seeking to coerce or compel a student or staff member to do something; hazing; taunting; exclusion from peer groups designed to humiliate or isolate; using derogatory language or making derogatory jokes or name calling to humiliate or harass.
4	B40	Engaging in harassing, intimidating and/or bullying behavior, including using electronic communication to engage in such behavior (cyber-bullying) based on an individual's actual or perceived race, weight, religion, religious practices, gender, gender identity, gender expression, sexual orientation, or disability; such behavior includes, but is not limited to: physical violence; stalking; verbal, written, or physical conduct that threatens another with harm; seeking to coerce or compel a student or staff member to do something; hazing; taunting; exclusion from peer groups designed to humiliate or isolate; using derogatory language or making derogatory jokes or name calling to humiliate or harass.
4	B41	Possessing controlled substances or prescription medications without appropriate authorization, illegal drugs, synthetic hallucinogens, drug paraphernalia, and/or alcohol
4	B42	Falsely activating a fire alarm or other disaster alarm
4	B43	Making a bomb threat
4	B44	Taking or attempting to take property belonging to another or belonging to the school without authorization, without using force or intimidating behavior.
4	B45	Creating a substantial risk of serious injury by either recklessly engaging in behavior, and/or using an object that appears capable of causing physical injury (e.g., lighter, belt buckle, umbrella, or laser pointer)
4	B46	Causing a serious injury by either recklessly engaging in behavior, and/or using an object that appears capable of causing physical injury (e.g., lighter, belt buckle, umbrella, or laser pointer)
4	B47	Inciting/causing a riot
4	B48	Possessing or selling any weapon as defined in Category II*

Infraction Level	Discipline Code	Infraction
4	B49	Using controlled substances or prescription medication without appropriate authorization, or using illegal drugs, synthetic hallucinogens, and/or alcohol.
5	B50	Starting a fire
5	B51	Threatening to use or using force to take or attempt to take property belonging to another
5	B52	Using force against, or inflicting or attempting to inflict serious injury against school personnel or school safety agents
5	B53	Using extreme force against or inflicting or attempting to inflict serious injury upon students or others
5	B54	Planning, instigating, or participating with another or others, in an incident of group violence
5	B55	Engaging in threatening, dangerous or violent behavior that is gang-related
5	B56	Engaging in physical sexual aggression/compelling or forcing another to engage in sexual activity
5	B57	Selling or distributing illegal drugs or controlled substances and/or alcohol
5	B58	Possessing or selling any weapon, other than a firearm, as defined in Category I*
5	B59	Using any weapon as defined in Category II to threaten or to attempt to inflict injury upon school personnel, students, or others
5	B60	Using any weapon, other than a firearm, as defined in Category I, to threaten or to attempt to inflict injury upon school personnel, students, or others
5	B61	Using any weapon, other than a firearm, as defined in Category I or II, to inflict injury upon school personnel, students, or others
5	B62	Possessing or using a firearm

* Category II: Weapons include acid and dangerous chemicals (i.e., pepper spray, mace); imitation guns; loaded or blank cartridges; ammunition; stun weapons; deadly, dangerous or sharp pointed instruments which can be used or is intended for use as a weapon (i.e., scissors, nail files, broken glass, chains, and wires)

** Category I: Weapons include firearms (i.e., pistols, handguns, silencers, electronic dart and stun guns), shotguns, rifles, machine guns, switchblades and other knives, daggers, razorblades, box cutters, case cutters, billy clubs, blackjacks, metal knuckles, sling shots, martial arts objects (i.e., kung fu stars and nunchucks), fire crackers, bombs and other explosives

Breakdown of the 29 Incidents for the Sampled Schools
That Were Not Assigned a VADIR Category (Blank Field)

