



SUMMARY REPORT:

NORTH POCONO SCHOOL DISTRICT

December 2003

TABLE OF CONTENTS

	<u>Page</u>
Introduction and Background.	1
Executive Summary.	2
Recommendations.	2
Findings and Observations:	
<u>Finding No. 1</u> - The NPSD business manager used the school district’s computer equipment and a credit card for his personal benefit.	4
Conclusions and Recommendations.	6
NPSD’s Response to Finding No. 1.	7
The Department of the Auditor General’s Comments.	7
The Business Manager’s Response to Finding No. 1.	7
The Department of the Auditor General’s Comments.	8
<u>Finding No. 2</u> – NPSD failed to report payments made to an individual who served as acting superintendent during the 1999-2000 school year to the Internal Revenue Service and reported inaccurate and misleading information about the individual’s employment to the Public School Employees’ Retirement System.	9
Conclusions and Recommendation.	12
NPSD’s Response to Finding No. 2.	12
The Department of the Auditor General’s Comments.	12
<u>Finding No. 3</u> – While there is evidence that the current NPSD superintendent engaged in outside employment with the knowledge of members of the NPSD board, there is no record of such notice or of approval by the school board. Additionally, the current superintendent failed to disclose the outside employment on his Statement of Financial Interest filed pursuant to the State Ethics Act.	13

TABLE OF CONTENTS
(Continued)

	<u>Page</u>
Conclusions and Recommendations.	15
NPSD’s Response to Finding No. 3.....	15
The Department of the Auditor General’s Comments.....	15
The Superintendent’s Response to Finding No. 3.	16
The Department of the Auditor General’s Comments.....	16
<u>Observations</u> - NPSD does not have, or does not follow, policies and procedures concerning the business manager’s travel expense reimbursements, documentation of administrators’ vacation leave and petty cash funds.....	17
Responses.....	18
NPSD’s Response.....	18
The Superintendent’s Response.....	20
The Business Manager’s Response.....	22
Report Distribution List.....	23
Tables:	
<u>Table No. 1</u> – Purchases by the Business Manager.....	5
Table No. 2 – NPSD’s Payments to the Acting Superintendent.....	9
Table No. 3 – The NPSD Superintendent’s Employment at Wilkes University.	13

INTRODUCTION AND BACKGROUND

The Department of the Auditor General (the Department) conducts audits of school districts pursuant to its authority and responsibility under the Fiscal Code.¹

In February 2003, the Department received allegations of mismanagement and misuse of funds concerning the North Pocono School District (NPSD). An investigation was conducted by the Department's Office of Special Investigations (OSI). During this investigation, OSI learned of additional irregularities relating to record keeping and outside employment and expanded the inquiry to cover those matters. The investigation included interviews of NPSD school board members, officials and employees and reviews of records of NPSD.

The draft findings, conclusions and recommendations of this report were sent to NPSD on October 3, 2003, to provide an opportunity for a response. We received responses from the school district, the business manager and the current superintendent. The contents of the responses have been incorporated into the appropriate parts of the report. In addition, the responses, minus names of individuals, have been included in full in a separate section of the report.

Based on the responses, revisions were made to Finding No. 1, substantial changes were made to Finding No. 3 and Recommendation No. 6 and a new recommendation was added. The changes and the reasons for them are noted in the report. It should be noted that Finding No. 3 refers to the current superintendent at NPSD and that Finding No. 2 refers to another individual, no longer employed by the school district, who was employed there during the 1999-2000 school year in the capacity of acting superintendent and is referred to as such in this report.

¹ 72 P.S. § 403.

EXECUTIVE SUMMARY

The NPSD business manager used the school district's computer equipment and a credit card for his personal benefit.

NPSD failed to report payments made to an individual who served as acting superintendent during the 1999-2000 school year to the Internal Revenue Service and reported inaccurate and misleading information about the individual's employment to the Public School Employees' Retirement System.

While there is evidence that the current NPSD superintendent engaged in outside employment with the knowledge of NPSD board members, there is no record of such notice or of approval by the school board. Additionally, the current superintendent failed to disclose the outside employment on his Statement of Financial Interest filed pursuant to the State Ethics Act.

NPSD does not have, or does not follow, policies and procedures concerning the business manager's travel expense reimbursements, documentation of administrators' vacation leave and petty cash funds.

RECOMMENDATIONS

1. NPSD should conduct an inventory of all equipment taken from the school district's premises by the business manager or purchased by him with school district funds and verify that all items are in the custody of the school district. (Finding No. 1.)
2. NPSD should establish policies and procedures to monitor purchases by school district administrators, including requiring approvals by the school board and periodic audits. (Finding No. 1.)
3. NPSD should review all school district credit card accounts to determine reasonableness and necessity. Additionally, a policy and procedure should be established to monitor the accounts. (Finding No. 1.)
4. NPSD should prepare and implement appropriate policies and procedures to ensure that all tax, employment and salary information concerning its employees and others receiving income from the school district is submitted to the IRS, other taxing authorities and PSERS in a complete, accurate and timely manner. (Finding No. 2.)
5. NPSD should establish and implement policies and procedures to ensure that officials and staff comply with all applicable requirements related to outside employment. (Finding No. 3.)
6. Notices, approvals and all other board actions related to outside employment should be placed on the record and documented. (Finding No. 3.)

