

PERFORMANCE AUDIT

West York Area School District York County, Pennsylvania

October 2018



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Dr. Todd M. Davies, Superintendent
West York Area School District
2605 West Market Street
York, Pennsylvania 17404

Mr. Todd Gettys, Board President
West York Area School District
2605 West Market Street
York, Pennsylvania 17404

Dear Dr. Davies and Mr. Gettys:

Our performance audit of the West York Area School District (District) determined the District's application of certain best practices and compliance with certain relevant state laws, regulations, contracts, and administrative procedures (relevant requirements). This audit covered the period July 1, 2015 through April 30, 2018, except as otherwise indicated in the audit scope, objective, and methodology section of the report. The audit was conducted pursuant to Sections 402 and 403 of The Fiscal Code (72 P.S. §§ 402 and 403), and in accordance with the Government Auditing Standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit found that the District applied certain best practices and complied, in all significant respects, with relevant requirements, except as detailed in our three findings noted in this audit report. A summary of the results is presented in the Executive Summary section of the audit report.

We also evaluated the application of best practices in the area of school safety. Due to the sensitive nature of this issue and the need for the results of this review to be confidential, we did not include the results in this report. However, we communicated the results of our review of school safety to District officials, the Pennsylvania Department of Education, and other appropriate officials as deemed necessary.

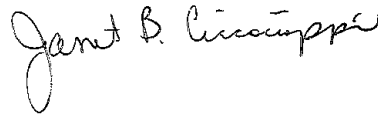
Dr. Todd M. Davies

Mr. Todd Gettys

Page 2

Our audit findings 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 relevant requirements. We appreciate the District's cooperation during the course of the audit.

Sincerely,

A handwritten signature in black ink that reads "Janet B. Ciccocioppo". The signature is written in a cursive style with a large initial 'J'.

Janet B. Ciccocioppo, CPA

Acting Deputy Auditor General for Audits

October 19, 2018

cc: **WEST YORK AREA SCHOOL DISTRICT** Board of School Directors

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Executive Summary

Audit Work

The Pennsylvania Department of the Auditor General conducted a performance audit of the West York Area School District (District). Our audit sought to answer certain questions regarding the District's application of best practices and compliance with certain relevant state laws, regulations, contracts, and administrative procedures.

Our audit scope covered the period July 1, 2015 through April 30, 2018, except as otherwise indicated in the audit scope, objectives, and methodology section of the report (See Appendix).

Audit Conclusion and Results

Our audit found that the District applied best practices and complied, in all significant respects, with certain relevant state laws, regulations, contracts, and administrative procedures, except for three findings.

Finding No. 1: A Board-Approved Separation Agreement Will Cost the District \$195,000. In February 2018, the District entered into a separation agreement with a high school principal (principal) that allowed the principal to remain classified as an active employee while taking *236 consecutive days of unused sick, vacation, holiday, and personal leave time*, after which the District would provide an additional 29 days of *administrative leave time* and 1 additional day of *holiday leave*. This arrangement postponed the principal's separation date from February 20, 2018 to March 7, 2019; one day after the principal will become eligible for normal retirement. The cost of the separation agreement will be

\$194,981, or \$167,898 more than what the cost would have been if the principal resigned or retired on February 20, 2018 (see page 11).

Finding No. 2: The District Reported Unqualified Earnings to PSERS for Three Former Employees. The District incorrectly reported unused personal, vacation, and sick leave, which are *unqualified earnings*, to the Public School Employees' Retirement System. Collectively, the amount over-reported for three former employees totaled \$13,858 (see page 17).

Finding No. 3: The District's Harassment Policy Has Not Been Revised in Nine Years and the District Did Not Have Standard Procedures for Implementation, Training, and Accountability. The District's *Unlawful Harassment Policy*, which prohibits sexual harassment along with other types of harassment, has not been revised in nearly nine years, even though other policies governing standards of professional conduct had been adopted or revised during that time period. In addition, the District did not have standard, written procedures to ensure compliance with a provision of the policy requiring it to "annually inform students, staff, parents, independent contractors, and volunteers that unlawful harassment of employees will not be tolerated."

The District also did not provide employee training on harassment prevention at any time during the audit period, nor did it have harassment training scheduled for the 2018-19 school year (see page 20).

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

Background Information

School Characteristics 2017-18 School Year ^A	
County	York
Total Square Miles	20.5
Number of School Buildings	5
Total Teachers	204
Total Full or Part-Time Support Staff	Full-Time - 79 Part-Time - 58
Total Administrators	16
Total Enrollment for Most Recent School Year	3,324
Intermediate Unit Number	12
District Vo-Tech School	York County School of Technology

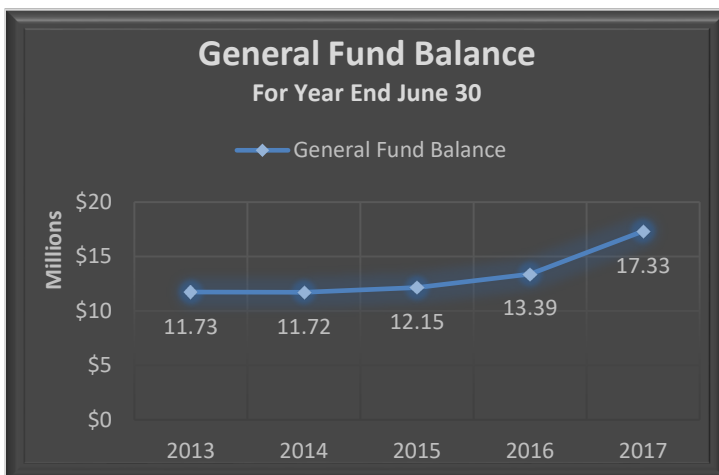
A - Source: Information provided by the District administration and is unaudited.

Mission Statement^A

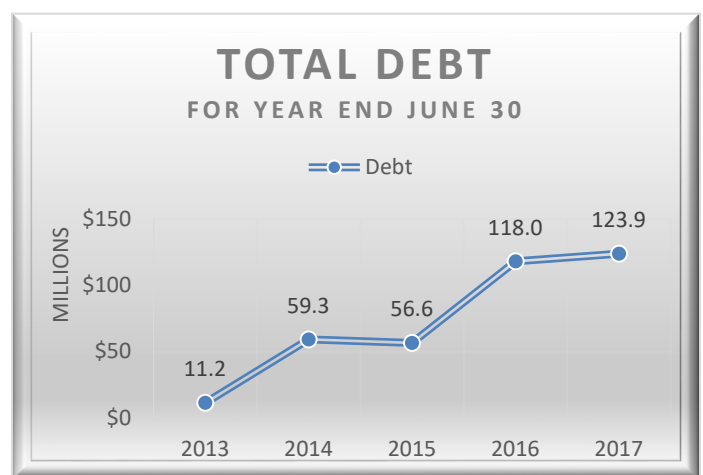
“Every Student, Every Day”

Financial Information

The following pages contain financial information about the West York Area School District (District) obtained from annual financial data reported to the Pennsylvania Department of Education (PDE) and available on the PDE’s public website. This information was not audited and is presented for **informational purposes only**.

