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June 7, 2005

Control Number
ED-OIG/A04E0007

Kathy Cox
State Superintendent of Schools
Georgia Department of Education
2066 Twin Towers East
Atlanta, Georgia 30334-5001

Dear Superintendent Cox:

This Final Audit Report, entitled *Georgia Department of Education's Compliance with the Unsafe Schools Choice Option Provision*, presents the results of our audit. The purpose of the audit was to determine whether (1) Georgia's Unsafe School Choice Option (USCO) policy complied with Title IX, Part E, Subpart 2, § 9532 of the Elementary and Secondary Education Act (ESEA) and applicable U.S. Department of Education (Department) guidance and (2) the Georgia Department of Education (GDOE) adequately implemented the policy at the State and local education agency (LEA) levels. Our review covered school year 2002-2003 (for reporting requirements) and the start of school 2004 (for transfer of affected students and review of corrective action plans).

BACKGROUND

The USCO in Section 9532 requires that states receiving funds under the ESEA establish and implement a statewide policy requiring that students attending a persistently dangerous public school, or students who become victims of a violent criminal offense while on the grounds of a public school they attend, be allowed to attend a safe public school. The Department issued the *Unsafe School Choice Option Non-Regulatory Guidance* in May 2004. (This guidance was issued in draft form in July 2002.)

States were expected to be in full compliance with USCO requirements for the 2003 school year, and were to identify those schools that met the state's definition of persistently dangerous by July 1, 2003. Districts were to provide victims of violent crimes the option to transfer at least 14 calendar days prior to the start of the 2004 school year. Georgia implemented the USCO policy through the Georgia Department of Education Rule 160-4-8.16, Unsafe School Choice Option.

GDOE's Rule 160-4-8.16 defines a persistently dangerous school as any school in which for three consecutive years:

- At least 1 student is found by official action¹ to have violated a school rule related to a violent criminal offense (including aggravated battery, aggravated child molestation, aggravated sexual battery, aggravated sodomy, armed robbery, arson, kidnapping, murder, rape, and voluntary manslaughter) either on campus or at a school-sanctioned event.
- At least 2 percent of the student body or 10 students, whichever is greater, have been found by official action to have violated school rules related to other identified criminal offenses, including non-felony drugs, felony weapons, terrorist threats.
- Any combination of 1 and 2.

Under GDOE's USCO Rule 160-4-8.16, a school shall offer to transfer a student to another school after the third consecutive year, but the victim of a violent crime at school must be offered the right to transfer immediately. Though a school must meet these criteria for three consecutive years in order to be labeled "persistently dangerous," local and State officials will work with school administrators, parents, educators, and others to address the problem after just one year.

GDOE developed its definition of "persistently dangerous" schools (PDS) in consultation with the School Administrators of Georgia and staff from the LEAs. GDOE officials also considered other state policies and formed discussion groups to discuss how the Georgia policy should be implemented. The discussion groups consisted of State officials and various officials from LEAs.

GDOE rules required LEAs to collect statistics on student criminal incidents at schools prior to USCO. The information collected was similar to the Georgia USCO requirements for reporting incidents, and was reported as part of the LEAs' annual school report certifications to the GDOE. For the 2002-2003 school year, LEAs used the information collected for 2000 through 2003 school years and reviewed tribunal records to report USCO incidents and determine if a school was persistently dangerous.

GDOE officials were unable to code USCO incidents into their statewide school record system for the 2002-2003 school year. As a result, GDOE established a website and required LEAs to self-report their USCO incidents for that school year. Beginning with the 2003-2004 school year, USCO incidents can be recorded when identified by the LEA into the state record system. At the end of the school year, the LEA superintendent must certify as to the accuracy of the reported incidents along with all the other reported student information.

GDOE determined that none of Georgia's schools met the State's definition of "persistently dangerous" in school years 2002-2003 or 2003-2004.

¹ Georgia Rule 160-4-8.16 defines an official action as an official tribunal held by the school; a hearing conducted by a disciplinary hearing officer of the school system; through a waiver process; or through an action of the local board of education.