7. If, in regard to the current superintendent's outside employment, the NPSD school board concludes that proper notice was not provided and/or that approval was not given, it should take appropriate action, including giving its response to the current superintendent and documenting the response in the school board's minutes. (Finding No. 3.)

8. NPSD should review its policies and procedures concerning travel expense reimbursement, vacation leave and petty cash funds and take appropriate steps to ensure that they are followed, or modified where necessary. (Observations.)

FINDINGS

Finding No. 1 – The NPSD business manager used the school district’s computer equipment and a credit card for his personal benefit.

The current NPSD business manager began working for the school district in November 1999. He is a Certified Public Accountant. He has an outside business which involves the preparation of tax returns.

In response to initial inquiries by OSI on February 24, 2003, the business manager stated that he did not have possession of any school district equipment or property and had never purchased computers for personal use with school district funds.

On March 6, 2003, the business manager stated to OSI that NPSD has a policy pertaining to outside use of school district equipment. He said that he used a laptop computer purchased with school district funds at home for budget work at that time of the year; the laptop was purchased in the summer of 2001; and he had complied with school district policy. He said he had submitted a form documenting that the computer was assigned to him (referred to as the “assignment form”) to the school district’s assistant technology coordinator and gave OSI a copy of the form. The business manager said that he initially intended to purchase this laptop from Dell Computers for his personal use; however he never did so and the computer that was purchased belonged to the school district.

NPSD records contained an invoice for a Dell Inspiron 4000, Pentium III computer dated August 23, 2001, purchase order #37757, for a total cost of \$1,900. The invoice was paid, via an NPSD check number 00046122, on December 20, 2001. The invoice contained an NPSD billing account code 10-0155 and a handwritten note, “Reimbursement Paul.” According to NPSD clerical staff, the code reflects the amount to be reimbursed to NPSD. We noted in our review that there was no record of the purchase of the computer in a purchase order ledger maintained in the NPSD office.

In the business manager’s response to the draft report, he stated that a receivable related to the purchasing of the computer was created in NPSD’s records at the time of the purchase. While that is correct, the receivable was not shown in the records when OSI reviewed them in March 2003. (See the discussion in our comments on p. 7).

In interviews with the NPSD assistant technology coordinator and the Director of Technology, OSI learned that the laptop computer that the business manager claimed was assigned to him was the computer shown on the August 23, 2001, invoice; that NPSD had not had a policy concerning outside use of computers in place prior to March 6, 2003; and that, on March 6, 2003, the business manager had requested the assistant technology coordinator to create the assignment form and to sign off on it. The assistant technology coordinator said that, prior to that date, he had not seen the computer and was unaware that it was the property of NPSD.

On March 31, 2003, the OSI investigator was approached by the NPSD business manager who stated that “he had not been honest with our prior conversations and wanted to apologize.” He said that he had “panicked and clearly underestimated our investigation” and requested an opportunity to come clean on all personal purchases he made using NPSD funds. In addition to the Dell computer purchase, he told OSI that he had used the NPSD credit card account at a Staples office supply store for personal purchases. He also acknowledged that he had recently submitted a personal check in the amount of \$2,379.88 as reimbursement to NPSD.

In an interview on April 3, 2003, the business manager stated that he made personal purchases with the Staples account credit card and that he had told the accounts payable secretary that he would reimburse NPSD at a later time. He admitted making the following purchases with the credit card:

Table No. 1 – Purchases by the Business Manager

Item	Amount
1. NEC “15” inch flat screen monitor	\$ 329.98
2. NEC “17” inch flat screen monitor	\$ 649.98
3. Cordless Navigator	\$ 79.98
4. IJ CD/DVD	\$ 11.99
5. Quicken software 2003	\$ 89.95
6. “Slim Jewel” CD Case	\$ 7.98
7. 100 pack of CD’s	\$39.98
Total	\$1,209.84

According to the business manager’s statements, the reimbursement of \$2,379.88 included some of the above referenced charges and the cost of original laptop computer purchased in August 2001 (\$1,900). The business manager submitted the reimbursement check on March 7, 2003, approximately three weeks after the OSI started its investigation and some 22 months after the original purchase of the computer from Dell Computers.

The business manager explained that he based the reimbursement on the use he made of the equipment. Essentially, he repaid NPSD for the equipment he had used for non-school district matters. The business manager acknowledged that he used some of the computer equipment purchased with NPSD funds in his tax return preparation business. According to him, the Dell Pentium III computer purchased in August 2001 was not used in his tax return preparation business, but was used for personal non-NPSD matters.²

The business manager said that he considered Item Nos. 1, 4, 5, 6 and 7 on Table No. 1 to be items he purchased with NPSD funds for his own personal use. Therefore, he included the cost of the items in the March 7, 2003, reimbursement payment. He considered Item Nos. 2 and 3 to be items he purchased for the purpose of conducting

² See the business manager’s response (p. 7).