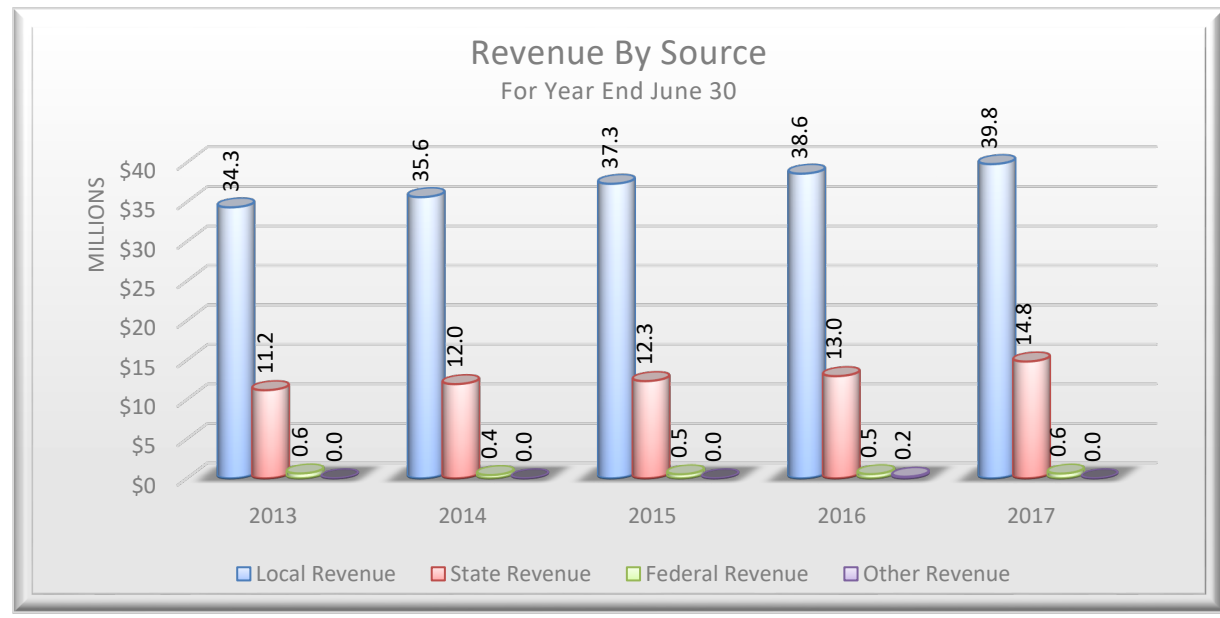
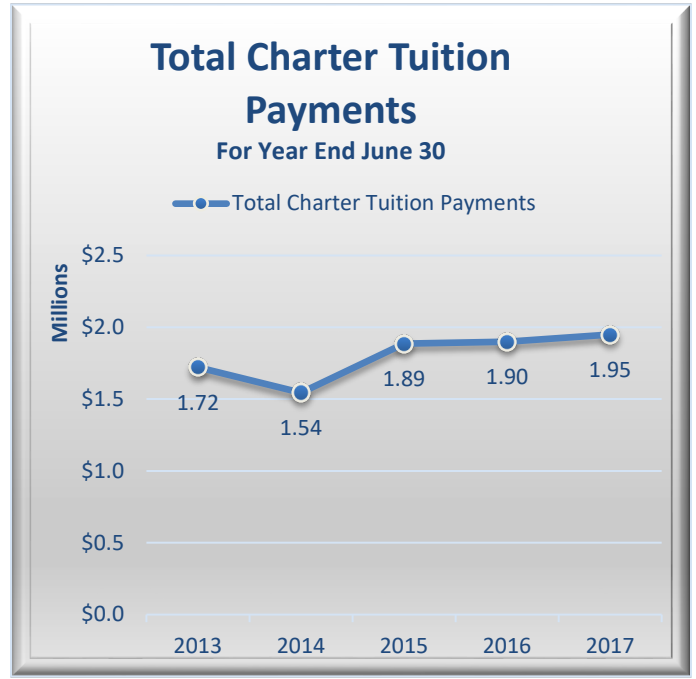
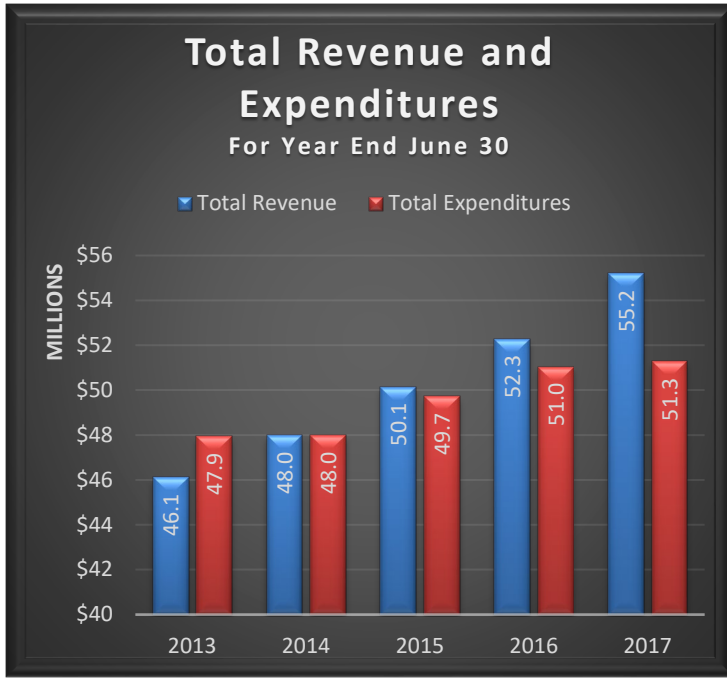


Note: General Fund Balance is comprised of the District’s Committed, Assigned and Unassigned Fund Balances.



Note: Total Debt is comprised of Short-Term Borrowing, General Obligation Bonds, Authority Building Obligations, Other Long-Term Debt, Other Post-Employment Benefits, Compensated Absences and Net Pension Liability.

Financial Information Continued



Academic Information

The graphs on the following pages present School Performance Profile (SPP) scores, Pennsylvania System of School Assessment (PSSA) scores, Keystone Exam results, and 4-Year Cohort Graduation Rates for the District obtained from the PDE's data files for the 2014-15, 2015-16 and 2016-17 school years.¹ These scores are provided in the District's audit report for **informational purposes only**, and they were not audited by our Department. Please note that if one of the District's schools did not receive a score in a particular category and year presented below, the school will not be listed in the corresponding graph.² Finally, benchmarks noted in the following graphs represent the statewide average of all public school buildings in the Commonwealth that received a score in the category and year noted.³

What is a SPP score?

A SPP score serves as a benchmark for schools to reflect on successes, achievements, and yearly growth. The PDE issues a SPP score using a 0-100 scale for all school buildings in the Commonwealth annually, which is calculated based on standardized testing (i.e., PSSA and Keystone exam scores), student improvement, advance course offerings, and attendance and graduation rates. Generally speaking, a SPP score of 70 or above is considered to be a passing rate.

The PDE started issuing a SPP score for all public school buildings beginning with the 2012-13 school year. For the 2014-15 school year, the PDE only issued SPP scores for high schools taking the Keystone Exams as scores for elementary and middle schools were put on hold due to changes with PSSA testing.⁴ The PDE resumed issuing a SPP score for all schools for the 2015-16 school year.

What is the Keystone Exam?

The Keystone Exam measures student proficiency at the end of specific courses, such as Algebra I, Literature, and Biology. The Keystone Exam was intended to be a graduation requirement starting with the class of 2017, but that requirement has been put on hold until the 2020-21 school year.⁵ In the meantime, the exam is still given as a standardized assessment and results are included in the calculation of SPP scores. The Keystone Exam is scored using the same four performance levels as the PSSAs, and the goal is to score Proficient or Advanced for each course requiring the test.

¹ The PDE is the sole source of academic data presented in this report. All academic data was obtained from the PDE's publically available website.

² The PDE's data does not provide any further information regarding the reason a score was not published for a specific school. However, readers can refer to the PDE's website for general information regarding the issuance of academic scores.

³ Statewide averages were calculated by our Department based on individual school building scores for all public schools in the Commonwealth, including district schools, charters schools, and cyber charter schools.

⁴ According to the PDE, SPP scores for elementary and middle schools were put on hold for the 2014-15 school year due to the state's major overhaul of the PSSA exams to align with PA Core standards and an unprecedented drop in public schools' PSSA scores that year. Since PSSA scores are an important factor in the SPP calculation, the state decided not to use PSSA scores to calculate a SPP score for elementary and middle schools for the 2014-15 school year. Only high schools using the Keystone Exam as the standardized testing component received a SPP score.

⁵ Act 39 of 2018, effective July 1, 2018, amended the Public School Code to further delay the use of Keystone Exams as a graduation requirement for an additional year until the 2020-21 school year. *See* 24 P.S. § 1-121(b)(1).

What is the PSSA?

The PSSA is an annual, standardized test given across the Commonwealth to students in grades 3 through 8 in core subject areas, including English and Math. The PSSAs help Pennsylvania meet federal and state requirements and inform instructional practices, as well as provide educators, stakeholders, and policymakers with important information about the state's students and schools.

The 2014-15 school year marked the first year that PSSA testing was aligned to the more rigorous PA Core Standards.⁶ The state uses a grading system with scoring ranges that place an individual student's performance into one of four performance levels: Below Basic, Basic, Proficient, and Advanced. The state's goal is for students to score Proficient or Advanced on the exam in each subject area.