AUDIT RESULTS

GDOE's USCO policy generally complies with § 9532 of the ESEA and the Department's guidance. However, GDOE has not adequately implemented Georgia's USCO policy because it did not ensure the policy was implemented at the local level. The three LEAs covered by our audit did not report all incidents of criminal offenses to GDOE (See Finding No. 1), and the LEAs did not address the USCO transfer options (See Finding No. 2).

In its response to the draft report, GDOE indicated its plans for implementing our recommendations. GDOE's comments are summarized at the end of each finding and the full text of the comments is included as Attachment 1.

FINDING No. 1 – LEAs Did Not Report All Student Criminal Offenses For GDOE To Consider In Determining Persistently Dangerous Schools

The figures reported to the GDOE by the three LEAs we reviewed did not include all offenses based upon the GDOE's USCO policy. As a result, GDOE did not have sufficient information to ensure that it identified unsafe schools and appropriately made PDS designations. In addition, LEAs had different interpretations of GDOE's USCO policy. Although, the inclusion of the incidents cited did not result in any of the schools being identified as persistently dangerous, inaccurate reporting could result in persistently dangerous schools not being identified in the State of Georgia in the future.

GDOE policy requires determination of a USCO incident based on Georgia criminal code. In addition, GDOE policy requires that LEAs shall annually report data regarding students found by official action to be in violation of a school rule related to a criminal offence. Official action is defined as an action that include an official tribunal held by the school system, a hearing conducted by a disciplinary hearing officer of the school system, through a waiver process or through an action of the local board of education. GDOE's USCO policy identified criminal offenses to include aggravated battery, child molestation, sexual battery, and sodomy. Other offenses include armed robbery, first degree arson, felony drug charge, felony weapons, kidnapping, murder, rape voluntary manslaughter, terroristic threats, and misdemeanor drug charges.

LEA officials and school principals often had different interpretations of what constituted aggravated battery, terrorist threat, and other USCO incidents. For instance, Houston County allows the school principals to make the determination of a USCO incident that is reported to GDOE; whereas, Gwinnett County and Atlanta Public Schools centrally determine criminal incidents based on tribunals as required by GDOE policy. Another example is that Gwinnett County did not require first-time marijuana offenses to have a tribunal; therefore, the first-time marijuana incidents were not reported. If GDOE's USCO policy had been consistently

interpreted by the LEAs, GDOE may have had better information to use in analyzing schools and determining whether a school should be considered a PDS.

At each of the three LEAs, we reviewed records at three schools and identified unreported incidences that should have been reported under GDOE’s USCO policy. These incidents were identified either from tribunal records, discipline records, or serious incident reports.

- **Houston County** did not report six criminal incidents to the State. These included one aggravated battery, three felony weapons, one terroristic threat, and one felony drug incidents. The County disagreed with our aggravated battery determination for Northside High School stating permanent physical harm did not occur to the student. However, the fight we defined as aggravated battery resulted in a broken leg, which met the State criminal code definition of aggravated assault.

Table 1.1 – Houston County Public Schools Unreported Incidents 2002-2003

| Type of Incidents | Northside High School | Warner Robins High School | Crossroad High School | Total Unreported |
|----------------------------|-----------------------|---------------------------|-----------------------|------------------|
| Aggravated Battery: | | | | |
| Reported | 0 | 0 | 0 | |
| Unreported | 1 | 0 | 0 | 1 |
| Felony Drug: | | | | |
| Reported | 0 | 1 | 6 | |
| Unreported | 0 | 0 | 1 | 1 |
| Terrorist Threats: | | | | |
| Reported | 0 | 0 | 3 | |
| Unreported | 1 | 0 | 0 | 1 |
| Felony Weapons: | | | | |
| Reported | 0 | 0 | 1 | |
| Unreported | 2 | 1 | 0 | 3 |
| Total | | | | 6 |

- **Gwinnett County** did not report 28 non-felony drug incidents (27 first-time marijuana) and three felony drug incidents. Gwinnett County did not require first-time marijuana offenses to have a tribunal; therefore, 27 first-time marijuana incidents were not reported. Since USCO incidents in Gwinnett County are based on tribunal records, the first-time marijuana offenses were not recorded. Gwinnett County stated that it did not believe that they were in violation of GDOE’s USCO policy because first-time marijuana offenses did not result in an “official action” as required by GDOE. Official Code of Georgia criminal offenses identified in GDOE’s USCO policy include non-felony drug charges. Non-felony drug charge is defined, as any person who is charged with possession of marijuana, which possession is of one ounce or less, shall be guilty of a misdemeanor. We determined that to consistently apply the GDOE’s policy, Gwinnett should report first-time offenses that meet the criminal code definition.