NPSD business at home and, therefore, did not include the cost of the items in the March 7, 2003, reimbursement payment.

While the business manager claimed Item Nos. 2 and 3 were used for school district work, from his statements to OSI it appears that he also used them in his personal financial and business activities, i.e., his personal bills and preparation of tax returns.

On April 2, 2003, the business manager submitted a personal check to NPSD in the amount of \$317.22, as reimbursement for the interest on the purchase price of the Dell Pentium III computer (\$1,900). The business manager's calculation of the interest was based on a rate of 11 percent from the date of the purchase in August 2001, through March 31, 2003 (554 days).

In the April 3, 2003, interview with OSI, the business manager stated that all NPSD equipment in his possession for which he had not paid reimbursement would be returned to the school district. Later, we verified that the items had been returned to NPSD by August 2003. According to the business manager, he did not return all of the NPSD property to the school district at the time of his April 3 interview because he was still using the equipment in his tax business at that time. On August 1, 2003, the business manager stated that he had returned all of NPSD property which had been located in his home, the costs of which had not been included in the reimbursement check he submitted to the school district.

Conclusions and Recommendations

The business manager used NPSD funds and equipment for his own personal benefit and financial gain and asked a subordinate to create a form to give the appearance that there had been proper documentation of the business manager's use of school district equipment at his residence.

Initially, the business manager falsely stated to OSI that he did not have NPSD-owned or purchased equipment at his home and that he never used NPSD funds for personal purchases. Less than two weeks later, he admitted that he used school district funds to purchase a \$1,900 computer, as well as other merchandise costing approximately \$480, and that he used school district equipment in his outside employment.

The business manager reimbursed the school district after OSI began its investigation and more than 550 days after the first personal purchase was made.

A copy of this report will be sent to the State Ethics Commission for review.

It is recommended that NPSD:

- Conduct an inventory of all equipment taken from the school district's premises by the business manager or purchased by him with school district funds and verify that all items are in the custody of the school district.

- Establish policies and procedures to monitor purchases by school district administrators, including requiring approval by the school board and periodic audits.
- Review all school district credit card accounts to determine reasonableness and necessity. Additionally, a policy and procedure should be established to monitor the accounts.

NPSD's Response to Finding No. 1

NPSD intends to conduct its own investigation to determine if school district property has been removed or purchased without authorization.

NPSD has implemented a procedure to require a school district administrator to verify all purchase orders prior to their submission for payment approval.

NPSD has contracted with the Pennsylvania School Boards Association (PSBA) for a review and update of all NPSD policies.

All NPSD purchase orders must be approved through the business office; all business office purchases must be approved through the superintendent's office. According to the school district's response, the procedure would also be applicable to use of credit cards.

The Department of the Auditor General's Comments

We agree with NPSD's decision to conduct an investigation concerning inventory and to seek assistance from the PSBA.

However, as they are described in the response, NPSD's policies and procedures to monitor purchases do not appear to represent a significant change from those in effect at the time the activities described in Finding No. 1 took place. *The school board needs to closely monitor those policies and procedures to ensure that they are followed. We also urge NPSD to require periodic audits of purchasing activities, including use of credit cards.*

The Business Manager's Response to Finding No. 1

In the business manager's response, he stated:

Clearly, I had not paid for the equipment in a timely manner and my actions in this regard were wrong. However, the evidence is uncontroverted that there was a receivable created at the time of purchase which was within, and remained until the time I made full payment, with interest, in the records of the North Pocono School District to which the

administration, essentially District office staff including the Superintendent had full access at all times. My point is that there was no attempt to avoid payment for this computer, it was simply not made in a timely fashion.

The business manager also stated:

Your report identifies “a financial benefit” as being derived from that piece of equipment. That computer was used exclusively for personal use and at no time was it used for profit by me, or anyone else. If I do not understand your use of the terms financial versus personal benefit, I apologize and I ask that you advise how these terms are used in your report. If my usage is correct, I ask that you make the appropriate corrections.

The Department of the Auditor General’s Comments

OSI reviewed the workpapers for NPSD’s Independent Audit Report for the year ended June 30, 2002. The workpapers disclosed that the business manager did create a receivable in the school district’s records on December 20, 2001. (It should be noted that the receivable was created on the date the computer was paid for, not at the time it was obtained.) This receivable was for the purchase of the Dell computer paid for by NPSD. However, in order to close out this receivable and its related account on June 30, 2002, the end of the fiscal year, the business manager created a journal entry and provided it to the CPA firm that conducts the school district’s regular independent audits.

The journal entry closed out the receivable and recorded it as an expense for instruction and supplies for the year ended June 30, 2002. *This effectively removed the receivable from NPSD’s records and listed it as paid in full.* Once this was done, the receivable was eliminated from the records and was recorded as paid through another account. From that time forward, the records showed no indication that further payment would be required. Therefore, it is our position that, whether he acted intentionally or not, the business manager’s actions in regard to the receivable had the effect of concealing that NPSD had paid for a computer obtained by the business manager for personal use and for which he had not reimbursed the school district.