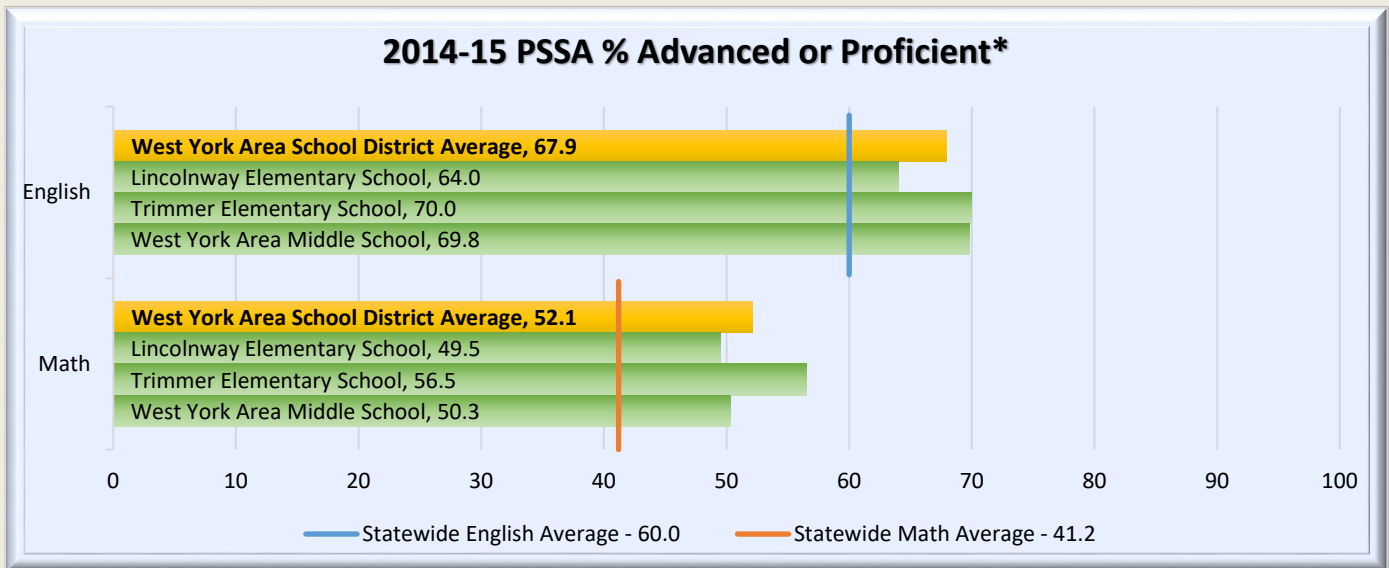
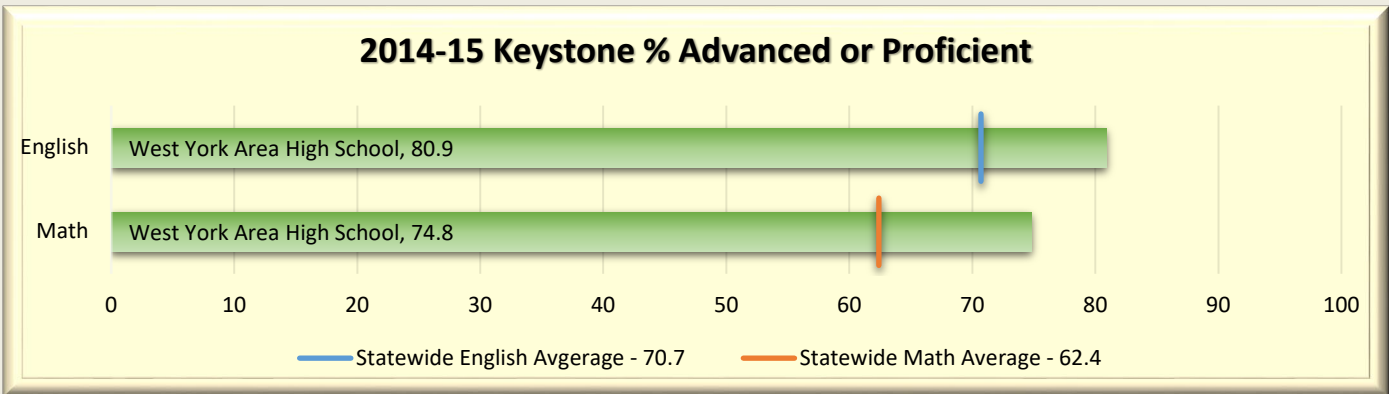
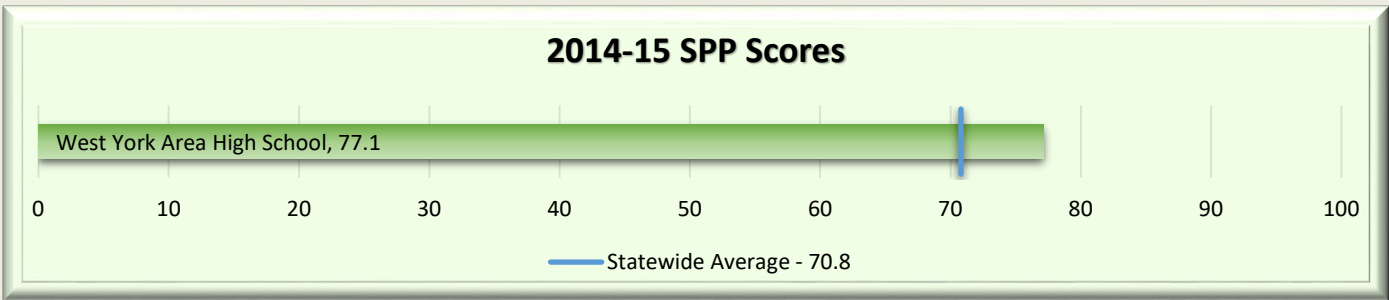
What is a 4-Year Cohort Graduation Rate?

The PDE collects enrollment and graduate data for all Pennsylvania public schools, which is used to calculate graduation rates. Cohort graduation rates are a calculation of the percentage of students who have graduated with a regular high school diploma within a designated number of years since the student first entered high school. The rate is determined for a cohort of students who have all entered high school for the first time during the same school year. Data specific to the 4-year cohort graduation rate is presented in the graph.⁷

⁶ The PDE has determined that PSSA scores issued beginning with the 2014-15 school year and after are not comparable to prior years due to restructuring of the exam.

⁷ The PDE also calculates 5-year and 6-year cohort graduation rates. Please visit the PDE's website for additional information: <http://www.education.pa.gov/Data-and-Statistics/Pages/Cohort-Graduation-Rate-.aspx>.

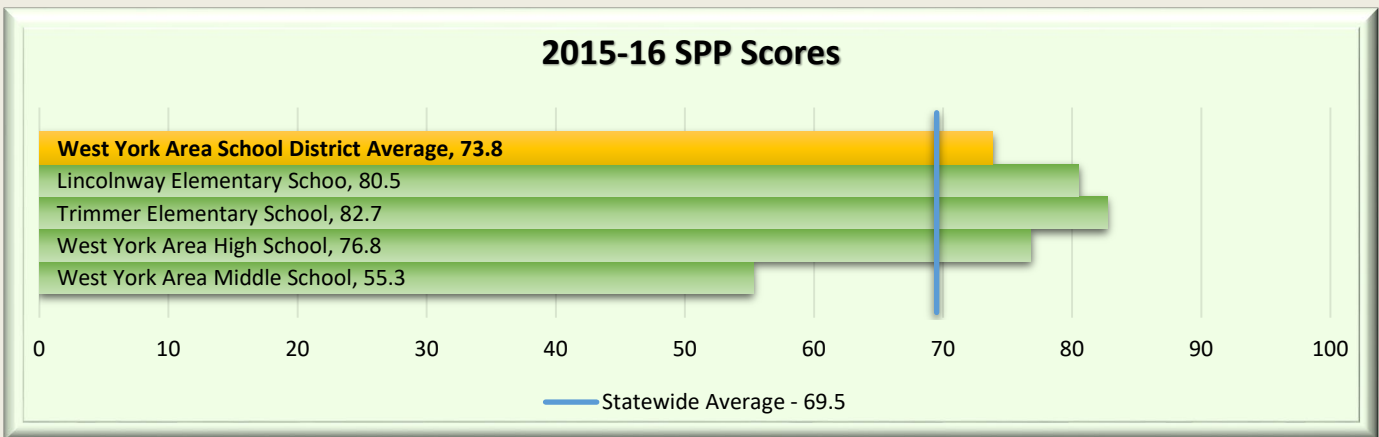
2014-15 Academic Data
School Scores Compared to Statewide Averages



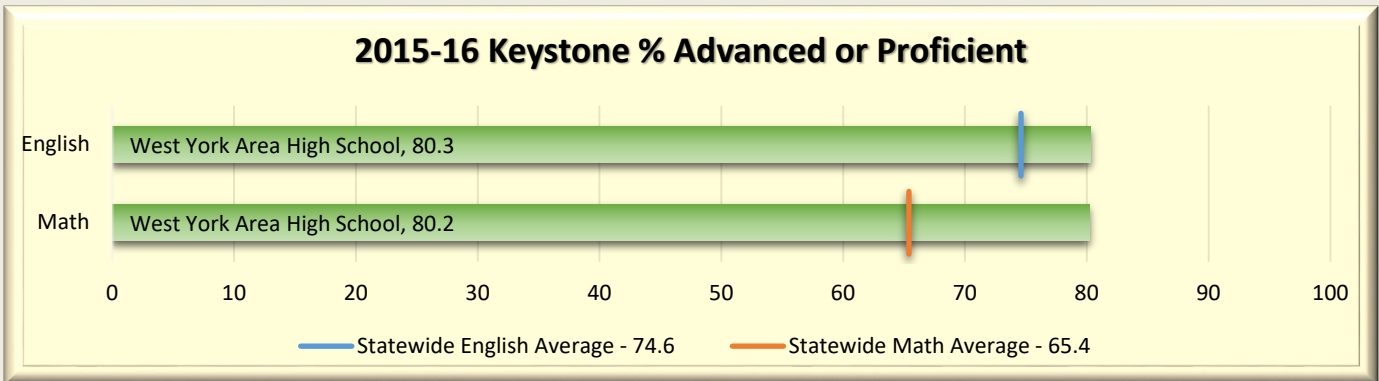
* Although the District has five school buildings, only four buildings are listed in this chart because PSSA testing begins with third grade and one of the District's schools (Wallace Elementary) houses only kindergarten and first grade.

