

# PERFORMANCE AUDIT

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## Greater Johnstown Career and Technology Center Cambria County, Pennsylvania

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October 2014



Commonwealth of Pennsylvania  
Department of the Auditor General  
Eugene A. DePasquale • Auditor General



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**EUGENE A. DePASQUALE**  
**AUDITOR GENERAL**

The Honorable Tom Corbett  
Governor  
Commonwealth of Pennsylvania  
Harrisburg, Pennsylvania 17120

Mr. Alan Tresnicky  
Joint Operating Committee Chairperson  
Greater Johnstown Career and  
Technology Center  
445 Schoolhouse Road  
Johnstown, Pennsylvania 15904

Dear Governor Corbett and Mr. Tresnicky:

We conducted a performance audit of the Greater Johnstown Career and Technology Center (Center) to determine its compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). Our audit covered the period January 8, 2010 through May 13, 2014, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2009, 2010, 2011, and 2012. Our audit was conducted pursuant to Section 403 of The Fiscal Code, 72 P.S. § 403, and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found that the Center complied, in all significant respects, with relevant requirements, except as detailed in two (2) findings noted in this report. A summary of the results is presented in the Executive Summary section of the audit report.

Our audit findings and recommendations have been discussed with the Center's management and their responses are included in the audit report. We believe the implementation of our recommendations will improve the Center's operations and facilitate compliance with legal and administrative requirements. We appreciate the Center's cooperation during the conduct of the audit and their willingness to implement our recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale".

Eugene A. DePasquale  
Auditor General

October 23, 2014

cc: **GREATER JOHNSTOWN CAREER AND TECHNOLOGY CENTER**  
Joint Operating Committee Members

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## **Executive Summary**

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### **Audit Work**

The Pennsylvania Department of the Auditor General conducted a performance audit of the Greater Johnstown Career and Technology Center (Center) in Cambria County. Our audit sought to answer certain questions regarding the Center's compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures.

Our audit scope covered the period January 8, 2010 through May 13, 2014, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidies and reimbursements was determined for the 2008-09, 2009-10, 2010-11, and 2011-12 school years.

### **Center Background**

According to Center officials, the Center provided educational services to 317 secondary pupils and 456 post-secondary pupils through the employment of fifteen (15) teachers, nineteen (19) full-time and part-time support personnel, and five (5) administrators during the 2011-12 school year. A joint operating committee (JOC), which is comprised of fifteen (15) members from the following school districts, directs the operation, administration, and management of the school:

Conemaugh Township Area  
Ferndale Area  
Forest Hills  
Greater Johnstown  
Richland  
Westmont Hilltop

The JOC members are appointed by the individual school boards at the December meeting, each to serve a three-year term. The Center received \$933,000 in state funding in the 2011-12 school year.

### **Audit Conclusion and Results**

Our audit found that the Center complied, in all significant respects, with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures, except for two (2) compliance related matters reported as findings.

#### **Finding No. 1: Employment Agreement in Violation of Public School Employees' Retirement Regulations Resulting in Questionable Payments Totaling \$147,719.**

Our audit of the Greater Johnstown Career and Technology Center found that it has paid its former Business Manager \$147,719, through an employment agreement that appears to violate the Public School Employees' Retirement System's regulations (see page 6).

#### **Finding No. 2: Renovation Project Failed to Comply with Bidding Requirements and Federal Americans with Disabilities Act.**

Our audit of the Greater Johnstown Career and Technology Center found that renovations to restrooms in its own facilities were performed by staff and students and did not comply with the Public School Code's bidding requirements, or the United States Americans with Disabilities Act's design standards (see page 10).

**Status of Prior Audit Findings and Observations.** There were no findings or observations included in our prior audit report.