In regard to the business manager’s question concerning how the terms financial and personal benefit are used in the report, our view is that the business manager’s use of the Dell Pentium III computer (as well as the other NPSD computer equipment) for non-NPSD business, whether for a private business, family activities or recreation, constituted misuse and such misuse was of personal financial benefit to the business manager since taxpayers’ money, rather than the business manager’s own resources, were used to pay for the computer.³ There was also no evidence that the business manager took any steps to pay for the computer until after the beginning of our investigation.

³ Within the meaning of the State Ethics Act, the free use of the Dell Pentium III computer equipment would appear to constitute a “thing of value received.”

Finding No. 2 – NPSD failed to report payments made to an individual who served as acting superintendent during the 1999-2000 school year to the Internal Revenue Service and reported inaccurate and misleading information about the individual’s employment to the Public School Employees’ Retirement System.

In 1999-2000, NPSD paid a retired administrator (he was previously employed by the Northeast Intermediate Unit for about 37 years) to serve as acting superintendent. His title was “Superintendent of Schools.” The individual (referred to as the “acting superintendent”) was hired at the June 23, 1999, school board meeting to serve as acting superintendent of schools, effective July 1, 1999, through a service contract agreement. According to the contract, the individual was hired under emergency conditions. In August 1999, the school board voted to employ the individual at a monthly rate equal to the previous superintendent’s salary.

The payments by NPSD to the acting superintendent were as follows:

Table No. 2 – NPSD’s Payments to the Acting Superintendent

Date	Check No.	Amount
08/5/1999	40595	\$7,000
09/3/1999	40737	\$7,760
10/7/1999	40977	\$7,760
11/4/1999	41271	\$7,760
11/24/1999	41464	\$7,760
1/7/2000	41668	\$7,760
2/3/2000	41834	\$7,760
3/1/2000	41990	\$7,760
4/7/2000	42170	\$7,760
Total		\$69,080

The totals by calendar year were \$38,040 (1999) and \$31,040 (2000). The individual worked at NPSD until April 2000.

Taxes

The payments were made through the NPSD general fund, not the payroll account. No funds were withheld for tax purposes. Internal Revenue Service (IRS) 1099 forms were not issued to the acting superintendent or sent to IRS to report the payments as miscellaneous income.

According to the NPSD payroll clerk, the former NPSD business manager, who left his position with the school district in late 1999, told her to issue a Form 1099 to the acting superintendent at year's end. However, the current business manager, who started working at NPSD in November 1999, gave the payroll clerk a memorandum which listed persons who were to receive 1099s. The acting superintendent was not one of them. The business manager told OSI that, at the time he was hired, he had only a brief orientation, there was no software to properly identify recipients of 1099s and he relied on reviews of prior years' 1099s as the sources for determining who should be given 1099s. He acknowledged that he prepared the memorandum referred to by the payroll clerk.

In the business manager's interview with OSI on April 3, 2003, he said that the acting superintendent should have been issued 1099s.

The acting superintendent told OSI that he did not receive 1099s from NPSD for 1999-2000. He said that he did not discuss the matter with anyone until he read a news article about the Department's investigation of NPSD in 2003. He said he filed amended tax returns for 1999 and 2000 on March 3, 2003 (about three weeks after the Department's investigation began). According to him, he reported the income from NPSD on the amended returns and paid the additional taxes due for 1999 and 2000.

PSERS

At the time the individual was hired to serve as NPSD's acting superintendent, he was an annuitant in the Public School Employees' Retirement System (PSERS). The Public School Employees' Retirement Code (the PSERS Code) provides that if an annuitant returns to service as a school employee, any annuity payable to him shall cease on the date of his return to service. However, an annuitant may be returned to service as a school employee for remuneration during an emergency, for a period not to exceed 95 full-day sessions in any school year, without loss of the annuity. The determination of the existence of an emergency is within the judgment of the employer. In computing the number of days of school service, any time less than one-half day is counted as one-half day.⁴

Under regulations adopted by PSERS, an annuitant returning to school service in an emergency situation and who works in excess of 95 days in a school year shall "suffer discontinuance" of the annuity from the 96th day and PSERS will make an adjustment "as the case may warrant."⁵ An annuitant may render service without discontinuance of an annuity if the service is rendered "in the capacity of an independent contractor for a sum certain and for a specific period of time under a contract approved by the employer." The PSERS board may inquire into the circumstances to determine whether the independent contractor relationship exists. If the PSERS board "finds that the relationship may be contrary to the intent of [the regulation], the board has the right to discontinue the annuity or make the adjustment as the circumstances warrant."⁶

⁴ 24 Pa. C.S. § 8346(a) and (b).

⁵ 22 Pa. Code § 213.46(c).

⁶ 22 Pa. Code § 213.46(d).