2015-16 Academic Data
School Scores Compared to Statewide Averages

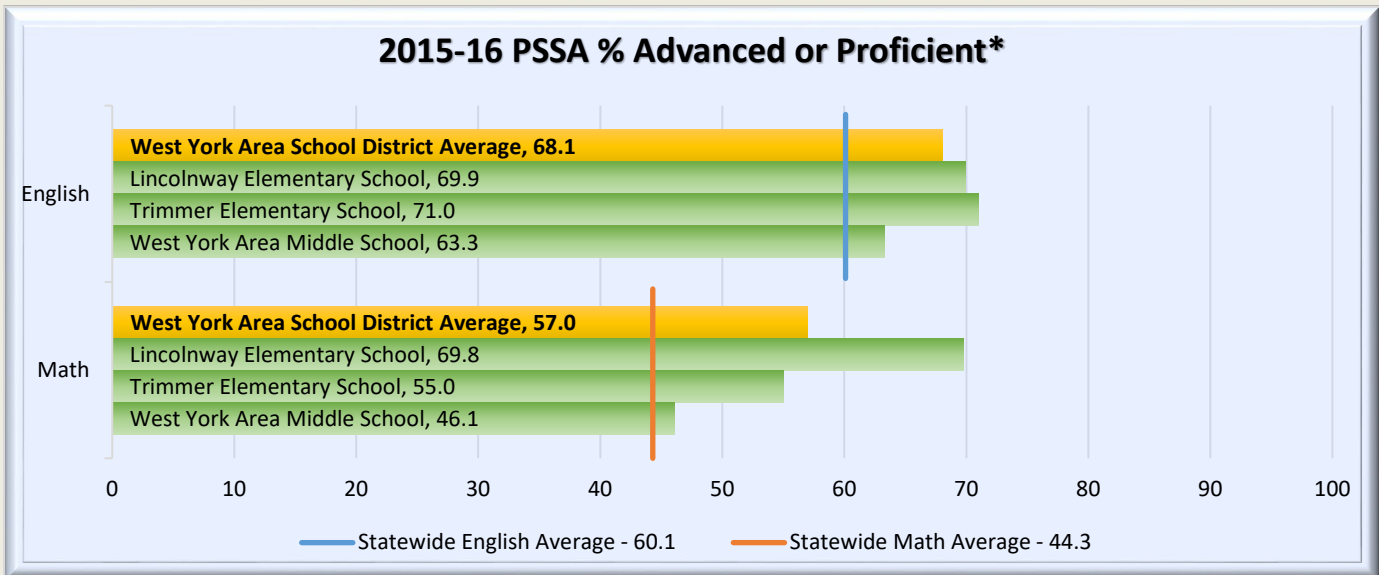
2015-16 SPP Scores



2015-16 Keystone % Advanced or Proficient



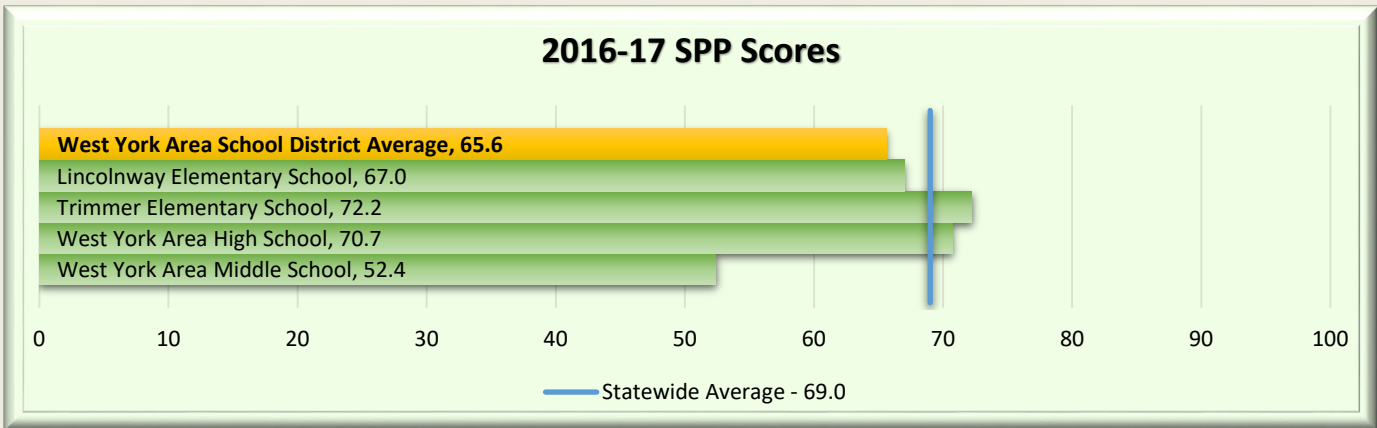
2015-16 PSSA % Advanced or Proficient*



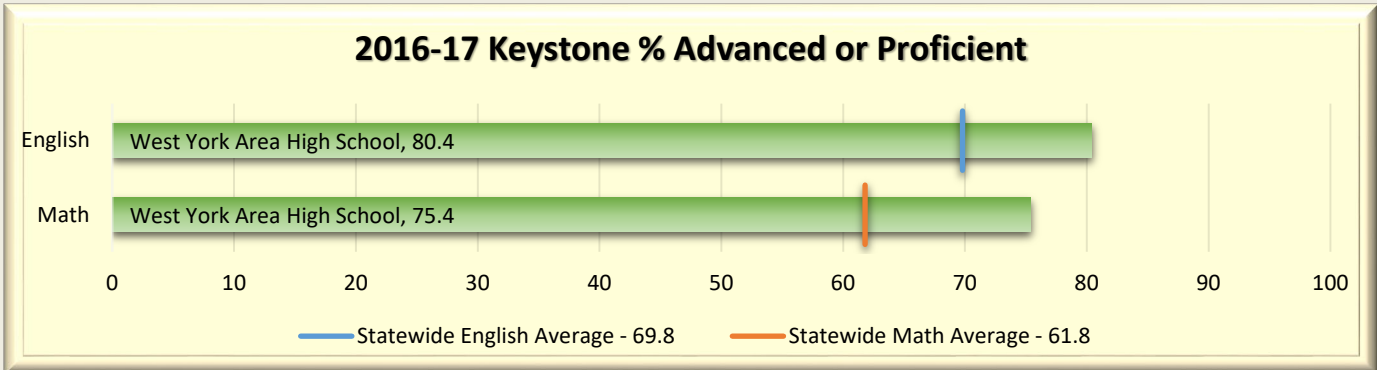
* Although the District has five school buildings, only four buildings are listed in this chart because PSSA testing begins with third grade and one of the District's schools (Wallace Elementary) houses only kindergarten and first grade.