Sampled Schools	Incident #	VADIR Category That Should Have Been Used (Based on Auditor's Assessment of OORS Recorded Incident Details)	Would Incident Affect the School's SVI Calculation?
1	1	12: Criminal Mischief	No
1	2	12: Criminal Mischief	No
1	3	12: Criminal Mischief	No
1	4	12: Criminal Mischief	No
1	5	13: Larceny, or Other Theft Offenses	No
1	6	13: Larceny, or Other Theft Offenses	No
1	7	13: Larceny, or Other Theft Offenses	No
1	8	20: Other Disruptive Incidents	No
1	9	20: Other Disruptive Incidents	No
1	10	20: Other Disruptive Incidents	No
1	11	20: Other Disruptive Incidents	No
1	12	20: Other Disruptive Incidents	No
5	13	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)	No
5	14	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)	No
5	15	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)	No
5	16	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)	No
5	17	12: Criminal Mischief	No
5	18	20: Other Disruptive Incidents	No
5	19	20: Other Disruptive Incidents	No
5	20	20: Other Disruptive Incidents	No
5	21	20: Other Disruptive Incidents	No
5	22	20: Other Disruptive Incidents	No
5	23	20: Other Disruptive Incidents	No
5	24	20: Other Disruptive Incidents	No
5	25	20: Other Disruptive Incidents	No
5	26	20: Other Disruptive Incidents	No
7	27	12: Criminal Mischief	No
7	28	12: Criminal Mischief	No
10	29	10: Intimidation, Harassment, Menacing or Bullying (No Weapon)	No
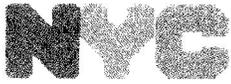
Department of Education
Chancellor Richard A. Carranza

Elizabeth A. Rose
Deputy Chancellor
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May 8, 2018

Ms. Marjorie Landa
Deputy Comptroller for Audits
New York City Office of the Comptroller
1 Centre Street, Room 1100
New York, NY 10007-2341

**Re: Audit Report on the New York City Department of Education's Reporting
of Violent and Disruptive Incidents at its Schools (MJ16-116A)**

Dear Ms. Landa:

This letter will serve as the New York City Department of Education's (DOE)
formal response to the New York City Office of the Comptroller's (Comptroller)
draft audit report of the *Department of Education's Reporting of Violent and
Disruptive Incidents at Its Schools* (Report).

Introduction

Thank you for undertaking your audit of the DOE's efforts to monitor and address
the reporting of violent and disruptive incidents in our schools. Ensuring safe and
secure school communities is paramount to this administration. Nothing is more
important than the safety and security of our students and staff, and we have
detailed and robust procedures in place to ensure all incidents are immediately
reported, investigated and addressed. Our close partnership with the New York
Police Department (NYPD) provides critical safety supports to all of our schools in
order to create and sustain a safe learning environment. Due in large part to our
advocacy and collaboration with the New York State Education Department
(NYSED), including a joint presentation to the New York State Education
Department's Board of Regents, reporting of violent and disruptive incidents
(VADIR) has changed statewide as of school year 2017-2018. NYSED has merged
the VADIR and Dignity for All Students Act (DASA) reporting streams into the
School Safety and Educational Climate (SSEC) report in an effort to emphasize the
importance of safety and school climate to meet the needs of students in an
educational environment. NYSED sought to amend reporting requirements in
effect during the Comptroller's audit period in acknowledgement of the need to
eliminate subjective categories, to clarify definitions of remaining categories and
to change the weighting of incidents.

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The DOE is pleased to note that the auditors agreed with the DOE's classification of 98% of all incidents reviewed in the audit. This is particularly significant given the very subjective nature of the old VADIR categories and the high volume of incidents categorized annually. Had the DOE applied the categorizations suggested by the Comptroller for the 2% in question, only 0.3% of those incidents would have affected the school's weighted index. Even then, the NYSED's school violence index (SVI) would not have crossed the NYSED threshold or impacted the NYSED designation of any of the schools in the Comptroller's audit sample. Again, it must be emphasized that NYSED has revised the VADIR reporting requirements by reducing the number of categories and revising the definitions of those categories starting in the 2017-2018 school year.

In addition to the NYSED's changes to the reporting requirements, another impactful change to the way the DOE addresses school climate and discipline was the July 2015 announcement to reduce the use of suspensions as a disciplinary tool. This announcement was made with the adoption of a mission statement on School Climate and Discipline[1] by the Mayor's School Climate Leadership Team, with support from the New York City Mayor's Office and NYPD. With a progressive discipline model being the guiding principle highlighted in the Mayor's July 2015 aforementioned policy statement, DOE schools are being asked to consider the multitude of student-based factors that are at play when an incident occurs to make every effort to identify the root cause of the behavior. This disciplinary practice is what school districts around the country are moving towards in an effort to move away from punitive and exclusionary discipline practices and instead to promote more pro-social behaviors. The movement to progressive discipline means that one should not expect to see a one-to-one ratio of infractions to discipline outcomes.