Table 1.2 – Gwinnett County Public School Unreported Incidents 2002-2003

| Type of Incidents | N. Gwinnett High School | Brookwood High School | Dacula High School | Total Unreported |
|-------------------------|-------------------------|-----------------------|--------------------|------------------|
| Non-felony Drug: | | | | |
| Reported | 36 | 14 | 42 | |
| Unreported | 14 | 7 | 7 | 28 |
| Felony Drugs: | | | | |
| Reported | 23 | 10 | 9 | |
| Unreported | 2 | 1 | 0 | 3 |
| Total | | | | 31 |

- **Atlanta Public Schools** did not report two felony weapons incidents, four felony drug incidents, and one non-felony drug incident. Atlanta Public School’s officials did not disagree with any of these determinations. They stated USCO determinations were based on tribunals and in the 2002-2003 school year some incidents did not receive a formal tribunal.

Table 1.3 – Atlanta Public Schools Unreported Incidents 2002-2003

| Type of Incident | Grady High School | Therrell High School | CEP High School | Total Unreported |
|--------------------------|-------------------|----------------------|-----------------|------------------|
| Non-felony Drugs: | | | | |
| Reported | 3 | 2 | 4 | |
| Unreported | 1 | 0 | 0 | 1 |
| Felony Drug: | | | | |
| Reported | 0 | 0 | 0 | |
| Unreported | 1 | 2 | 1 | 4 |
| Felony Weapons: | | | | |
| Reported | 2 | 6 | 4 | |
| Unreported | 0 | 2 | 0 | 2 |
| Total | | | | 7 |

The above instances of non-reporting by the LEAs would not have resulted in any school being identified as persistently dangerous. We provided detailed information concerning the unreported incidents to the GDOE for their review. GDOE officials believed that the inaccurate reporting that occurred in the 2002-2003 school year was the result of having to use existing student incident data collected for GDOE reporting requirements to meet USCO requirements. LEA officials indicated that they did not receive the official USCO policy until shortly before the reporting date. Since the revised USCO policy required LEA officials to review previous years’ reported incidents, they did not have adequate time to determine whether incidents were properly classified. GDOE officials believe that the 2003-2004 USCO information was more reliable because LEAs have implemented systematic procedures to capture USCO incidents when they occur.

The Department of Education *Unsafe School Choice Option Non-Regulatory Guidance*, dated May 2004, states that in order to ensure that the USCO data are of high quality, current, and

comparable across LEAs in the State, state educational agencies should ensure that LEAs receive appropriate training and technical guidance pertaining to collecting the necessary data. GDOE's USCO Policy requires USCO incidents to be based on Georgia criminal code and official school tribunals; however, LEAs had different interpretations of GDOE's USCO policy.

GDOE officials stated that GDOE USCO policy was sufficiently clear to result in a consistent policy statewide because it is based on Georgia criminal code and requires a tribunal court decision for each USCO incident. Therefore, it has been GDOE's policy not to provide its own interpretation regarding the classification of an offense where the tribunal adjudicated the matter. As a result, GDOE did not formally train LEAs and monitor LEA implementation of USCO in 2002-2003 year. In addition, GDOE officials stated that they were not aware of different interpretations by LEAs.

