

PHOENIXVILLE AREA SCHOOL DISTRICT
CHESTER COUNTY, PENNSYLVANIA
PERFORMANCE AUDIT REPORT

DECEMBER 2010

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17120

Mr. Paul Slaninka, Board President
Phoenixville Area School District
1120 South Gay Street
P.O. Box 809
Phoenixville, Pennsylvania 19460

Dear Governor Rendell and Mr. Slaninka:

We conducted a performance audit of the Phoenixville Area School District (PASD) to determine its compliance with applicable state laws, regulations, contracts, grant requirements and administrative procedures. Our audit covered the period December 21, 2006 through June 8, 2009, except as otherwise indicated in the report. Additionally, compliance specific to state subsidy and reimbursements was determined for the school years ended June 30, 2008, 2007, 2006 and 2005. Our audit was conducted pursuant to 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 PASD complied, in all significant respects, with applicable state laws, regulations, contracts, grant requirements, and administrative procedures, except as detailed in two findings noted in this report. A summary of these results is presented in the Executive Summary section of the audit report.

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

Sincerely,

/s/

JACK WAGNER
Auditor General

December 9, 2010

cc: **PHOENIXVILLE AREA SCHOOL DISTRICT** Board Members

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Executive Summary

Audit Work

The Pennsylvania Department of the Auditor General conducted a performance audit of the Phoenixville Area School District (PASD). Our audit sought to answer certain questions regarding the District's compliance with applicable state laws, regulations, contracts, grant requirements, and administrative procedures; and to determine the status of corrective action taken by the PASD in response to our prior audit recommendations.

Our audit scope covered the period December 21, 2006 through June 8, 2009, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidy and reimbursements was determined for school years 2007-08, 2006-07, 2005-06 and 2004-05.

District Background

The PASD encompasses approximately 22 square miles. According to 2009 local census data, it serves a resident population of 28,595. According to District officials, in school year 2007-08 the PASD provided basic educational services to 3,264 pupils through the employment of 292 teachers, 165 full-time and part-time support personnel, and 31 administrators. Lastly, the PASD received more than \$10.1 million in state funding in school year 2007-08.

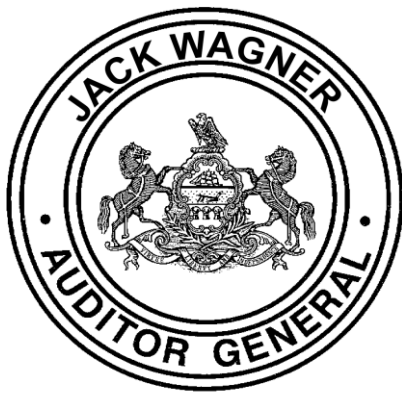
Audit Conclusion and Results

Our audit found that the PASD complied, in all significant respects, with applicable state laws, regulations, contracts, grant requirements, and administrative procedures, except for two compliance-related matters reported as findings.

Finding No. 1: The District Incurred Additional Costs Totaling \$7,941 Under a Confidential Agreement that Terminated the Superintendent's Employment with the District. Our audit of PASD records found that on November 6, 2008, after the Superintendent had served less than five months of the term of the Contract, the Board approved a Separation and Release Agreement with the Superintendent, which terminated her employment with the PASD (see page 6).

Finding No. 2: Failure to Obtain Memorandum of Understanding. Our audit of the PASD's records found that the PASD did not obtain a Memorandum of Understanding with its local law enforcement agencies (see page 11).

Status of Prior Audit Findings and Observations. With regard to the status of our prior audit recommendations to the PASD from an audit we conducted of the 2003-04 and 2002-03 school years, we found the PASD had taken appropriate corrective action in implementing our recommendations pertaining to the unmonitored vendor system access and logical access control weaknesses (see page 13).



Audit Scope, Objectives, and Methodology

Scope

What is a school performance audit?

School performance audits allow the 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 PA Department of Education, and other concerned entities.

Our audit, conducted under authority of 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 December 21, 2006 through June 8, 2009, except for the verification of professional employee certification which was performed for the period October 12, 2006 through March 18, 2009.

Regarding state subsidy and reimbursements, our audit covered school years 2007-08, 2006-07, 2005-06 and 2004-05.

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 Department of Education (DE) 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 law, regulation, 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, regulations, and defined business practices. Our audit focused on assessing the PASD's compliance with applicable 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?
- ✓ In areas where the District receives state subsidy and reimbursements based on pupil membership (e.g. basic education, special education, and vocational education), did it follow applicable laws and procedures?