## Audit Scope, Objectives, and Methodology

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### Scope

*What is a school performance audit?*

School performance audits allow the Pennsylvania Department of the Auditor General to determine whether state funds, including school subsidies, are being used according to the purposes and guidelines that govern the use of those funds. Additionally, our audits examine the appropriateness of certain administrative and operational practices at each local education agency (LEA). The results of these audits are shared with LEA management, the Governor, the Pennsylvania Department of Education, and other concerned entities.

Our audit, conducted under authority of Section 403 of The Fiscal Code, 72 P.S. § 403, is not a substitute for the local annual audit required by the Public School Code of 1949, as amended. We conducted our audit in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit covered the period January 8, 2010 through May 13, 2014, except for the verification of professional employee certification, which was performed for the period December 5, 2009 through September 19, 2013.

Regarding state subsidies and reimbursements, our audit covered the 2008-09, 2009-10, 2010-11, and 2011-12 school years.

While all LEAs have the same school years, some have different fiscal years. Therefore, for the purposes of our audit work and to be consistent with Pennsylvania Department of Education (PDE) reporting guidelines, we use the term *school year* rather than fiscal year throughout this report. A school year covers the period July 1 to June 30.

### Objectives

*What is the difference between a finding and an observation?*

Our performance audits may contain findings and/or observations related to our audit objectives. Findings describe noncompliance with a statute, regulation, policy, contract, grant requirement, or administrative procedure. Observations are reported when we believe corrective action should be taken to remedy a potential problem not rising to the level of noncompliance with specific criteria.

Performance audits draw conclusions based on an evaluation of sufficient, appropriate evidence. Evidence is measured against criteria, such as laws and defined business practices. Our audit focused on assessing the Center's compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures. However, as we conducted our audit procedures, we sought to determine answers to the following questions, which serve as our objectives:

- ✓ Were professional employees certified for the positions they held?
- ✓ Did the Center have sufficient internal controls to ensure that the membership data it reported to PDE through the Pennsylvania Information Management System was complete, accurate, valid, and reliable?

- ✓ In areas where the Center received state subsidies and reimbursements based on payroll (e.g., Social Security and retirement), did it follow applicable laws and procedures?
- ✓ Were there any declining fund balances that may pose a risk to the Center's fiscal viability?
- ✓ Did the Center pursue a contract buy-out with an administrator and if so, what was the total cost of the buy-out, what were the reasons for the termination/settlement, and does the current employment contract(s) contain adequate termination provisions?
- ✓ Did the Center take appropriate steps to ensure school safety?
- ✓ Did the Center have a properly executed and updated Memorandum of Understanding with local law enforcement?
- ✓ Were votes made by the Center's Joint Operating Committee members free from apparent conflicts of interests?
- ✓ Were there any other areas of concern reported by independent auditors, citizens, or other interested parties?

## Methodology

### *What are internal controls?*

Internal controls are processes designed by management to provide reasonable assurance of achieving objectives in areas such as:

- Effectiveness and efficiency of operations.
- Relevance and reliability of operational and financial information.
- Compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures.

*Government Auditing Standards* require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our results and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our results and conclusions based on our audit objectives.

The Center's management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Center is in compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). In conducting our audit, we obtained an understanding of the Center's internal controls, including any information technology controls, as they relate to the Center's compliance with certain relevant requirements that

we consider to be significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal controls that were identified during the conduct of our audit and determined to be significant within the context of our audit objectives are included in this report.

In order to properly plan our audit and to guide us in possible audit areas, we performed analytical procedures in the areas of state subsidies and reimbursements, pupil transportation, pupil membership, and comparative financial information.

Our audit examined the following:

- Records pertaining to pupil transportation, pupil membership, bus driver qualifications, professional employee certification, state ethics compliance, financial stability, reimbursement applications, tuition receipts, and deposited state funds.
- Items such as joint operating committee meeting minutes and policies and procedures.

Additionally, we interviewed select administrators and support personnel associated with the Center's operations.