2016-17 Academic Data
School Scores Compared to Statewide Averages

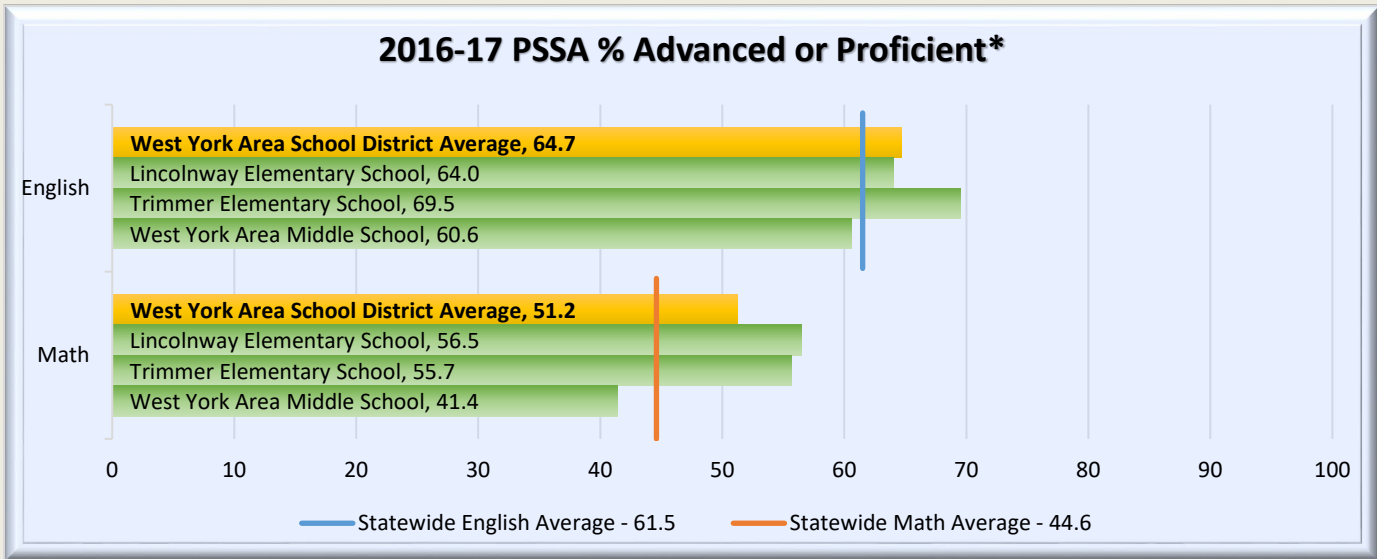
2016-17 SPP Scores



2016-17 Keystone % Advanced or Proficient

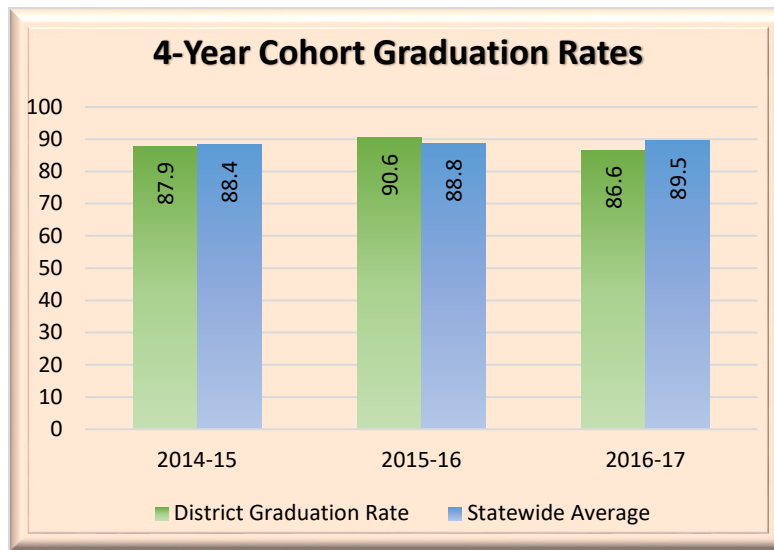


2016-17 PSSA % Advanced or Proficient*



* Although the District has five school buildings, only four buildings are listed in this chart because PSSA testing begins with third grade and one of the District's schools (Wallace Elementary) houses only kindergarten and first grade.

Graduation Data
District Graduation Rates Compared to Statewide Averages



Findings

Finding No. 1

A Board-Approved Separation Agreement Will Cost the District \$195,000

Criteria relevant to the finding:

District Policy No. 334, *Sick Leave*, states in part:

The Board of School Directors (Board) reserves the right to require of any administrator (leader) claiming sick leave to provide sufficient proof in a timely manner, including a physician's certification, of the employee's illness or disability . . . The misuse of sick leave shall be considered a serious infraction subject to disciplinary action."

In February 2018, the West York Area School District (District) entered into a separation agreement with a high school principal (principal) that allowed the principal to remain classified as an active employee while taking *236 consecutive days of unused sick, vacation, holiday, and personal* leave time, after which the District would provide an additional 29 days of *administrative* leave time and 1 additional day of *holiday* leave. This arrangement postponed the principal's separation date from February 20, 2018 to March 7, 2019; one day after the principal will become eligible for normal retirement.⁸ The cost of the separation agreement will be \$194,981, or \$167,898 more than what the cost would have been if the principal resigned or retired on February 20, 2018.

While the signed separation agreement was approved by the Board of School Directors (Board) during its February 27, 2018 meeting,⁹ the District did not publicly disclose the terms of the agreement, including the additional costs to be incurred by the District. Also, because of a confidentiality clause, the District was required to keep "the events leading to this Agreement confidential."¹⁰ Because the reason this agreement was arranged between the District and the principal was not disclosed, we could not conclude as to whether the additional costs incurred by the District represented an appropriate use of public funds. Nor could we determine whether the District adhered to its own policies governing both professional conduct and leave.

⁸ According to District officials, the principal's last day of work for the District was January 23, 2018, after meeting with District officials about an incident that occurred on January 22, 2018. The District provided administrative leave to the principal during an investigative period from January 24, through February 20, 2018, after which the separation agreement took effect. After January 23, the principal never returned to work at the District.

⁹ Therefore, the Board met the basic requirements of the Public School Code by taking an "affirmative vote of a majority of all the members of the board of school directors...duly recorded, showing how each member voted . . . [e]ntering into contracts of any kind . . . where the amount exceeds one hundred dollars (\$100)", as well as the Sunshine Act which requires that all "[o]fficial action and deliberations by a quorum of the members of an agency shall take place at a meeting open to the public" unless a closed meeting is otherwise permitted." See 24 P.S. § 5-508 and 65 Pa.C.S. § 704.

¹⁰ "Agreement and General Release" between West York Area School District and a former high school principal, February 27, 2018, page 3, item number 13.

Figure 1 below provides a timeline highlighting the sequence of events surrounding the principal’s separation from the District.

Figure 1

**West York Area School District
Timeline of Former High School Principal’s Separation from the District¹¹**

Date	PAST & FUTURE EVENTS
Jun 21, 2017	<ul style="list-style-type: none"> District provides principal with a 2017-18 annual salary letter authorizing 3.015% increase to \$141,646.
Jan 22, 2018	<ul style="list-style-type: none"> Per District officials, an incident occurred involving the principal.
Jan 24, 2018 – Feb 20, 2018	<ul style="list-style-type: none"> District provides administrative leave to principal during the investigative period.
FEB 21, 2018 – <i>JAN 31, 2019</i>	<ul style="list-style-type: none"> Principal “shall not report to work.” Principal uses 178.1 sick days, 34.5 vacation days, 13 holidays, 5.5 administrative holidays, and 4.5 personal days—a total of 235.6 days. Principal is classified as “active” and paid at high school principal salary of \$547.52 per day for the 2017-18 school year, and \$546.14 per day for the 2018-19 school year.¹²
<i>FEB 1, 2019</i> – <i>MAR 7, 2019</i>	<ul style="list-style-type: none"> Principal uses 29 days of administrative leave plus 1 holiday. Principal is paid at the maximum middle school assistant principal annual salary of \$125,169, or \$481.42 per day and continues to <i>not</i> report to work.
<i>MAR 6, 2019</i>	<ul style="list-style-type: none"> Principal becomes eligible for normal retirement.
<i>MAR 7, 2019</i>	<ul style="list-style-type: none"> Principal officially retires per separation agreement.

¹¹ Sources of information include the separation agreement, the board meeting minutes, the employee’s salary letter, payroll records, and emails from District officials.

¹² The 2017-18 and 2018-19 per diem rates include the salary and the “incremental increase in health insurance contributions” to allow Act 93 employees to in effect pay the same health insurance contribution as District teachers.

*Criteria relevant to the finding
(continued):*

District Policy No. 317,
Conduct/Disciplinary Procedures,
states in part:

All administrative, professional, and support employees are expected to conduct themselves in a manner consistent with appropriate and orderly behavior. Effective operation of the district's programs requires the cooperation of all district employees in working together under a system of Board policies, administrative regulations, procedures, and rules applied fairly and uniformly to all employees. The orderly conduct of the district's business requires uniform compliance with these policies and rules, and uniform penalties and disciplinary procedures for violations.

The policy designates the Superintendent with the responsibility for preparing and promulgating disciplinary rules for violations of district policies and rules. It also defines 12 different violations that may warrant termination.

Additional Costs Connected to the Separation Agreement

If the District had obtained the principal's resignation or retirement from employment at the time the principal stopped working at the District, the cost of separation would have been significantly less than the costs associated with the separation agreement. The separation costs under the employment agreement would have been \$27,083 whereas the costs under the separation agreement will be \$194,981.¹³

The most significant component of the \$194,981 in additional costs connected with the separation agreement is the cost of sick leave. The employment agreement provided for compensation of unused sick leave of \$50 per day, limited to 115 days. According to our analysis, the cost of sick leave under the employment agreement would have been \$5,750 if the principal had actually separated on February 20, 2018. Instead, the cost of the 178 days of sick leave taken by the principal, who will remain an employee but not report to work, will be \$97,365.

