

PERFORMANCE AUDIT

Pottsville Area School District Schuylkill County, Pennsylvania

April 2015



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



Commonwealth of Pennsylvania
Department of the Auditor General
Harrisburg, PA 17120-0018
Facebook: Pennsylvania Auditor General
Twitter: @PAAuditorGen
www.PaAuditor.gov

EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120

Mr. John Boran, Board President
Pottsville Area School District
1501 West Laurel Boulevard
Pottsville, Pennsylvania 17901

Dear Governor Wolf and Mr. Boran:

We conducted a performance audit of the Pottsville Area School District (District) to determine its compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). Our audit covered the period February 22, 2012 through July 7, 2014, except as otherwise stated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2011 and June 30, 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 District complied, in all significant respects, with relevant requirements, except as detailed in one (1) finding noted in this report. A summary of the results is presented in the Executive Summary section of the audit report.

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

Sincerely,

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

Eugene A. DePasquale
Auditor General

April 2, 2015

cc: **POTTSVILLE AREA SCHOOL DISTRICT** Board of School Directors

Table of Contents

	Page
Executive Summary	1
Audit Scope, Objectives, and Methodology	2
Findings and Observations	5
Finding – The District Paid the Former Superintendent \$111,250 into a Tax Sheltered Annuity Possibly Without Board Approval or Contract Provisions	5
Status of Prior Audit Findings and Observations	8
Distribution List	9

Executive Summary

Audit Work

The Pennsylvania Department of the Auditor General conducted a performance audit of the Pottsville Area School District (District) in Schuylkill County. Our audit sought to answer certain questions regarding the District's compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures.

Our audit scope covered the period February 22, 2012 through July 7, 2014, except as otherwise stated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidies and reimbursements was determined for the 2010-11 and 2011-12 school years.

District Background

The District encompasses approximately twelve (12) square miles. According to 2010 federal census data, it serves a resident population of 14,324. According to District officials, the District provided basic educational services to 2,979 pupils through the employment of 207 teachers, 186 full-time and part-time support personnel, and 35 administrators during the 2011-12 school year. The District received \$17,026,058 in state funding in the 2011-12 school year.

Conclusion and Results

Our audit found that the District complied, in all significant respects, with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures, except for one (1) compliance related matter reported as a finding.

Finding: The District Paid the Former Superintendent \$111,250 Into a Tax Sheltered Annuity Possibly Without Board Approval or Contract Provisions.

On September 8, 1993, the Pottsville Area School District (District) made payroll arrangements to provide a Tax Sheltered Annuity (TSA) in the amount of \$6,000 per year to its former Superintendent, who resigned in April 2012. The District's Board of School Directors (Board) in place at the time these payroll arrangements were made may have been aware of the arrangement. However, there was insufficient evidence that the Board entered into a vote to authorize the District to provide the former Superintendent with this additional compensation. Furthermore, there was no signed contract to document an agreement between the District and the former Superintendent concerning these payments. Our audit found there is no evidence that subsequent boards had any knowledge of the TSA payments, which totaled \$111,250 (see page 5).

Status of Prior Audit Findings and Observations. Our prior audit did not include any findings or observations.

Audit Scope, Objectives, and Methodology

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 February 22, 2012 through July 7, 2014, except for the verification of professional employee certification which was performed for the period July 1, 2013 through May 13, 2014.

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

While all districts 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 District'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 audit objectives:

- ✓ Were professional employees certified for the positions they held?

To address this objective:

- Auditors reviewed and evaluated certification documentation for all 49 teachers and administrators that did not have permanent certificates at the time of our audit.

- In addition, auditors compared 25 percent of secondary teachers' (30 teachers) areas of certification to their teaching schedules to ensure their assignments were appropriate for their certification.
- ✓ Did the District ensure that bus drivers transporting District children at the time of the audit have the necessary license, physicals, training, background checks, and clearances as outlined in 24 P.S. § 1-111, 24 P.S. § 2070, 67 P.S. § 71.1, 22 PA Code Chapter 8, and 23 PA C.S. § 58-6354, and did they have written policies and procedures governing the hiring of new bus drivers?

To address this objective:

- The auditors initially selected the five (5) newest drivers out of the eight (8) “new drivers” from the current school year and working backwards to the last time the Bureau of School Audits audited the District and reviewed bus driver compliance. Auditors included both district-employed and contractor-employed drivers, as appropriate.
- The auditors also requested copies of the written policies and procedures governing the hiring of bus drivers to determine that these processes included requesting background checks and clearances.
- ✓ Did the District 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 did the current employment contract(s) contain adequate termination provisions?
 - To address this objective, the auditors reviewed the contract(s), settlement agreement(s), board meeting minutes, board policies, and payroll records for any administrator whose District contract was bought out.

- ✓ Did the District take appropriate steps to ensure school safety?
 - To address this objective, the auditors followed up on any weaknesses noted in our two (2) previous audits.

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 District's management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the District 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 District's internal controls, including any information technology controls, as they relate to the District's compliance with 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, and comparative financial information.

Our audit examined the following:

- Records pertaining to bus driver qualifications and professional employee certification.
- Items such as board meeting minutes and policies and procedures.

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

Findings and Observations

Finding

The District Paid the Former Superintendent \$111,250 into a Tax Sheltered Annuity Possibly Without Board Approval or Contract Provisions

Criteria relevant to the finding:

Section 1073 of the Public School Code (PSC), 24 P.S. § 10-1073(a), requires school districts to enter into three-to-five year employment contracts with their superintendents.