The Comptroller's Report has concluded that the DOE did not consistently capture disciplinary, referral or other corrective actions taken for behavioral infractions at a Level 3 or higher as indicated in the *Citywide Behavioral Expectations to Support Student Learning* (the Discipline Code). Suspensions are not mandated for behavioral infractions at Levels 3 and 4. The DOE's Discipline Code requires school administrators to consider mitigating circumstances, including age and maturity, disciplinary record, nature, severity and scope of the behavior, frequency and duration of the behavior, the number of persons involved in the behavior, the social emotional status/needs of all persons involved, and the student's Individualized Education Plan (IEP) when determining what actions to take. The principal has professional discretion to select other disciplinary measures as indicated in the Discipline Code. As stated previously, one should not expect to see a one-to-one

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[1] Mayor's School Climate Leadership Team mission statement can we found here:
http://www1.nyc.gov/site/sclt/impact/impact.page

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ratio of student infractions to discipline outcomes because that would ignore the administration's intention to reduce exclusionary discipline through the use of suspensions and the role of mitigating circumstances in determining the school's response. The Discipline Code outlines a range of supports and interventions that can be offered to students prior to imposing removals or suspensions. Schools are encouraged to use support services "to foster social-emotional growth and pro-social behavior to prevent future misbehavior." When schools employ this whole school approach, it would not be expected to see a suspension for every infraction code violation, including level 3 and 4 infractions.

The DOE and NYPD work collaboratively and collegially to ensure safety in our schools. NYPD's School Safety Agents (SSAs) are valued members of our school communities. The Report relies on a comparison of DOE records in the Online Occurrence Reporting System (OORS) with logbooks maintained by NYPD's School Safety Division and reports that a small subset of incidents are recorded in the NYPD logbooks but not in OORS. By using the NYPD logbooks as a starting point in the analysis, the Report implies that the NYPD's records are more accurate than the DOE's records. This inference is not supported as the two agencies have different means of collecting and using data.

As stated by the DOE in response to the Comptroller's 2007 audit[2], prior to the summer of 2005 NYPD data was used for VADIR reporting. Starting in the summer of 2005, however, NYSED requested that the DOE's OORS become the system of record for VADIR reporting. The DOE's 2007 response states that the shift was attributed, in part, to the fact that penal-law-based classifications did not align well to the NYSED's reporting needs. As acknowledged by NYSED in the 2005 shift, both agencies collect and utilize data in different manners. Rooted in recognition of that fact, the DOE during the course of this audit objected to the Comptroller's choice to compare the two data sets because they are not measurable by a common standard.

Illustrative of the difficulties with the Comptroller's attempt to compare the two data sets is that while incidents might be found in both the NYPD logbooks and OORS, they could be recorded differently. For example, in buildings with multiple schools, NYPD attributes incidents to the specific building based on the street address of the occurrence, while the DOE attributes incidents to the specific school within a building. Thus, it is not possible to infer that incidents cited in logbooks are associated with a particular school without doing due diligence and cross referencing against DOE register records. During the course of the audit there were instances where the Comptroller shared what they believed was a discrepancy between the

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[2] Comptroller's Audit Report on the Department of Education's Reporting of Violent, Disruptive, And Other Incidents at New York City Public High Schools (Report MG60-140A), Issued September 19, 2007.

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SSA's logbook and OORS data, however, the DOE identified that the student named in the SSA report was not registered to the school. A register record inquiry would impact the way that the DOE entered the incident information into OORS and would therefore likely include a data point that was absent from the NYPD record because of the different information sources and requirements the two agencies impose when recording an incident.

Both agencies are also bound by different privacy laws that can affect the sharing of written records. Schools are required to ensure the protections of the Family Educational Rights and Privacy Act (FERPA), which restricts sharing student biographical information (*e.g.*, name, address, educational records) with other agencies. This can contribute to the two agencies records not being a perfect match because all the facts cannot be compared when sharing information related to an incident. Where other pertinent facts are either not able to be shared, or not verified using a common source, it is difficult to undoubtedly claim that a data point in one agency's record was or, was not, recorded in the others.

Response to Recommendations

Recommendation 1. *DOE should enhance its oversight of the schools' data entry in OORS to ensure that school administrators understand and comply with Chancellor's Regulations and record all incidents as required.*

Response. The DOE agrees with this recommendation inasmuch as it reflects current practice.

In addition to Chancellor's Regulation A-412, which mandates the reporting of incidents in OORS within 24 hours of the principal being informed, the Office of Safety and Youth Development (OSYD) also provides the *Why Report* guidance document which reminds principals of their obligation to report incidents and the benefits of accurate reporting as a tool to identify behavioral trends in their school, the annual *Opening Day Memo*, which provides guidance to schools to ensure that schools provide all students with a safe, respectful and inclusive learning environment in which integrated practices and procedures support students' well-being, academic achievement and social growth during the beginning of the school year, and the *Best Practices and Standards for Creating and Sustaining a Safe and Supportive School* guide. OSYD also requires a biennial Emergency Readiness and OORS training for every school principal and utilizes the DOE's Principal's Weekly newsletter to provide reminders on reporting incidents in a timely manner.