Other leave costs that would not have been incurred if the principal had separated in February 2018 are \$10,593 for 19.5 holidays and \$14,142 for 29 administrative leave days. The District also has to pay increased health insurance contributions of \$8,915 for the principal's tenure as an active employee during the period covered by the separation agreement.¹⁴ Another significant cost of extending the employment termination date to March 2019 is the District's required Public School Employees' Retirement System (PSERS) contributions of \$42,633 for the 236 leave days.

¹³ Our analysis only addresses the additional costs associated with the separation agreement and does not consider the cost of administrative leave provided by the District during its investigative period, shown in the timeline above. Therefore, the last day of work was February 20, 2018, per the separation agreement, rather than January 23, 2018.

¹⁴ According to District officials, the District only pays 50 percent of its share of insurance premiums for retirees (less the \$100/month retirees receive from PSERS to defray the cost of health insurance), as opposed to 100 percent for active employees, for the two-year post-employment period that retirees can be covered by the District's insurance plan as part of the "Act 93" agreement. Retirees are required to pay the differential themselves. Therefore, classifying this principal as an active employee for the more than one year she did not work at the District cost an additional \$8,915 in health insurance premiums.

Figure 2 below compares the separation costs per the employment contract to those per the separation agreement.

Figure 2

West York Area School District Comparison of Leave & Health Insurance Costs for Principal			
Leave Type & Other Added Costs	Employment Contract	Separation Agreement	Cost Difference
Sick Leave	\$5,750	\$97,365	\$91,615
Personal & Vacation Leave	\$21,333	\$21,333	0
Holiday Leave	0	10,593	10,593
Administrative Leave	0	14,142	14,142
District PSERS Contribution	0	42,633	42,633
Health Insurance Cost	0	8,915	8,915
TOTAL	\$27,083	\$194,981	\$167,898

*Criteria relevant to the finding
(continued):*

District Policy No. 334, *Sick Leave*, states in part:

. . . The Board reserves the right to require of any administrator (leader) claiming sick leave to provide sufficient proof in a timely manner, including a physician's certification, of the employee's illness or disability. . . . The misuse of sick leave shall be considered a serious infraction subject to disciplinary action. . . . Whatever the claims of disability, no day of absence shall be considered to be a sick leave day on which the employee has engaged in or prepared for other gainful employment, or has engaged in any activity which would raise doubts regarding the validity of the sick leave request. . . .

Because of the confidentiality clause in the separation agreement, we were unable to determine whether or not the District complied with its own *Policy No. 334, Sick Leave* for administrative employees, which prohibits the misuse of sick leave and provides other restrictions on employees taking sick leave. We were also unable to determine whether the District adhered to other policies, including but not limited to its *Policy No. 317, Conduct/Disciplinary Procedures*.

Inadequate Transparency

In approving the separation agreement, the District complied with the minimum standards established by the Public School Code and the Sunshine Act. In addition, the District's Right-to-Know Law (RTKL) officer provided copies of the separation agreement upon receipt of at least four different RTKL requests. However, the Board and the administration should have been more transparent about the additional costs of the separation agreement by accounting for those costs to the general public. Disclosure of the costs in an open and public forum could have provided an added level of accountability about its handling of this highly publicized transaction. The District's disclosure of this information would not have precluded the District from keeping confidential certain terms of the agreement.

Conclusion

Because of a separation agreement, the District will pay \$167,898 more for the separation of its principal than it would have if the principal ended employment as of February 20, 2018. As part of its obligation to be accountable to the general public, the District should have done more than the minimum requirements of the respective laws by being more transparent about the additional costs of the principal's separation agreement.

Recommendation

The *West York Area School District* should:

Calculate the total cost of any separation agreement and ensure the Board is aware of the total cost before the Board votes to approve the agreement. In addition, to improve accountability to the general public, the Board should ensure that it discloses all costs associated with any future employee separation agreements.

Management Response

District management provided the following response:

“The District agrees with the Department of the Auditor General (“DAG”) finding regarding the cost of the principal's separation agreement, and its acknowledgement the District's School Board complied with the requirements of both the Public School Code and Sunshine Act in approving that agreement.

However, the District respectfully disagrees with DAG's characterization that there was “inadequate transparency” surrounding the cost of this agreement. DAG acknowledges in its audit that the District fully complied with the applicable laws in approving this agreement.

The facts clearly show the District publicly shared at the School Board meeting when this agreement was approved that the principal would be using accumulated leave until retirement and copies of the agreement were shared with all persons (including the local media) that requested it. Thus, the District's approval on this agreement was transparent, open and in compliance with the applicable laws.

The District's School Board takes its public stewardship of taxpayer funds seriously, and it did not enter into this agreement lightly. The District will continue to fully comply with the Public School Code and Sunshine Act when it enters into any employment-related agreement, as it did here and in many other situations.”

Auditor Conclusion

As stated in the finding, the District complied with the minimum standards of the Public School Code and the Sunshine Act; however, we reiterate our conclusion that the District should have provided a cost analysis to the Board prior to its voting on the agreement. Moreover, the District should have provided an accounting of those costs to the general public. Disclosing the total cost of such agreements at an open board meeting provides the added layer of transparency the public deserves when separation agreements are executed with administrators.

Finding No. 2

The District Reported Unqualified Earnings to PSERS for Three Former Employees

Criteria relevant to the finding:

The Public School Employees' Retirement Code defines a school employee as:

[A]ny person engaged in work relating to a public school for any governmental entity and for which work he is receiving regular remuneration as an officer, administrator or employee excluding, however, any independent contractor or a person compensated on a fee basis. *See* 24 Pa.C.S. § 8102.

According to the PSERS Employers' Retirement Manual (ERM), PSERS allows only *qualified earnings* to be reported for the determination of retirement benefits. Qualified earnings include regular salary/wages, overtime, and wages paid for extracurricular activities. In addition, it states the following:

The Retirement Code defines 'compensation' generally to mean any remuneration received as a school employee excluding the following. . . . [p]ayment for unused vacation and sick leave. *See the ERM, rev. 4/15/2016, Chapter 8, page 4.*

The District incorrectly reported unused personal, vacation, and sick leave, which are *unqualified earnings*, to the Public School Employees' Retirement System (PSERS). Collectively, the amount over-reported for three former employees totaled \$13,858.

According to the PSERS Employers' Reference Manual (ERM), only *qualified earnings* should be reported to PSERS. Defined broadly, qualified earnings include salary and wages paid to an employee for work performed. The ERM defines qualified and unqualified earnings, and it clearly excludes payments for unused vacation and sick leave.¹⁵

In addition to the District's reporting of unqualified earnings to PSERS, we found that it incorrectly deducted PSERS contributions totaling \$1,039 from the three former employees' unqualified earnings. We also found that the District improperly contributed PSERS employer contributions totaling \$4,514. The District should not have deducted the employee contributions from unqualified earnings for these employees, nor should it have provided employer contributions to PSERS on the unqualified earnings for the three former employees.

According to District officials, the improper reporting was caused by employee turnover; new employees responsible for inputting and reviewing data were unaware of certain categories of unqualified earnings. They also failed to check with PSERS for assistance with the determination of allowable wages. This improper reporting of unqualified earnings was corrected by the District after we brought the error to its attention.

It is vital that District personnel responsible for reporting and reviewing compensation data to PSERS are very familiar with the PSERS ERM and the formula for computing an employee's final average salary.

Recommendations

¹⁵ Public School Employees' Retirement System. *Employers' Reference Manual – Chapter 8. Reporting – Retirement-Covered Compensation*. April 15, 2016. The specific exclusion of payments for unused vacation is stated on page 4.

The *West York Area School District* should:

1. Require District personnel responsible for reporting and reviewing compensation data to PSERS to closely review the ERM to help improve accuracy of the District's reporting, in particular the specific definitions and examples of qualified and unqualified earnings. It should also require employees responsible for PSERS reporting to contact the agency for assistance with determination of qualified and unqualified earnings.

The *Public School Employees' Retirement System* should:

2. Review the compensation reported by the District for the three former employees and render a written opinion on the propriety of the compensation reported by the District. If any portion of the compensation reported for the employees is determined to be ineligible for retirement, PSERS should make the necessary corrections, including returning the contributions paid in error by the employer and employees.

Management Response

District management provided the following response:

“While on-site during the audit, the Department of Auditor General (“DAG”) made the District aware of a mistake it made regarding PSERS contributions for payments of unused vacation and sick leave days made to three former District employees. When this mistake was brought to the District's attention, steps were immediately taken to rectify it. The District immediately contacted PSERS and made the necessary corrections to the three former employees' records – so PSERS qualified earnings and PSERS contributions were recalculated and reported correctly.