The acting superintendent told OSI that:

- He was hired at NPSD under an emergency appointment because the school district was without a superintendent.
- He is a retired administrator and collects a full-time pension from PSERS for his almost 40 years of service.
- He was paid by NPSD for 35 to 40 hours per week. His regular workday was approximately 8:00 a.m. to 4:00 p.m. with a one-hour lunch.
- He sent a letter to PSERS notifying it of his appointment; however, he probably exceeded the 95-day limit by about 15 days.

The former business manager for NPSD told OSI that he was the business manager at the time when the acting superintendent was appointed. He stated that, at first, the acting superintendent was being paid at a daily rate of \$350; however, the amount paid to him was changed to a salary equivalent to that of the former superintendent.

The former business manager also told OSI that the acting superintendent approached him sometime in August 1999 and asked him to sign a letter to PSERS. The purpose of the letter was to inform PSERS that the retired employee was now serving as acting superintendent of schools for NPSD and was receiving income. The former business manager stated that “he read the letter and the contents of the letter were not true”; the acting superintendent was not working part-time as the letter stated; he was working full-time, at least 40 hours per week. The former business manager said that he returned the letter to the acting superintendent and informed him that he would not sign the letter because its contents were not true.

A letter from NPSD concerning the employment of the acting superintendent, signed by a school board member as the then-school board secretary, dated September 2, 1999, was sent to PSERS and stamped as received on September 20, 1999. The letter stated that NPSD had appointed the individual as acting superintendent effective August 11, 1999, on a two days a week basis (i.e., for one half day, four times a week) until February 2000. (Emphasis added.) The former NPSD board secretary who signed the letter stated to OSI that he considered the acting superintendent of NPSD to be a full-time employee; he did not recall signing the letter sent to PSERS and said that he would not have signed it knowing the contents were not true. He stated that he clearly made a mistake and did not read the letter at the time.

Conclusions and Recommendation

Payments by NPSD to the acting superintendent were not disclosed to the IRS in a timely manner. False and misleading information concerning the acting superintendent's employment was sent to PSERS. The acting superintendent worked on a full-time, rather than part-time, basis and worked more than 95 full-day sessions. The information related to this matter will be referred to the appropriate law enforcement and tax collection agencies, and to PSERS, for their review and further action.

It is recommended that NPSD prepare and implement policies and procedures to ensure that all tax, employment and salary information concerning its employees and others receiving income from the school district is submitted to the IRS, other taxing authorities and PSERS in a complete, accurate and timely manner.

NPSD'S Response to Finding No. 2

NPSD's response stated that it has implemented several new accounting programs to aid in payroll and accounts receivable during the last few years and that it will endeavor to implement other policies and procedures as are deemed warranted to ensure compliance with tax regulations.

The Department of the Auditor General's Comments

Copies of the final report are being sent to the IRS and the Pennsylvania Department of Revenue, as well as to PSERS. In addition to any oversight by those agencies, NPSD should also periodically review compliance with its own policies and procedures and obtain the assistance of its independent auditing firm in doing it.

Finding No. 3 – While there is evidence that the current NPSD superintendent engaged in outside employment with the knowledge of the NPSD board, there is no record of such notice or approval by the school board. Additionally, the current superintendent failed to disclose the outside employment on his Statement of Financial Interest filed pursuant to the State Ethics Act.

From September 2001 through April 2003, the NPSD superintendent taught courses at Wilkes University, Wilkes-Barre, PA.⁷ The following is a schedule of dates, courses, times and salary information:

Table No. 3 – The NPSD Superintendent’s Employment at Wilkes University

Date	Course	Times	Salary
09/04/01 to 12/11/01	Current Issues in Education	Tuesday-4: 30 p.m. to 7:30 p.m.	\$3,600
01/15/02 to 04/30/02	School Law	Tuesday- 4:30 p.m. to 7:30 p.m.	\$3,600
07/08/02 to 07/25/02	Issues in Education	Monday through Thursday- 2: 00 p.m. to 5:30 p.m.	\$3,600
09/03/02 to 12/01/02	School Law	Tuesday-4: 30 p.m. to 7:30 p.m.	\$3,600
01/14/03 to 04/22/03	School Law	Tuesday-4: 30 p.m. to 7:30 p.m.	\$3,600
Total			\$18,000

The Public School Code prohibits an “executive director” of a school district from engaging in teaching unless it is done without any other compensation that was paid to him as superintendent, except in specific limited circumstances, “if he is released for such service” by the school board.⁸

The superintendent’s contract with the NPSD states:

The Superintendent agrees to devote his full time, attention, energies, skills and labor to his employment as District Superintendent during the term of this agreement provided, however, that he may undertake speaking engagements, writing, college teaching or other professional duties and obligations provided the Board of School Directors of the district is informed prior thereto and does not direct him to discontinue such activities.

⁷ All references to the NPSD superintendent in this finding are to the current superintendent.

⁸ 24 P.S. § 10-1007.

We found no documentation in the school district's records, including the school board's minutes, that the school board was informed of the superintendent's outside employment, approved it, released him for such service or took any action in regard to the employment.