- ✓ In areas where the District receives state subsidy and reimbursements based on payroll (e.g. Social Security and retirement), did it follow applicable laws and procedures?
- ✓ Is the District's pupil transportation department, including any contracted vendors, in compliance with applicable state laws and procedures?
- ✓ Does the District ensure that Board members appropriately comply with the Public Official and Employee Ethics Act?
- ✓ Are there any declining fund balances which may impose risk to the fiscal viability of the District?
- ✓ Did the District pursue a contract buyout with an administrator and if so, what was the total cost of the buy-out, reasons for the termination/settlement, and do the current employment contract(s) contain adequate termination provisions?
- ✓ Were there any other areas of concern reported by local auditors, citizens, or other interested parties which warrant further attention during our audit?
- ✓ Is the District taking appropriate steps to ensure school safety?
- ✓ Did the District use an outside vendor to maintain its membership data and if so, are there internal controls in place related to vendor access?
- ✓ Did the District take appropriate corrective action to address recommendations made in our prior audits?

Methodology

Government Auditing Standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, observations 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.

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 applicable laws, regulations, contracts, grant requirements and administrative procedures.

PASD management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the District is in compliance with applicable laws, regulations, contracts, grant requirements, and administrative procedures. Within the context of our audit objectives, we obtained an understanding of internal controls and assessed whether those controls were properly designed and implemented.

Any significant deficiencies found during the audit 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/reimbursement, pupil membership, pupil transportation, and comparative financial information.

Our audit examined the following:

- Records pertaining to pupil transportation, bus driver qualifications, professional employee certification, state ethics compliance, and financial stability.
- Items such as Board meeting minutes, pupil membership records, and reimbursement applications.
- Tuition receipts and deposited state funds.

Additionally, we interviewed selected administrators and support personnel associated with PASD operations.

Lastly, to determine the status of our audit recommendations made in a prior audit report released on June 14, 2007, we reviewed the PASD's response to DE dated June 3, 2008. We then performed additional audit procedures targeting the previously reported matters.

Findings and Observations

Finding No. 1

The District Incurred Additional Costs Totaling \$7,941 Under a Confidential Agreement that Terminated the Superintendent's Employment with the District

On February 21, 2008, the board of school directors (Board) of the Phoenixville Area School District (PASD) entered into an employment contract (Contract) with an individual (Superintendent) to serve as the District's superintendent. The District granted the Superintendent an employment contract of five years, which would commence on July 1, 2008, and terminate on June 30, 2013. The Contract provided compensation of \$170,000 in the first year, as well as a variety of benefits. In subsequent years, compensation would be at the sole discretion of the Board based on merit.

The Contract included the following provisions relevant to the termination of the Superintendent's employment with the District:

- The District could terminate the agreement: (1) in accordance with Section 1080 of the Public School Code of 1949, as amended,¹ (2) in the event of the permanent disability of the Superintendent, or (3) at the conclusion of the contract term upon written notice at least 150 days in advance.
- At the conclusion of the Superintendent's service to the District, she and her spouse would be eligible for district-paid medical benefits until the age of medicare eligibility or until they receive other employer-provided coverage.
- At the conclusion of the Superintendent's service to the District, she would be reimbursed for unused sick, personal, and vacation days at the applicable rates through a payment into her retirement account.

¹ See 24 P.S. § 10-1080 (removal "for neglect of duty, incompetency, intemperance, or immorality" following a hearing with due process).

On November 6, 2008, after the Superintendent had served less than five months of the term of the Contract, the Board approved a Separation and Release Agreement (Agreement) with the Superintendent, which terminated her employment with the District as of the close of business on the following day. The Agreement required the District to make the following payments, totaling \$33,439:

- payment for 23 unused vacation days (\$15,038);
- payment for 72.5 unused sick days (\$8,700) which would be paid into the Superintendent's retirement account;²
- payment for 2 unused personal days (\$1,308);
- payment for 10 days (\$6,921); and
- payment of the employer's share of the Superintendent's health insurance premiums from November 7, 2008 through December 7, 2008 (\$1,472).³

The Agreement required the Superintendent to "keep the terms, the amount, and the existence" of the Agreement "completely confidential," and included the following provision:

[The Superintendent] will not make any public statements (to the community, as well as to media outlets) regarding [her] employment with [the District] or anything relating to [her] resignation from [the District]. [The Superintendent] will not contest [the District's] statement to the community, as well as media outlets, that [the Superintendent's] resignation was purely voluntary on [her] part.

² As previously discussed, the Contract required that, at the conclusion of her service to the District, the Superintendent would be reimbursed for unused sick, personal, and vacation days at the applicable rates through a payment into her retirement account. However, the Agreement subsequently entered into by the parties required that only the unused sick days be paid in that manner.