The District determined that employee turnover in the District's payroll department resulted in a newly-assigned individual misidentifying the above payments as PSERS qualified earnings. This matter has been addressed, and the District does not expect a recurrence of this mistake in the future.

The District appreciates DAG timely bringing this matter to its attention, since it allowed for a swift correction of this mistake.”

Auditor Conclusion

We were encouraged by the District’s prompt response in taking action to resolve the issue with PSERS during the audit. We will confirm the accuracy and completeness of the corrective action during our next audit of the District.

Finding No. 3

The District's Harassment Policy Has Not Been Revised in Nine Years and the District Did Not Have Standard Procedures for Implementation, Training, and Accountability

Criteria relevant to the finding:

Criteria regarding board policies:

The Pennsylvania School Boards Association issued its *PSBA Standards for Effective School Governance* in 2006. It states that an effective board “models responsible governance and leadership by,” among other things, “regularly reviewing and, as necessary, revising and adopting board policy.” One of the benchmarks for measuring this standard asks, “What process does the board use to ensure regular review and revision of existing policies and adoption of new policies? Is it working effectively? (pages 3-5)”

The Pennsylvania Human Relations Commission (PHRC) enforces state laws that prohibit discrimination, including the Pennsylvania Human Relations Act and the Pennsylvania Fair Educational Opportunities Act. (See 43 P.S. §§ 951-963 and 24 P.S. §§ 5001-5010.)

The District's *Unlawful Harassment Policy*, which prohibits sexual harassment along with other types of harassment, has not been revised in nearly nine years, even though other policies governing standards of professional conduct had been adopted or revised during that time period. In addition, the District did not have standard, written procedures to ensure compliance with a provision of the policy requiring it to “annually inform students, staff, parents, independent contractors, and volunteers that unlawful harassment of employees will not be tolerated.”

The District also did not provide employee training on harassment prevention at any time during the audit period, nor did it have harassment training scheduled for the 2018-19 school year. The District should make harassment prevention training sessions a priority in light of the heightened awareness of sexual harassment occurring in workplaces.

The Harassment Policy and Other Related Policies

The *Unlawful Harassment Policy* cited several federal and state regulations as part of its foundation for establishing the policy.¹⁶ The Board should periodically review and revise its policies to ensure they comply with any changes to federal and state laws and regulations *and* to maintain clear standards of professional conduct “to provide a safe, positive working climate for its employees.”¹⁷ Instead, the District and its Board failed to update its harassment policy for nearly nine years.

¹⁶ The District's *Unlawful Harassment Policy* cited the Pennsylvania Human Relations Act, 43 P.S. §§ 951-963 and federal laws including Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.*

¹⁷ The Pennsylvania School Boards Association issued its *PSBA Standards for Effective School Governance* in 2006. It states that an effective board “models responsible governance and leadership by,” among other things, “Regularly reviewing and, as necessary, revising and adopting board policy.”

Criteria relevant to the finding (continued):

The Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws prohibiting discrimination. One of its web pages defines harassment in part as follows: “Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).” (See <https://www.eeoc.gov/laws/types/harrasment.cfm>, accessed on August 13, 2018.)

The District’s unlawful harassment policy also was incorporated by reference as part of its foundation for other Board policies, including the *Nondiscrimination Policy* and the *Conduct/Disciplinary Procedures Policy*. These two policies had been created or updated as recently as 2015. Yet, the unlawful harassment policy was not updated, and another potentially related policy was not updated for a similar time period. Specifically, the Board’s *Complaint Policy* had not been updated in ten years. Figure 1 below lists the four related policies and the dates they were adopted and last revised.

Figure 1

West York Area School District Unlawful Harassment & Related Policies			
Policy Title	Date Adopted	Date Last Revised	No. Years in Effect Since Last Revised
Nondiscrimination	02/17/2015	---	3.5
Conduct/Disciplinary Procedures	12/17/1996	11/17/2015	3
Complaint Policy	12/17/1996	06/17/2008	10
Unlawful Harassment	12/17/1996	12/15/2009	9

The procedures recommended and/or required for filing complaints differed among the four policies and may potentially cause confusion for employees and others—and possibly deter them from making complaints.

Since harassment is recognized as a form of discrimination, it would have been optimal for both the *Unlawful Harassment Policy* and the *Complaint Policy* to have been updated concurrently with the other two policies.¹⁸ A timely and coordinated update of these policies would ensure that they were compatible with all policies governing professional conduct and that they are in compliance with current laws and best practices.

¹⁸ The Equal Employment Opportunity Commission (EEOC) defines harassment in part as follows: “Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).” (See <https://www.eeoc.gov/laws/types/harrasment.cfm>, accessed on August 13, 2018.)

Criteria relevant to the finding (continued):

The EEOC web page, “Prohibited Employment Policies/Practices,” states in part with regard to harassment:

It is illegal to harass an employee because of race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, age (40 or older), disability or genetic information. It is also illegal to harass someone because they have complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. (See <https://www.eeoc.gov/laws/practices/index.cfm#harassment>, accessed on August 13, 2018.)

The EEOC’s “Promising Practices for Preventing Harassment” lists five core principles and an array of recommended policies and procedures for achieving the principles. The five principles are listed below:

- Committed and engaged leadership.
- Consistent and demonstrated accountability.
- Strong and comprehensive harassment policies.
- Trusted and accessible complaint procedures.
- Regular, interactive training tailored to the audience and the organization.

(See “Promising Practices for Preventing Harassment,” <https://www1.eeoc.gov/eeoc/publications/promising-practices.cfm?renderforprint=1>, accessed on August 13, 2018.)

When asked about the dates on the *Unlawful Harassment Policy*, District officials acknowledged the policy has not been revised in nine years and said that, for the 2019-20 school year, the District was planning to update the entire policy manual in consultation with the Pennsylvania School Boards Association.

Lack of Standard Procedures and Training

According to District officials, along with employees’ first pay checks of the school year, the District distributed annual notices reminding employees of policies prohibiting harassment, smoking on the premises, etc. However, we were unable to verify whether the District actually provided such notification because it did not have documentation readily available to demonstrate that it had notified employees in each year of the audit period.

The District did not have standard, written procedures to support the implementation of the policy and to require maintenance of records accounting for what it did to communicate its policy and prevent harassment. The District also did not conduct harassment prevention training at any time during the audit period from July 1, 2015 through April 30, 2018. Training was also not scheduled for the 2018-19 fiscal year. Best practices from a trusted equal employment agency recommend regular harassment prevention training for employees and management.¹⁹

The *Unlawful Harassment Policy*, however, was included in the employee handbooks provided to new hires and the student handbooks provided annually to students and parents. Employees, students, and parents were required to attest in writing that they read the handbook. Including the policy in the handbook provided one layer of communication about the policy, but without regular communication and training, the District cannot be assured that employees and others understand the policy and the related procedures. Training would help to ensure that employees understand the different types of harassment as well as the procedures for making complaints. Training would also provide an opportunity for employees to learn

¹⁹ The U.S. Equal Employment Opportunity Commission’s web page, “Promising Practices for Preventing Harassment,” identifies five core principles for preventing harassment that include “regular, interactive training.” <https://www.eeoc.gov/eeoc/publications/promising-practices.cfm>, accessed on August 13, 2018.

*Criteria relevant to the finding
(continued):*

Title IX of the Education Amendments of 1972 explicitly prohibits discrimination based on sex. Specifically, it states in part:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. . . .
(See 20 U.S.C. §§ 1681-1688.)

about examples of appropriate and inappropriate behavior and to ask questions.

Lack of Accountability

We also found that the District did not have policies or procedures in place for tracking harassment complaints, investigations, and their resolutions. According to the policy, employees wishing to file a complaint were to report to the building principals; however, no standard procedures existed to ensure consistency with regard to the investigation, documentation, and discipline related to harassment complaints.²⁰ This lack of an accountable complaint system could be construed by some that the District was not committed to complying with its own harassment and complaint policies as well as the laws prohibiting harassment.

The U.S. Equal Employment Opportunity Commission (EEOC) lists five core principles guiding its recommended practices for preventing harassment. Regarding “Leadership and Accountability,” it recommends having a “harassment complaint system that is fully resourced, is accessible to all employees, **has multiple avenues for making a complaint**, if possible, and is **regularly** communicated to all employees.”²¹ The District does not appear to have such a system in place.

Conclusion

The District did not update its *Unlawful Harassment Policy* in conjunction with other important, related policies governing professional conduct. It has not provided regular training to employees to prevent harassment and to ensure employees are aware of the complaint procedures. The District also did not implement a system for tracking and accounting for the resolution of harassment complaints. Steps should be taken to address these matters, since the failure to do so can foster an environment where the risk of

²⁰ According to the policy, if the principal was the subject of a complaint, the complainant was required to report the complaint to the Superintendent or designee.