According to GDOE officials, GDOE recognizes the need to provide more technical assistance and training in the future to help LEAs to report consistent data. GDOE officials stated that in implementing the provisions of USCO Rule, they have identified potential areas for further refinement of the USCO Rule. Two of these potential areas for refinement involve the failure to report certain incidents where (a) local board rule does not require use of a tribunal for the alleged offense and (b) the tribunal has not had time to convene and render a decision prior the end of the school year. GDOE stated that it plans to address these two areas with additional state legislation and amendments to the USCO Rule. Also, GDOE stated that it plans to use Safe and Drug Free coordinators to review LEAs implementation of the Georgia USCO policy.

Recommendation

We recommend that the Deputy Under Secretary for Safe and Drug-Free Schools provide technical assistance to GDOE in implementing—

- 1.1 Effective training and monitoring at the LEA level to ensure all USCO incidents are reported in a consistent manner.
- 1.2 A review process to ensure that all USCO incidents are accurately reported.

GDOE Comments

GDOE acknowledged the need for more training and monitoring at the LEA level to ensure all USCO incidents are reported.

FINDING No. 2– LEAs Did Not Offer the USCO Transfer Option

None of the LEAs reviewed formally offered victims of violent crime the right to transfer to another school as required by USCO. Nor had any of the LEAs implemented a formal mechanism offering the right to transfer. Without a formal mechanism for offering the transfer, victims of violent crimes may have remained in an unsafe environment. In addition, we did not identify any procedures at GDOE or the LEAs to track the number of victims of violent crime

and whether they were offered the right to transfer. As a result, the LEAs might not have accurately reported the number of victims transferring due to violence and GDOE might not have the information necessary to make an assessment of PDS.

Title IX, Part E, Subpart 2, Section 9532 of the No Child Left Behind Act of 2001 requires that each State provide to a student who becomes the victim of a violent criminal offense while in or on the grounds of that student's public elementary or secondary school the opportunity to transfer to a safe school. The LEAs did not offer victims of violent criminal offenses the transfer option because none of the LEAs reviewed had developed policies or procedures for offering victims the transfer option. LEA officials informed us that they would have agreed to transfer the student, if requested. The LEAs stated that they believed that the GDOE Policy only required that a transfer be made available if the student wished to be transferred. The LEAs did not interpret the policy to require a formal written letter to parents. However, GDOE officials stated that Georgia's USCO Rule requires that LEAs adopt a policy that facilitates the transfer of students who are victims of violent criminal offenses.

As a part of their revision and amendments to the USCO Rule, GDOE is considering options regarding the provision of written notice of transfer to parents by the local school system. In addition, at the time of our audit, GDOE had not initiated any monitoring activities to assess LEA compliance with its USCO policy.

Recommendation:

We recommend that the Deputy Under Secretary for Safe and Drug-Free Schools require GDOE to—

- 2.1 Require LEAs to include the transfer option in their written policies and retain documentation showing that victims' parents were notified of the USCO transfer option and whether a transfer was requested and completed.
- 2.2 Monitor LEA compliance with Georgia's USCO policy, including (a) reviewing LEAs' transfer policies; (b) confirming that students who were victims of violent crimes were provided the option to transfer to a safe school; and (c) verifying that documentation was retained showing that victims' parents were notified of the USCO transfer option and whether a transfer was requested and completed.

GDOE Comments

GDOE stated that it planned to amend its USCO Rule to require written notification of the right to transfer to victims of violent criminal offenses.

OBJECTIVES, SCOPE, AND METHODOLOGY

The audit objective was to determine whether (1) Georgia's USCO policy is in compliance with Title IX, Part E, Subpart 2, Section 9532 of the Elementary and Secondary Education Act (ESEA) and applicable U. S. Department of Education guidance, and (2) if the policy was adequately implemented at the State and local levels.

The audit period encompassed the school year 2002-2003 (for reporting requirements), and the start of the school year 2004 (for transfers of affected students and review of corrective action plans).

There are 183 LEAs in the State of Georgia. We obtained Federal formula grant funding information from GDOE's website and stratified the LEAs into three groups based on the amount of funding they received – funding 1) greater than \$10 million; 2) between \$5 million and \$10 million; and 3) less than \$5 million. We limited our review to the LEAs in the two groups with the higher levels of funding – \$5 million and above.