## Findings and Observations

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### Finding No. 1

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### **Employment Agreement in Violation of Public School Employees' Retirement Regulations Resulting in Questionable Payments Totaling \$147,719**

*Criteria relevant to the finding:*

Section 8346 of the Public School Employees' Retirement Code, "Termination of annuities," provides, in part:

(a) If an annuitant returns to school service or enters or has entered State service and elects multiple service membership, any annuity payable to him under this part shall cease effective upon the date of his return to school service or entering State service and in the case of an annuity other than a disability annuity the present value of such annuity, adjusted for full coverage in the case of a joint coverage member who makes the appropriate back contributions for full coverage, shall be frozen as of the date such annuity ceases. . . .

(b) Return to school service during emergency. – When, in the judgment of the employer, an emergency creates an increase in the work load such that there is serious impairment of service to the public or in the event of a shortage of appropriate subject certified teachers or other personnel, an annuitant may be returned to school service for a period not to extend beyond the school year during which the emergency or shortage occurs, without the loss of his annuity. The annuitant shall not be entitled to earn any credited service, and no contributions may be made by the annuitant, the employer or the Commonwealth on account of such employment.

Our audit of the Greater Johnstown Career and Technology Center (Center) found that it paid its former Business Manager \$147,719, through an employment agreement that appears to violate the Public School Employees' Retirement System's (PSERS) regulations.

#### **Background**

On January 15, 2008, the former Business Manager submitted a letter of intent to retire with an effective date of January 30, 2009. However, on December 11, 2008, the Joint Operating Committee approved a contract (Agreement) with the former Business Manager to provide "Business/Administrative Services" to the Center beginning February 4, 2009. This contract had no termination date. Instead, the Agreement began on February 4, 2009, just three (3) business days after her retirement date and was effective on a year-to-year basis unless terminated by either party with a 60-day written notice.

During the time the former Business Manager was working for the Center under this Agreement, she continued to receive her retirement annuity. Consequently, her return to service, which began in February 2009, violated the Public School Employees' Retirement Code (Retirement Code) because, as noted in the criteria, retirees may return to service while receiving their retirement annuities only if the Center makes the determination that an employment emergency or personnel shortage exists and that only a retiree is available to fill the position. PSERS has the right to review the employment of any retiree for compliance with the intent of the Retirement Code.

There was no evidence that the Center submitted a return to service application to PSERS when it entered into the Agreement with the former Business Manager. Therefore, PSERS had not reviewed and approved the Agreement, nor did it have the opportunity to stop the former Business

*Criteria relevant to the finding (continued):*

(b.1) Return to school service in an extracurricular position. – (1) An annuitant may be employed under separate contract by a school entity or charter school in an extracurricular position outside regular instructional hours and not part of mandated curriculum without loss of annuity. . . . Further, such contract shall contain a waiver whereby the annuitant waives any potential retirement benefits that could arise from the contract and release the employer and the board from any liability for such benefits.

The Public School Employees' Retirement System (PSERS) Retired Member Handbook, "Employment Due to Emergency or Shortage of Personnel," states:

Whenever a school employer determines there has been an increase in workload that creates a serious impairment of service to the public or there is a shortage of personnel, a retiree may return to Pennsylvania school service for a period not to exceed beyond the school year during which the emergency or shortage occurs.

The employer makes the determination that these elements have been satisfied. Employers are expected to first make a "good faith" effort to secure non-retired school personnel. PSERS; however, reserves the right to review an employer's determination that a qualifying emergency or shortage exists.

Manager's annuity if it determined that it was appropriate. In addition, there was no documentation accompanying the Agreement, demonstrating that the former Business Manager's rehiring was the result of an emergency or personnel shortage.

The Center's administration stated that they held discussions with their independent auditor and their solicitor regarding the Agreement's appropriateness, but they did not provide information to PSERS. During the course of their fieldwork, the auditors received confirmation from PSERS that the Center's arrangement with its former Business Manager was a violation of the Retirement Code.