Good business practices require contract agreements to provide adequate provisions, which specify terms and conditions of a contract, including compensation.

Section 508 of the PSC, 24 P.S. § 5-508, provides, in part:

“The affirmative vote of a majority of all the members of the board of school directors in every school district, duly recorded, showing how each member voted, shall be required in order to take action on the following subjects . . . entering into contracts of any kind, including contracts for the purchase of fuel or any supplies, where the amount involved exceeds one hundred dollars (\$100).

Fixing salaries or compensation of officers, teachers, or other appointees of the board of school directors. . . .

Failure to comply with the provisions of this section shall render such acts of the Board of School Directors void and unenforceable.”

On September 8, 1993, the Pottsville Area School District (District) made payroll arrangements to provide a Tax Sheltered Annuity (TSA) in the amount of \$6,000 per year to its former Superintendent, who resigned in April 2012. The District’s Board of School Directors (Board) in place at the time these arrangements were made may have been aware of the arrangement. However, there was insufficient evidence that the Board entered into a vote to authorize the District to provide the former Superintendent with this additional compensation. Furthermore, there was no signed contract to document an agreement between the District and the former Superintendent concerning these payments. Our audit found there is no evidence that subsequent boards had any knowledge of the TSA payments, which totaled \$111,250.

According to District payroll records, the TSA payments were to be paid through payroll in bi-weekly payments of \$250 per pay into a 403(b) plan, limited to 24 payments per year, since no TSA payments were to be made on any third pay that could occur in certain months.

The former Superintendent was appointed to his position effective 1993. Payments into his 403(b) plan began with the September 24, 1993 payroll and ended with his resignation effective April 5, 2012. The TSA payments totaled \$111,250.¹

The TSA payments were not counted for “Federal Income Tax Withholding” and were not included in Wages subject to Federal Tax on the Annual W-2. These payments were subject to all other taxes: State Income Tax; Local Income Tax; Unemployment Tax; and Social Security and Medicare Tax, subject to any limits or maximum amounts. These taxes were automatically deducted through the payroll system under normal deduction schedules.

¹ This total only includes nineteen (19) payments for the 1993-94 school year, and only eighteen (18) payments for the 2011-12 school year.

Based on available evidence, it appears that a lack of communication by former District personnel concerning the TSA payments appears to have caused former boards to be unaware of the payments. According to our discussions with current District staff, there is no evidence that new board members elected in the years since the original contract was negotiated were informed of the TSA payments. As the former Superintendent's contract was renewed over the years, boards in place subsequent to 1993 were not made aware of the TSA payments due to that provision being absent. In addition, since the TSA payments into the 403(b) were made through payroll, the boards would not have seen these payments when approving bills. Thus, the cost of these payments could not be considered by subsequent boards when setting yearly budgets.

By not formally approving the TSA or its inclusion as part of the former Superintendent's contract provisions, former and current District board members have failed to comply with the approval requirements of Section 508 of the Public School Code.

When benefits that have not been contractually agreed upon or board approved are paid to an employee, we consider those payments to be excessive. Consequently, taxpayers bear the burden of incurring additional costs in sustaining District operations.

The taxpayers have the right to expect that their hard-earned money will be spent on the education of the District's students and not on excess benefits to individuals. Furthermore, the District should ensure payments made to individuals are more transparent to the Board and the public so that the taxpayers can consider such information when determining whether decisions have been made in the best interest of the District, the taxpayers, and the students.

Recommendations

The *Pottsville Area School District* should:

1. Ensure that the District implements internal controls to ensure that only payments that are contractually agreed upon and authorized by the Board are provided to its employees.
2. Ensure all of the District's employment agreements are transparent, including all perks, so that the District's Board and taxpayers can evaluate their appropriateness.
3. Ensure all compensation and bonuses are approved by the Board and documented in the minutes.
4. Develop policies and procedures to increase communication between exiting and entering board members.
5. Develop policies and procedures to increase communication from District personnel to entering board members.

Management Response

Management stated the following:

“The present administration has and will continue to provide information and/or documentation to the Board of Directors to ensure that all matters requiring board approval are done so appropriately in order to comply with district policies, procedures and the Pennsylvania School Code of 1949, as amended.”

Status of Prior Audit Findings and Observations

Our prior audit of the Pottsville Area School District did not include any findings or observations.

Distribution List

This report was initially distributed to the Superintendent of the District, the Board of School Directors, and the following stakeholders:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania
Harrisburg, PA 17120

The Honorable Pedro A. Rivera
Acting Secretary of Education
1010 Harristown Building #2
333 Market Street
Harrisburg, PA 17126

Christopher B. Craig, *Esq.*
Acting State Treasurer
Room 129 - Finance Building
Harrisburg, PA 17120

Ms. Lori Graham
Acting Director
Bureau of Budget and Fiscal Management
Pennsylvania Department of Education
4th Floor, 333 Market Street
Harrisburg, PA 17126

Dr. David Wazeter
Research Manager
Pennsylvania State Education Association
400 North Third Street - Box 1724
Harrisburg, PA 17105

Mr. Lin Carpenter
Assistant Executive Director for Member Services
School Board and Management Services
Pennsylvania School Boards Association
P.O. Box 2042
Mechanicsburg, PA 17055

This report is a matter of public record and is available online at www.PaAuditor.gov. Media questions about the report can be directed to the Pennsylvania Department of the Auditor General, Office of Communications, 231 Finance Building, Harrisburg, PA 17120; via email to: news@auditor.gen.state.pa.us.