The superintendent told OSI that he had been an adjunct professor for Wilkes University since the fall of 2001. He said that he believed he had NPSD board approval for the employment, however he did not believe it would be in the official board minutes. He also said that he was unaware he was required to obtain NPSD board approval of the employment as stated in the Public School Code.

He stated that he left NPSD sometime between 3:15 p.m. to 3:45 p.m. on the days of the classes at Wilkes University during the school year; in the summertime, his class started at 2:00 p.m. He said that he arrived at NPSD at approximately 7:00 a.m. on those days and that, therefore, the teaching did not affect the hours he was obligated to work at NPSD during the summer.

After the draft report was sent to NPSD, we received the following:

- The superintendent, in his response to the draft report, stated that he discussed his outside employment with the board of directors on two occasions and received verbal approval at executive sessions of the school board on August 6 and September 10, 2001. The superintendent gave OSI the names of two current school board members and one former member who recalled the superintendent's conversation with the school board.
- OSI spoke to the two current NPSD board members. Both stated that they recalled that the superintendent asked for permission to have outside employment during a school board executive session. One stated that the session was in 2000; the other referred to an August 6, 2001, meeting.
- The superintendent sent OSI letters from another current NPSD board member and the former board member mentioned above. In the letters, both stated they recalled that the superintendent had discussed his intention or opportunity to teach at Wilkes University at a school board executive session.

The portion of NPSD's response relating to Finding No. 3 did not provide any additional information concerning whether the superintendent had informed the school board of the outside employment.

In view of the information we were given in response to the draft report, there is not sufficient evidence to warrant a conclusion that the superintendent failed to notify the school board about the outside employment. The available evidence is that at least some board members were informed. However, the notice was not recorded or documented.

The NPSD superintendent is required to file a Statement of Financial Interests (SFI) annually in accordance with requirements of the Public Official and Employee Ethics Act (the Ethics Act).⁹ The superintendent's SFI for 2001 did not disclose that he had employment with, or received income from, Wilkes University during those years. The superintendent told OSI he was not aware that he was required to list the employment or income on his SFI.

Several hours after the interview, the superintendent informed OSI that he had contacted his attorney pertaining to the filing of the SFI and that he had amended the SFI for 2001 to include income he received from Wilkes University for that year.

Conclusions and Recommendations

While the superintendent informed some school board members and the board may have been aware of the superintendent's outside employment, there is no record of such notice or of school board approval. The superintendent also failed to comply with the disclosure requirements of the State Ethics Act.

The matter will be referred to the State Ethics Commission for review.

It is recommended that NPSD establish and implement policies and procedures to ensure that officials and staff comply with all applicable requirements related to outside employment. We also recommend that notices, approvals and all other board actions related to outside employment be placed on the record and documented. If in this case, the school board concludes that proper notice was not provided and/or that approval was not given, it should take appropriate action, including giving its response to the superintendent and documenting the response in the school board's minutes.¹⁰

NPSD's Response to Finding No. 3

The response stated that NPSD's intent is to follow the terms of the superintendent's contract and the Public School Code.

The Department of the Auditor General's Comments

Unfortunately, NPSD's responses did not state (1) whether the school board has concluded that the superintendent properly informed it of his outside employment and (2) whether the school board has decided to approve the outside employment, release the superintendent for such service or direct him to discontinue such activities.

⁹ 65 Pa. C.S. §§ 1102, 1104 and 1105.

¹⁰ This is a change from our recommendation in the draft report and is based on the information we received in response to it.

The information provided to us after the completion of the draft report disclosed that at least several school board members state that they were informed of the superintendent's outside employment. Furthermore, the superintendent appears to be engaging in the outside employment currently, with the school board's knowledge.

To avoid further uncertainty, the notice and any subsequent action in regard to it by the school board should be made a part of the school district's records and the school board's minutes. It is unfair to the superintendent, and the school board itself, as well as taxpayers, to continue to have uncertainty with regard to the question of notice and approval of the superintendent's outside employment.

The Superintendent's Response to Finding No. 3

The relevant portions of the superintendent's response have been summarized on p. 14. The complete response appears on pp. 20-21.

The Department of the Auditor General's Comments

We made changes to Finding No. 3 and the recommendations based on the additional information we received in the responses to the draft report. The superintendent's response included his description of incidents and statements at an August 13, 2002, board meeting and a conversation with a board member in October 2002. We have no information that provides a basis to either confirm or question that portion of the superintendent's response.

Observations - NPSD does not have, or does not follow, policies and procedures concerning the business manager's travel expense reimbursements, documentation of administrators' vacation leave and petty cash funds.

OSI's investigation did not include a full review or audit of NPSD's financial records. However, based on reviews of specific records and interviews, the following were noted:

1. The NPSD's business manager signs and approves his own travel expense reimbursement requests. NPSD's policy states that the validity of payments for job-related expenses shall be determined by the superintendent. The business manager said he was aware that he should not be approving his own travel expense reimbursement payments. He said he did so because he had a poor relationship with the superintendent.
2. NPSD does not have an adequate procedure to track, monitor and document vacation leave taken by administrators whose employment is governed by their individual contracts with the school district.
3. NPSD does not comply with its own policy concerning petty cash funds. The justification for all expenditures is not documented. The person responsible for petty cash funds is not bonded as required by NPSD policy.