In addition, the DOE has a robust school support model in which Borough Safety Directors (BSDs), Student Support Service providers from borough-based field

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support centers, superintendents, and other central-level stakeholders receive incident and suspension data for their schools to support targeted interventions should a pattern of incidents spiking or a low number of incidents being reported be noted. This data is used to determine appropriate programs and supports for various schools across the city, as well as to help schools make decisions that will help improve their school climate and culture. Finally, instances of non-compliance with the DOE's reporting mandates are referred to the DOE's Special Commissioner of Investigation.

Recommendation 2. *DOE should ensure that school administrators routinely and purposefully communicate with the NYPD School Safety Division to be fully aware of incidents in their schools that are captured in the SSA logbooks and CIRs (or the SIIRs), and verify that the incidents are consistently recorded in OORS. Such communications with the NYPD School Safety Division and reviews of incident recordings in OORS should be documented.*

Response. The DOE agrees with this recommendation to the extent it reflects current practice.

As stated in the introduction, the DOE and NYPD have different means of collecting and using requisite data. To use a comparison of NYPD and DOE data to formulate audit findings is an oversimplification of fact. It also implies that the NYPD data is more accurate than what the DOE has identified in our system of record. The NYPD and DOE personnel share necessary information on a regular basis and this collaborative relationship is paramount to the DOE keeping students safe. The DOE does not believe that an additional administrative burden of documenting every contact with NYPD is required at this time.

Recommendation 3. *DOE should ensure that violent and disruptive incidents are correctly categorized and included on the VADIR summaries reported to NYSED so that the SVI calculations are accurate.*

Response. The DOE agrees with this recommendation inasmuch as it reflects current practice.

DOE reviewers make their categorizations based on incident descriptions, updates, and results of injury information, frequently referring back to the NYSED's Glossary of Terms and FAQ documents to ensure accuracy. While the auditors agreed with 98% of the categories selected by the reviewers, only 0.3% of the incidents that the auditors disagreed with would have affected the SVI calculation for the school. Even taking these additional weighted incidents into consideration, none of the SVI calculations would have exceeded NYSED's threshold.
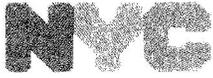
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Recommendation 4. *DOE should modify and establish controls in the SOHO system to capture all disciplinary and referral actions and the necessary information required by NYSED for these actions, including the licensing and qualification information of school staff providing counseling or treatment services, in order to properly assess whether certain incidents should be reported in VADIR.*

Response. The DOE will take this recommendation under advisement but cannot agree to it as written at this time.

Taking effect at the start of the 2016-2017 school year, the DOE updated the Discipline Code requiring schools to document interventions and supports in the SOHO system. Notwithstanding the aforementioned changes to the SOHO system shared with the Comptroller during the course of the audit, the DOE will, as necessary, have follow up conversations with NYSED regarding how to provide information that is needed.

Recommendation 5. *DOE should periodically review the OORS and SOHO systems to identify incidents involving aggressive, harmful, seriously dangerous or violent behavior (Level 4 and 5 infractions) to ensure that school administrators took appropriate actions and recorded in SOHO all disciplinary, referral or other corrective actions taken concerning the students.*

Response. The DOE will take this recommendation under advisement as work to oversee OORS and SOHO data continues. As mentioned in response to recommendation four, changes to the SOHO system are currently in place and the DOE is identifying how to utilize the data in ways to support students and foster safe learning environments.

For Level 5 infractions, DOE's Discipline Code requires that at least a superintendent suspension be imposed. The DOE monitors this regularly by reviewing Level 5 incident data. When there are cases where our system of record does not show a suspension for a Level 5 infraction, it is because that student is not in our system at the time. As for Level 4 infractions, the July 2015 changes pointed to earlier in this response make it impossible to assume that the number of infractions would result in a similar number of disciplinary actions or interventions recorded in SOHO. Prior to 2015, schools were not required to enter counseling interventions and supports into SOHO. The BSDs and Student Support staff in the Field Support Centers regularly review incident data to ensure that schools are documenting incidents properly and as a means to provide targeted supports to schools.

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We are very proud of our joint efforts with the NYPD and NYSED to support the safety of our students, and we look forward to our continued partnership.

Sincerely,

Elizabeth A. Rose