²¹ Emphasis added. The EEOC web page, “Promising Practices for Preventing Harassment,” lists the first principle of “Leadership and Accountability,” and among its recommendations is the establishment of a “complaint system.” <https://www.eeoc.gov/eeoc/publications/promising-practices.cfm>, accessed on August 13, 2018. See also this link from the Commonwealth of Pennsylvania that may serve as a helpful guide regarding handling sexual harassment matters in the state: <https://www.pa.gov/guides/reporting-workplace-sexual-harassment-in-pennsylvania/> (assessed on August 23, 2018).

harassment is increased and where, if harassment occurs, harassers may act badly without consequences, and those who are harassed may suffer without appropriate recourse. Such an environment could result in low morale, employee turnover, and/or increased labor and legal costs to be borne by the general public.

Recommendations

The *West York Area School District* should do the following:

1. Promptly review and revise its *Unlawful Harassment Policy* to ensure that the District complies, at a minimum, with all current federal and state regulations related to harassment and, as much as possible, with current best practices. The District should undertake the revision of this policy in coordination with a review of all other related policies governing professional conduct to ensure consistency as well as compliance with applicable laws and regulations.
2. Develop standard written procedures to support the enforcement of this important policy. These procedures should address routine communication of the policy and procedures, harassment prevention training, and accountability for those who violate the policy. Ultimately, the District's harassment policy and procedures should provide an optimal environment where standards of conduct are clearly defined and breaches of such conduct are timely investigated and resolved.
3. Establish a routine timetable for its Board to review and, if necessary, revise its policies governing professional conduct, including those intended to prevent and timely detect harassment and discrimination.

Management Response

District management provided the following response:

“The District agrees that its existing *Sexual Harassment Policy* has not been revised in nine years, and that it does not currently have written procedures (outside of those

already set forth in that policy) for the implementation, training and tracking of complaints.

In agreeing with the DAG's finding, however, the District would share the following points:

1. The existing *Sexual Harassment Policy* fully complies with the state and federal laws that prohibit sexual harassment in the workplace and public school setting. Regardless, the District agrees it is worthwhile to review this policy to see if any changes are in order.
2. The District already takes reasonable steps to notify staff and students of its Sexual Harassment Policy through publications and handbooks. However, reviewing the existing notification procedures is worthwhile to ensure everyone knows of the policy and its complaint procedures.
3. Prior to the issuance of this audit, the District contacted PSBA Policy Services to assist with a comprehensive review of all Board policies. A contract has already been approved for that purpose. This process will include the review of the existing *Sexual Harassment Policy*.
4. The District has been fortunate to have very few instances of reported complaints under its *Sexual Harassment Policy*, thus the need for a complaint tracking system was not deemed necessary. However, DAG's suggestion to develop one is worthwhile, and something that the District will seriously consider when reviewing and revising its *Sexual Harassment Policy*.
5. DAG's suggestion that training regarding the prohibition against sexual harassment in the school setting is a worthwhile one and the District intends to follow up on the suggestion regarding training."

Auditor Conclusion

We are pleased the District has considered all of our recommendations. The District noted the corrective actions it has taken and plans to take in the future. We will review all of the District's corrective actions during our next audit.

Status of Prior Audit Findings and Observations

Our prior audit of the West York Area School District resulted in no findings or observations.

Appendix: Audit Scope, Objectives, and Methodology

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 (PDE), and other concerned entities.

Our audit, conducted under authority of Sections 402 and 403 of The Fiscal Code,²² is not a substitute for the local annual financial 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. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit.

Scope

Overall, our audit covered the period July 1, 2015 through April 30, 2018. In addition, the scope of each individual audit objective is detailed on the next page.

The West York Area School District's (District) 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, and administrative procedures (relevant requirements).²³ In conducting our audit, we obtained an understanding of the District's internal controls, including any information technology controls, which 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.

²² 72 P.S. §§ 402 and 403.

²³ 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; and compliance with certain relevant state laws, regulations, contracts, and administrative procedures.

Objectives/Methodology

In order to properly plan our audit and to guide us in selecting objectives, we reviewed pertinent laws and regulations, board meeting minutes, academic performance data, annual financial reports, annual budgets, new or amended policies and procedures, and the independent audit report of the District's basic financial statements for the fiscal years July 1, 2015 through April 30, 2018. We also determined if the District had key personnel or software vendor changes since the prior audit.

Performance audits draw conclusions based on an evaluation of sufficient, appropriate evidence. Evidence is measured against criteria, such as laws, regulations, third-party studies, and best business practices. Our audit focused on the District's efficiency and effectiveness in the following areas:

- ✓ Administrator Contracts/Agreements
- ✓ Board Policies
- ✓ Bus Driver Requirements
- ✓ School Safety

As we conducted our audit procedures, we sought to determine answers to the following questions, which served as our audit objectives:

- ✓ Did the District enter into a separation agreement with an administrator and if so, what was the total cost of the agreement, what were the reasons for the separation, and did the employment contract(s) comply with the Public School Code²⁴ and Public School Employees' Retirement System (PSERS) guidelines?
 - To address this objective, we reviewed the employment contracts, payroll records, and board meeting minutes for all ten administrators that separated employment from the District during the period of July 1, 2015 through April 30, 2018, and found that the District executed a separation agreement with only one administrator. We obtained and reviewed the separation agreement and compared the benefit provisions to the administrator's employment contract (Act 93 agreement). We inquired about the reasons for the separation, calculated the total cost of the separation, and determined whether the agreement—and its related costs—was approved by the Board of School Directors (Board) during a public board meeting. We also reviewed payroll records to ensure that these payments were correctly reported to PSERS. The results of our review of this part of the objective can be found in Finding No. 1 of this report (see page 11).
 - We also reviewed the payroll records for all 55 employees, including 2 of the administrators from above, who separated employment or tendered resignations during the period of July 1, 2017 through June 30, 2018 to ensure if payments for unused leave were not reported to PSERS as eligible wages. The results of our

²⁴ 24 P.S. § 10-1073(e)(2)(v).

review of this part of the objective can be found in Finding No. 2 of this report (see page 17).

- ✓ Has the District's *Unlawful Harassment Policy* and other related policies governing professional conduct been updated timely, and did the District have procedures for the implementation, training, and accountability of these policies?
 - To address this objective, we reviewed the *Unlawful Harassment Policy, the Nondiscrimination Policy, the Complaint Policy, and the Conduct/Disciplinary Procedures Policy* to verify whether the policies are current and ensure compliance with federal and state laws. We interviewed District personnel, requested written procedures designed to ensure compliance with the Board policies, and reviewed all employee training documentation related to these policies. The results of our review of this objective can be found in Finding No. 3 of this report (see page 20).

- ✓ Did the District ensure that bus drivers transporting District students had the required driver's license, physical exam, training, background checks, and clearances as outlined in applicable laws?²⁵ Also, did the District have written policies and procedures governing the hiring of new bus drivers that would, when followed, provide reasonable assurance of compliance with applicable laws?
 - To address this objective, we randomly selected 10 of 68²⁶ contracted bus drivers transporting District students as of May 11, 2018. We reviewed documentation to ensure the District complied with the requirements for bus drivers. We also determined if the District had written policies and procedures governing the hiring of bus drivers and if those procedures, when followed, ensure compliance with bus driver hiring requirements. Our review of this objective did not disclose any issues.

- ✓ Did the District take actions to ensure it provided a safe school environment?²⁷
 - To address this objective, we reviewed a variety of documentation including, safety plans, training schedules, bullying prevention policies, fire drill reports, and after action reports. In addition, we conducted on-site reviews at three of the District's five school buildings²⁸ (one from each education level) to assess whether the District had implemented basic safety practices.²⁹ Due to the sensitive

²⁵ 24 P.S. § 1-111, 23 Pa.C.S. § 6344(a.1), 24 P.S. § 2070.1a *et seq.*, 75 Pa.C.S. §§ 1508.1 and 1509, and 22 *Pa. Code Chapter 8*.

²⁶ While representative selection is a required factor of audit sampling methodologies, audit-sampling methodology was not applied to achieve this test objective; accordingly the results of this audit procedure are not, and should not be, projected to the population.

²⁷ 24 P.S. § 13-1301-A *et seq.*

²⁸ While representative selection is a required factor of audit sampling methodologies, audit sampling methodology was not applied to achieve this test objective; accordingly the results of this audit procedure are not, and should not be, projected to the population.

²⁹ Basic safety practices evaluated were building security, bullying prevention, visitor procedures, risk and vulnerability assessments, and preparedness.

nature of school safety, the results of our review for this objective area are not described in our audit report. The results of our school safety review were shared with District officials, the PDE, and other appropriate agencies deemed necessary.

Distribution List

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

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