We found no evidence of misuse of funds in connection with the above activities. However, it is recommended that NPSD review its policies and procedures concerning travel expense reimbursement, vacation leave and petty cash funds and take appropriate steps to ensure that they are followed, or modified where necessary.

In its response, NPSD did not specifically refer to the above Observations. We reiterate that NPSD should include a review of the policies and procedures referred to in the Observations as part of any future oversight efforts.

RESPONSES

NPSD's Response

On behalf of the North Pocono School District, please accept the following as a response to the Draft Report prepared by your office, dated October 3, 2003. It should be noted that the Draft Report was not provided to the Board of School Directors as a whole. Upon obtaining the consent of the Office of Auditor General, the Report was presented to the Board. Thereafter, the earliest available time to meet investigator [redacted] to review the report was October 14, 2003. We are therefore responding based upon the information available without the benefit of conducting an internal investigation.

The North Pocono School District has adopted policies and procedures including but not limited to the expenditure of funds. The policies as enacted are intended to provide a system of checks and balances. It should be noted that the District has contracted with the Pennsylvania School Board Association for the purposes of reviewing and updating all District policies. Moreover, the District's Board Treasure has implemented a procedure requiring a district administrator to verify all purchase orders prior to submission for payment approval.

With regard to the recommendation of inventorying all equipment removed from the District as well as purchases made by the District's business Manager, we assume your agency's investigation was thorough and complete. That investigation did not infer property other than what was specifically identified in the Draft Report as having been removed from the District or purchased with District funds by the Business Manager. Nevertheless, it is intent of the North Pocono School District to conduct its own investigation to determine if District property has been removed from the premises or purchased without authorization.

With regard to your recommendation as to establishing policies and procedures to monitor purchases by district administrators, the Board Treasure has implement such a procedure. By way of example, should the Director of Buildings and Grounds desire to make a purchase, the purchase order must be approved through the business office. Likewise, should the business office wish to make a purchase, then the purchase order must be approved through the superintendent's office. These procedures together with current District policies while not beyond error, will provide a measure of assurance till such time as the District's policies are updated.

As to the recommendation pertaining to the use of District credit cards, the above procedure is applicable in providing a system of checks and balances wherein the business office would approve purchase orders or in the event of a purchase order drafted by the business office, the superintendent of schools would approve the same.

As you may be aware, during the last few years, the District has implemented several new accounting programs to aid in payroll and accounts receivable. The District is of the opinion that through sound accounting practices and policies, all tax, employment and salary information will be submitted in an accurate and timely manner to taxing authorities. The District will endeavor to implement such other policies and procedures as are deemed warranted to ensure compliance with the taxing body regulations.

With regard to the final two points of recommendation, pertaining to outside employment and the superintendent's unapproved and undisclosed outside employment, it is the intent of the North Pocono School District to follow the terms of the superintendent's contract and that of the Pennsylvania Public School Code.

In conclusion, the North Pocono School District will be implementing the standards as set forth in the General Accounting Standard Board (GASB) and we are optimistic that those standards will provide further assurances of compliance with District policy and procedure.

We look forward to the Department's Final Report.

The Superintendent's Response

I am responding to your October 3, 2003, draft final report of your investigation of the North Pocono School District. As per your communication, I have an opportunity to submit a response to be included in the final report no later than October 20, 2003. I contacted Special Investigator, _____, by telephone, and he requested that I send my written response directly to you. In addition, I understand that representatives from your division will be meeting with the North Pocono School District Board of Directors on Tuesday, October 15, 2003. Since _____, President, of the North Pocono School District Board of Directors has not provided me with an opportunity to participate in this meeting and to present information that will clarify issues on my behalf, I have no other recourse than to forward a written response to you for your review. I apologize for any inconvenience this may cause to you and your staff.

In your findings and observations, page i finding No. 3, your report states, "the NPSD superintendent engaged in outside employment without the knowledge or approval of the NPSD board and without proper disclosure on the superintendent's Statements of Financial Interest filed pursuant to the state Ethics Act." The accusation of engaging in outside employment without the knowledge or approval of the NPSD board is totally without merit since I did approach and discuss this issue with the board of directors on two occasions. Several board members, those of which were interviewed by _____, fabricated this accusation, and they intended to fabricate another accusation with regards to a school district digital camera. Please have your investigators take the time to further research this accusation and finding. In fact, I spoke with the directors, and received their verbal approval in executive session on Monday, August 6, 2001, and again on Monday, September 10, 2001. I had nothing to hide or be embarrassed about with regards to the issue of teaching at the higher education level. I discussed how it was an honor for a district to have a superintendent teaching at the college level, how I would use this experience to keep abreast of the issues in education, how I would observe highly qualified new, young teachers and how I would be giving something back to my chosen profession. Members of the board asked if it would be on or off school time. I responded that I would teach Tuesday evenings since the board had stated that meetings should occur on Monday and Wednesday and leave Tuesday and Thursday without meeting, as the board has attempted to in the past.