We obtained juvenile arrest information from the Georgia Bureau of Investigation's (GBI) Uniform Crime Reporting Division for all counties in Georgia. We judgmentally selected one LEA from each of the top two funding groups based on the highest number of instances of juvenile arrests in the respective county. Atlanta Public Schools and Houston County Schools were the LEAs selected from group one and group two, respectively. In addition, we judgmentally selected Gwinnett County Schools (GCP) for review from group one because GCP was identified in the local news media as misreporting student crime data, and they initially identified one school as persistently dangerous.

At the three LEAs selected for review, we judgmentally selected three schools in each LEA to review based on highest number of reported USCO incidents to GDOE. The review at the LEAs consisted of looking at LEA hardcopy and computer records of student incidents reported for the three schools selected for review. We then compared the LEA computer records of reported incidents to the school's student incident reports, official tribunal reports, and police reports to determine if any USCO incidents were not reported. The following table shows the schools reviewed for each LEA and the reported USCO incidents.²

² The reported USCO incidents in the table reflect the major incidents reported by GDOE and the incidents of non-felony drugs, felony drugs, felony weapon and terroristic threat meeting the first criteria in the Georgia USCO Rule.

| Schools Reviewed and Their Number of Reported USCO Incidents | | |
|--|--|--|
| Houston County Public Schools | Gwinnett County Public Schools | Atlanta City Public Schools |
| Warner Robbins High School 2002-2003 – 3 | North Gwinnett High School 2002-2003 – 75 | Grady High School 2002-2003 – 5 |
| Northside High School 2002-2003 – 5 | Brookwood High School 2002-2003 – 30 | Therrell High School 2002-2003 – 8 |
| Crossroads High School 2002-2003 – 10 | Dacula High School 2002-2003 – 59 | CEP Partnership High School 2002-2003 – 8 |

To meet the objectives of our audit, we relied, in part, on computer-processed data that GDOE used to report USCO violations by LEAs. Each LEA person that enters information onto the GDOE website for USCO information (as well as other information reported under the end of year student record data collection) must use a user identification and password to log into the system. Once all of the information is entered into the system, the superintendent must signoff on the data certifying that the information is accurate and complete. The audit team reviewed and compared USCO data shown on GDOE’s website for sample LEAs with information obtained on-site at each LEA to determine the reliability of the data. Based on our assessment and tests, we concluded that the computer-processed data GDOE provided was sufficiently reliable for the purposes of our audit.

We conducted our audit fieldwork during the period August through December 2004. As part of our audit, we visited (1) GDOE’s offices in Atlanta, Georgia; (2) Atlanta Public Schools’ offices in Atlanta, Georgia; (3) Gwinnett County Schools’ offices in Lawrenceville, Georgia and Houston County Schools’ in Perry, Georgia. We contacted LEA officials as necessary to obtain additional information and clarifications during our audit work. We held an exit conference with GDOE officials on March 8, 2005.

The audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

STATEMENT ON INTERNAL CONTROLS

As part of our audit, we assessed GDOE's internal control structure, policies, procedures, and practices applicable to its USCO Policy. To make our assessment, we classified significant control into the following categories.

- Policy formulation and implementation
- GDOE certification of compliance with Section 9532 of the ESEA.
- GDOE and LEA data collection and reporting.
- LEA implementation of the USCO transfer option.

- GDOE Oversight of subsequent action (transfer options and corrective action plans)

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in GDOE's USCO Policy internal controls. However, our study and evaluation disclosed significant internal control weakness that could adversely affect the administration of the USCO policy at the local level. Specifically, LEAs lacked adequate procedures and/or documentation for 1) the identification and reporting of USCO incidents, including a lack of consistent interpretation of the criteria for classifying incidents; and 2) implementation of the USCO transfer option. This weakness and its impact are discussed in the AUDIT RESULTS section of this report.

We did not assess the adequacy of the internal control structure of GDOE and the three LEAs that we audited because such assessments were not necessary to achieve our audit's objective. Instead, we obtained an understanding of the processes that GDOE and the three LEAs used to determine compliance with GDOE's USCO Policy and determined whether the processes were in compliance with the applicable law and regulations.