³ As previously discussed, the Contract required that, at the conclusion of her service to the District, the Superintendent and her spouse would be eligible for District-paid medical benefits until the age of Medicare eligibility or until they receive other employer-provided coverage. However, the Agreement subsequently entered into by the parties required the District to provide medical coverage only through December 7, 2008.

The parties agreed not to disparage each other. The Superintendent also agreed not to sue the District and, in particular, agreed to release the District from any claims for discrimination on the basis of age or disability.

Although the Agreement provided for the payment of 72.5 sick days, the Contract, length of her employment, and records provided by the District all indicate that the Superintendent could have accrued only a total of 64 sick days. Moreover, the District's records indicate that she had 72 days, not 72.5 days, of unused sick days as of the date of termination. However, she was given credit for 12 sick days for the entire 2008-09 school year even though she was only entitled to a proration for the school year of four days. Therefore, she was paid for an additional 8.5 of unused sick days.

Furthermore, the original employment contract does not provide for payment for the additional ten days required by the Agreement. The District's solicitor explained this payment as follows:

[The Superintendent], through counsel, demanded that sum as a compromise, having made a significantly higher demand prior to that and cited provisions within the [Contract] as a basis for the assertion of the claim for payment. While the District could have engaged in further negotiations and incurred further legal expenses and turmoil, in the interest of compromise and without stating an agreement with the demand, the District agreed to pay that sum of money.

It is evident that the District agreed to pay the Superintendent benefits not negotiated in, or required by, her employment contract. The payment of \$1,020 for the 8.5 sick days and the \$6,921 for the other ten days resulted in total additional costs to the District from the termination of the employment relationship between the Superintendent and the District of \$7,941.

The residents of the District, whose hard-earned tax dollars were used to fund these payments, are entitled to a clear explanation of the reasons for the termination. In response to the Department of the Auditor General's request, the District's solicitor provided the following explanation:

On or about October 16, 2008, [the Superintendent] stated her intention to resign as Superintendent of the District during her meeting with . . . the [Board]. She gave no reasons. Several days later, the Board directed [its solicitor] to communicate with [the Superintendent] to facilitate her departure. After contacting [the Superintendent], counsel to the District was, in turn, contacted by counsel for [the Superintendent]. After extensive negotiations, the parties reached the written agreement, which the Board ultimately approved on or about November 6, 2008.

Recommendations

The *Phoenixville Area School District* should:

1. Enter into employment contracts with prospective superintendents at the three-year minimum term permitted by state law, in order to limit potential financial liability by the District and its taxpayers.
2. Provide as much information as possible to the taxpayers of the District explaining the reasons for the termination of the employment relationship between the Superintendent and the District and justifying the District's expenditure of public funds beyond what was required by the original employment contract.
3. Ensure that future agreements do not contain confidentiality requirements that would prevent the District from adequately informing taxpayers and others of the reasons for a superintendent leaving employment at the time of separation.

Management Response

Management stated the following:

[Business Manager] and [Acting Superintendent] agree with the findings. In order to correct any future misunderstandings in regard to these types of items, we will develop an action plan for prevention of such situations. Please be aware that as the current Acting Superintendent, I will not be an employee of the district beyond June 30, 2010 and thus will not have the ability to monitor said action plan.

Finding No. 2

Criteria relevant to the finding:

Public School Code
Section 13-1303-A(c) provides:

All school entities shall develop a Memorandum of Understanding with local law enforcement which sets forth procedures to be followed when an incident involving an act of violence or possession of a weapon by any person occurs on school property. Law enforcement protocols shall be developed in cooperation with local law enforcement and the Pennsylvania State Police.

Additionally, the Basic Education Circular issued by the Department of Education entitled Safe Schools and Possession of Weapons as well as the Complete All-Hazards School Safety Planning Toolkit disseminated by the Pennsylvania Emergency Management Association, contain a sample MOU to be used for school entities which indicates that the MOU must be re-executed every two years.

Failure to Obtain Memorandum of Understanding

Our audit of the District's records found that the District failed to obtain a Memorandum of Understanding (MOU) between the District and its three local law enforcement agencies.

Subsequent to the start of our fieldwork, and prior to the end of our fieldwork, the District obtained a MOU with one of its local law enforcement agencies.

The failure to obtain MOUs with all local law enforcement agencies could result in a lack of cooperation, direction, and guidance between District employees and law enforcement agencies if an incident occurs on school property, at any school-sponsored activity, or on any public conveyance providing transportation to or from a school or school-sponsored activity. This internal control weakness could have an impact on law enforcement notification and response, and ultimately the resolution of a problem situation.