In addition, documents provided by the Center's administrators show that for each of the four (4) years the former Business Manager worked under the Agreement, she was issued a "Form 1099 – Miscellaneous Income," with no tax or other deductions reported. According to Internal Revenue Service regulations, all payments made to individuals are taxable where an employer-employee relationship exists. Failure to withhold the proper payroll taxes could result in fines and penalties to the Center. In addition to receiving her retirement annuity, the former Business Manager received a reported income for these years of \$147,719.

The Center appears to have violated the Retirement Code because its administration and its solicitor were not fully aware of the restrictions on hiring annuitants. In addition, the Center failed to contact PSERS directly prior to entering into the Agreement with the former Business Manager to ensure that it was appropriate under the Retirement Code.

### **Recommendations**

*The Greater Johnstown Career and Technology Center should:*

1. Hire retired Center personnel only under the conditions allowable by the Retirement Code.

2. Submit the required documentation to PSERS to ensure that the agreement is appropriate and to determine the effect on the former Business Manager's annuity.
3. Contact the Pennsylvania Association of School Business Officials to determine whether they have any training available on the Retirement Code.

The *Public School Employees' Retirement System* should:

4. Make the necessary corrections to the former Business Manager's pension benefits, if applicable.

A copy of this finding will be forwarded to PSERS for their review and the appropriate action they deem necessary.

Additionally, a copy of this finding will be forwarded to the Internal Revenue Service for their review and determination if the individual in question is properly defined as an independent contractor or an employee subject to payroll taxes.

### **Management Response**

Management stated the following:

"GJCTC [Greater Johnstown Career and Technology Center] disagrees with the possible violation of the independent contracted services in question. All criteria outlined by PSERS to serve GJCTC as an independent contractor are met. The following conditions are true:

- The independent contractor is doing different work than while they were active.
- The independent contractor is paid \$35 per hour, has a separate written contract, and is issued a form 1099.
- The independent contractor receives no fringe benefits as an independent contractor.
- The independent contractors set their own hours.
- The independent contractor does not receive a performance evaluation by the district or any school employee.
- The independent contractor supplies their own materials.

- The independent contractor has an office outside of the school grounds.
- The independent contractor has the ability to perform the same services for other schools.

Services supplied by the Contractor ended on October 31, 2013.”

### **Auditor Conclusion**

The Pennsylvania Department of the Auditor General does not make the determination regarding violations of the Retirement Code. We will forward the concerns to PSERS for final determination.

The finding will stand as written.

## Finding No. 2

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### Renovation Project Failed to Comply with Bidding Requirements and Federal Americans with Disabilities Act

*Criteria relevant to the finding:*

Section 7-751(a.2) of the Public School Code, 24 P.S. § 7-751 (a.2), states, in part:

“(a.2) All construction, reconstruction, repairs, maintenance or work of any nature, including the introduction of plumbing, heating and ventilating, or lighting systems, upon any school building . . . made by any school district where the entire cost, value or amount of such construction, reconstruction, repairs, maintenance or work, including labor and material, shall exceed a base amount of eighteen thousand five hundred dollars (\$18,500), . . . shall be done under separate contracts to be entered into by such school district with the lowest responsible bidder, upon proper terms, after due public notice has been given asking for competitive bids. . . .”

Our audit of the Greater Johnstown Career and Technology Center (Center) found that the renovations to the Center’s bathrooms did not comply with the Public School Code’s (PSC) bidding requirements or the Federal Americans with Disabilities Act (ADA) design standards. This noncompliance is the result of the Center’s decision to use teachers and students to conduct the work, so that students could gain hands-on construction and plumbing experience.