ADMINISTRATIVE MATTERS

Statements that managerial practices need improvement, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective actions to be taken will be made by the appropriate Department officials.

If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department officials who will consider them before taking final Departmental action on this audit —

Deborah A. Price
Assistant Deputy Secretary
Office of Safe and Drug Free Schools
U.S. Department of Education
Federal Building No. 6, Room 1E110
400 Maryland Avenue, SW
Washington, D.C. 20202

It is the policy of the U.S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be greatly appreciated.

In accordance with the Freedom of Information Act (5 U.S.C. § 552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

Sincerely,

/s/

Denise M. Wempe
Regional Inspector General for Audit

Attachment

**GEORGIA DEPARTMENT OF EDUCATION
COMMENTS ON THE DRAFT REPORT**



May 9, 2005

Control Number
ED/OIG A04-E0007

Ms. Denise M. Wempe
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
61 Forsyth Street, Room 18T71
Atlanta, Georgia 30303

Dear Ms. Wempe:

Thank you for providing the United States Department of Education's ("Department") draft audit report, entitled *Georgia Department of Education's Compliance with the Unsafe Schools Option Provision*, ("Draft Audit Report") to the Georgia Department of Education ("GDOE") for review and comment. We appreciate the opportunity afforded the GDOE to respond in writing and in person to audit findings as outlined in the Draft Audit Report.

FINDING NO. 1 **LEAs Did Not Report All Student Criminal Offenses For GDOE To Consider In Determining Persistently Dangerous Schools.**

While the GDOE had not previously been made aware of the "unreported" incidents from the Houston County, Gwinnett County, and the Atlanta Public School systems as cited in the Draft Audit Report, the GDOE has acknowledged the need to extend its technical assistance to the LEAs in an effort to improve the validity and reliability of the USCO data submitted by the LEAs. Furthermore, as evidenced by Gwinnett County's position with respect to reporting first-time marijuana offenses, the GDOE agrees that effective training and monitoring at the LEA level and review of reported USCO incidents as contained in recommendations 1.1 and 1.2 are important steps towards ensuring that all student offenses are properly reported by the LEAs.

Recommendations 1.1 and 1.2 involve processes presently under consideration by the GDOE. We trust that working with the Deputy Under Secretary for Safe and Drug-Free Schools on the above-noted processes will prove to be helpful as the GDOE seeks to refine its USCO reporting process.

FINDING NO. 2 **LEAs Did Not Offer The USCO Transfer Option**

Georgia's USCO Rule does require that local boards of education adopt policies that facilitate the transfer of students who are victims of violent criminal offenses and wish to transfer to another school within ten school days of the commission of the violent criminal offense. Because Georgia's USCO Rule fails to clearly require written notice to parents regarding the transfer rights contained in the law, Georgia's USCO Rule will be amended to address this issue.

Moreover, as previously stated in our December 16, 2005 letter regarding the initial audit findings, the GDOE's development of its Statewide Student Information System will allow for the reporting of data regarding the transfer of students who were victims of violent crimes. Thus, the GDOE is preparing to amend Georgia's USCO Rule pursuant to Recommendation 2.1 and to develop the necessary reporting processes to ensure full compliance regarding the USCO transfer option as required by Recommendation 2.2.

Again, I appreciate the opportunity to respond to the Draft Audit Report in writing. This process has been helpful to our continued effort to improve and refine Georgia's USCO Rule and its monitoring and enforcement. Finally, the GDOE looks forward to the assistance offered in the Draft Audit Report from the Deputy Under Secretary with respect to Recommendations 1.1 and 1.2. I trust we will be able to build a model system of USCO reporting and compliance in Georgia.

If I can be of further assistance, do not hesitate to contact me directly.

Very truly yours,

/s/ Kathy Cox

Kathy Cox

KC/sg

cc: Ms. Wanda Barrs, Chair, State Board of Education
Mr. Stuart Bennett, Chief Deputy Superintendent
Dr. Jeanie Weathersby, Deputy Superintendent
Mr. Judson Turner, General Counsel
Mr. Phil Hulst, Director of Learning Support