Recommendations

The *Phoenixville Area School District* should:

1. Obtain MOUs between the District and all local law enforcement agencies.
2. Adopt an official Board policy requiring the administration to review and re-execute the MOU every two years.

Management Response

Management stated the following:

The District has an MOU in place with [local law enforcement agency 1] and an SRO [School Resource Officer] agreement with [local law enforcement agency 2]. Copies of these agreements are attached. The District has made several attempts to secure an MOU with [local law enforcement agency 3] but they have not been agreeable to the language contained in the standard agreement and a copy of an email which attests to this statement is attached from our solicitor. [Attachments are not reproduced here.]

The District will continue to request an agreement be made with [local law enforcement agency 3]. Upon the expiration of the [local law enforcement agency 2] SRO agreement the District will be requesting an MOU with the Borough.

Status of Prior Audit Findings and Observations

Our prior audit of the Phoenixville Area School District (PASD) for the school years 2003-04 and 2002-03 resulted in one reported observation. The observation pertained to unmonitored vendor system access and logical access control weaknesses. As part of our current audit, we determined the status of corrective action taken by the District to implement our prior recommendations. We analyzed the superintendent's written response provided to the Department of Education, performed audit procedures, and questioned District personnel regarding the prior findings. As shown below, we found that the PASD did implement recommendations related to observation.

<i>School Years 2003-04 and 2002-03 Auditor General Performance Audit Report</i>		
<i>Prior Recommendations</i>	<i>Implementation Status</i>	
<p><u><i>I. Observation: Unmonitored Vendor System Access and Logical Access Control Weaknesses</i></u></p> <ol style="list-style-type: none"> Review monitoring reports of vendor activity on the District's system. The District should review these reports to determine that the access was appropriate and that data was not improperly altered. The District should ensure it is maintaining evidence to support this monitoring and review. Establish separate information technology policies and procedures for controlling the activities of vendors/consultants and have the vendor sign this policy, or require the vendor to sign the District's own Acceptable Use Policy (AUP). Require the vendor to assign unique userIDs and passwords to vendor employees authorized to access the District system. Further, the District should 	<p>Background:</p> <p>Our prior audit found that PASD uses software purchased from an outside vendor for its critical student accounting applications (membership and attendance). We determined that a risk existed that unauthorized changes to the PASD's data could occur and not be detected because the PASD was unable to provide supporting evidence that it is adequately monitoring all vendor activity in its system.</p>	<p>Current Status:</p> <p>Our current audit found that:</p> <ol style="list-style-type: none"> The District is reviewing monitoring reports of vendor activity on the District's system and maintains evidence of this monitoring and review. The vendor has signed the District's AUP. The vendor assigns unique userIDs and passwords. Further, the District obtained a list of vendor employees with remote access to its data. The contract with the vendor contains a non-disclosure agreement for the District's proprietary information.

<p>obtain a list of vendor employees with access to its data and ensure that changes to the data a made only by authorized vendor representatives.</p> <p>4. The contract with the vendor should contain a non-disclosure agreement for the District’s proprietary information.</p> <p>5. Implement a security policy and system parameter settings to require all users, including the vendor, to change their passwords on a regular basis (i.e., every 30 days). Passwords should be a minimum length of eight characters and include alpha, numeric and special characters. Also, the District should maintain a password history that will prevent the use of a repetitive password (i.e., last ten passwords); lock out users after three unsuccessful attempts and log users off the system after a period of inactivity (i.e., 60 minutes maximum).</p>		<p>5. The District indicated that security policy and system parameter settings were implemented to require all users, including the vendor, to change passwords every 120 days and that:</p> <ul style="list-style-type: none"> • Passwords are a minimum length of six characters and must include a numeric character. • A password history of ten passwords is maintained. • Users are logged off after a period of 60 minutes inactivity. <p>However, we found that the system parameter settings for vendor passwords do not yet require the vendor to change passwords. Therefore we again recommend that the District implement system parameter settings requiring the vendor to change passwords on a regular basis.</p>
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Distribution List

This report was initially distributed to the superintendent of the school district, the board members, our website address at www.auditorgen.state.pa.us, and the following:

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This report is a matter of public record. Copies of this report may be obtained from the Pennsylvania Department of the Auditor General, Office of Communications, 318 Finance Building, Harrisburg, PA 17120. If you have any questions regarding this report or any other matter, you may contact the Department of the Auditor General by accessing our website at www.auditorgen.state.pa.us.