As discussed in the text box to the left, the PSC states that any reconstruction project exceeding a total of \$18,500, including labor and materials, must be performed under a contract with the lowest responsible bidder. The Center’s bathroom renovation cost a total of \$95,947, which exceeded the PSC’s limit by \$77,447. Therefore, the Center violated the PSC when it chose not to solicit bids from professional contractors for the project and had students and teachers perform the work. To avoid violating the bidding requirements, and still permit teachers and students to perform the renovations, the Center could have applied to the Pennsylvania Department of Education (PDE) for a Mandate Waiver before the project began. Mandate waivers release schools from certain provisions of the PSC, in doing so will allow the school to improve its instructional program or operate more effectively, efficiently, or economically.

Under the ADA standards, the Center is categorized as a State and Local Government Facility. Therefore, it is required to follow the ADA’s accessibility design standards. According to the Center’s administrators, the planned renovations included the installation of ADA stalls in four (4) bathrooms, so that one (1) men’s and one (1) women’s ADA stall would be located on each floor. However, they could not provide any documentation, such as drawings or notes, to support that they addressed compliance with the ADA specifications in the renovation plans. Moreover, when the auditors examined the two (2) women’s ADA stalls, one (1) on the first floor and one (1) on the second floor, they found that they did not comply with the ADA standards.

*Criteria relevant to the finding  
(continued):*

*2010 American with Disabilities  
Act Standards*

604.2 The water closet [toilet] shall be positioned with a wall or partition to the rear and to the side. The centerline of the [toilet] shall be 16 inches minimum to 18 inches maximum from the sidewall or partition. . . .

604.3.1 Clearance around the [toilet] shall be 60 inches minimum measured perpendicular from the sidewall and 56 inches minimum measured perpendicular from the rear wall.

604.6 Flush controls shall be located on the open side of the [toilet]. . . .

604.8.1.2 . . . The door shall be self-closing.

604.8.1.5 Grab bars shall be provided on the sidewall closest to the [toilet] and on the rear wall.

609.8 Allowable stresses shall not be exceeded for materials used when a vertical or horizontal force of 250 pounds is applied at any point on the grab bar, fastener, mounting device, or supporting structure.

For example, the auditors found that there were no grab bars mounted on the rear and sidewall or partition (ADA Standard 605.5). Likewise, not all the toilets were a minimum of 60 inches from the sidewall and none of the stalls had self-closing doors (ADA Standard 604.3.1 and 604.8.1.2). The flush controls were also not on the open side of the toilets (ADA Standard 604.6).

While providing educational opportunities to students in the building and trades vocational education program is commendable, the Center should ensure that those opportunities comply with the PSC and ADA requirements.

### **Recommendations**

*The Greater Johnstown Career and Technology Center should:*

1. Develop policies and procedures to ensure that it adheres to the PSC's bidding requirements and any other applicable laws and regulations regarding renovation of school buildings in all future projects.
2. Seek Mandate Waivers from PDE for future projects, if applicable.
3. Seek mechanisms for making the renovated bathrooms ADA compliant.

### **Management Response**

Management waived the opportunity to reply at this time; however, management stated the following:

“Based on information provided during the Performance Audit the following corrective actions were taken:

At the stated February 25, 2014 meeting, the GJCTC [Greater Johnstown Career and Technology Center's] Joint Operating Committee reviewed and revised Policy 610 and 611 to reflect the 2014 Public Bidding and Written/Telephone Bid guidelines.

On December 24, 2013, [Architects] provided a professional opinion to bring the restrooms into ADA compliance. GJCTC has followed through with the opinions provided.”

**Auditor Conclusion**

We are pleased that the Center has taken corrective action. We will verify the compliance of these actions during our next cyclical audit.

## **Status of Prior Audit Findings and Observations**

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**O**ur prior audit of the Greater Johnstown Career and Technology Center resulted in no findings or observations.



## **Distribution List**

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This report was initially distributed to the Center's Superintendent of Record, the Joint Operating Committee, our website at [www.auditorgen.state.pa.us](http://www.auditorgen.state.pa.us), and the following stakeholders:

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