I suggest you discuss this issue with _____ . I spoke with each of them individually regarding this issue and they recall my conversation with the board, and the board's de facto approval of my teaching. Attached is information acknowledging my notification of the directors, and their de facto approval of my teaching at the college level. In addition, Atty. _____, School District Solicitor, was present on both occasions for my discussions with the directors regarding this issue. On many occasions, Atty. _____ and I discussed my teaching at Wilkes. In fact, several times he inquired about being available to speak at one of my classes, and we frequently discussed what was current with regards to school law issues. At the August 6 and September 10, executive sessions, Atty. _____, legal counsel for the board and the district, never suggested or recommended board approval by motion to become part of the board meeting minutes, but he was certainly aware of my discussion, and aware of the board's approval.

Outside of my 2001 discussions with the board of directors in executive sessions, the only time the issue of teaching at Wilkes University was brought to my attention was at my August 13, 2002, evaluation meeting in the Board Conference Room. [redacted], Board President, had appointed a committee comprised of

[redacted]. During the course of that meeting, [redacted] verbally attacked me about teaching at Wilkes University on "company time and double dipping." His statements were very accusatory in nature and not supported in fact. He claimed that I was leaving the district daily at 11:00 A.M. for the entire summer. I attempted to clarify his numerous inaccuracies without much success. Furthermore, during October 2002, [redacted] was at my home installing a hot water heater in my basement. When I asked him why an evaluation was not submitted to the board of directors for discussion and review, he informed me that [redacted] and [redacted] approached him about an unsatisfactory rating for me. [redacted] stated that he would not, "play ball" with them and [redacted] was, "out to get you for teaching at Wilkes."

With regards to the accusation of not properly disclosing the Superintendent's Statements of Financial Interest filed pursuant to the state Ethics Act, [redacted] questioned me and addressed this issue with me on April 28, 2003. I clearly and freely admitted that I was not aware of my failure to report nor did I intentionally overlook this issue during my 2001 and 2002 financial statements. With regards to this error, I immediately revised my 2002 form for the May 1, 2003, submission and I submitted a revised statement for 2001 on August 22, 2003 to the State Ethics Commission, after contacting them by telephone to inquire about the process of submitting a revision for 2001. Furthermore, in all instances, I filed W2's from Wilkes University for my 2001 and 2002 income tax returns. Clearly, if [redacted] had not pointed out my error, I would have been delinquent in my 2002 filing, in addition to my 2001. Clearly, not properly filing the statements of financial interest was my error, not intentional and corrected immediately after being discussed with [redacted]. Attached are copies of my revised 2001 Statement of Financial Interest, which was forwarded to the State Ethics Commission, and my 2002 statement, which was submitted, in a timely fashion. In addition, if you would like to review my IRS reports for those years, I will gladly produce those documents for you.

The Business Manager's Response

I am writing in response to the draft report of the North Pocono School District dated October 3, 2003. Please review your report as I believe its content is materially different than from what actually occurred.

When [redacted] arrived at North Pocono High School there were a large number of wide ranging allegations made but at the conclusion of his investigation, the only issues remaining were found in Section one (1) of the October 3, 2003 report. I must confess that I did panic in my first meeting with [redacted] as a result I tried avoid the fact that I did not yet pay for the computer equipment. Clearly, I had not paid for the equipment in a timely manner and my actions in this regard were wrong. However, the evidence is uncontriverted that there was a receivable created at the time of purchase which was within, and remained until the time I made full payment, with interest, in the records of the North Pocono School District to which the administration, essentially District office staff including the Superintendent had full access at all times. My point is that there was no attempt to avoid payment for this computer, it was simply not made in a timely fashion.

Accordingly, I would like to address what I believe is an inaccuracy in the report. I ask that a correction and/or a clarification be made. I believe that the report as written does not accurately describe the use of the computer in question. Your report identifies "a financial benefit" as being derived from that piece of equipment. That computer was used exclusively for personal use and at no time was it used for profit by me, or anyone else. If I do not understand your use of the terms financial versus personal benefit, I apologize and I ask that you advise how these terms are used in your report. If my usage is correct, I ask that you make the appropriate corrections.

Finally, I have been a certified public accountant for approximately fifteen (15) years and this is the first instance where my professional reputation as been challenged. It is a very uncomfortable position to be in, however I do acknowledge that I am here through my own fault. I simply ask that the report be reviewed so that the implication is not that I used this piece of equipment for financial gain and be amended to reflect personal use.

Thank you for your time and consideration in this matter and should you have any questions regarding this, I am available at your convenience at

REPORT DISTRIBUTION LIST

This report was distributed initially to the members of the NPSD school board, superintendent, business manager, the solicitor for NPSD and to the following:

The Honorable Vicki L. Phillips, Ed.D
Secretary of Education
Pennsylvania Department of Education

The Honorable Barbara Hafer
State Treasurer

The Honorable Mike Fisher
Attorney General
Commonwealth of Pennsylvania

The Honorable Andrew J. Jarbola, III
Lackawanna County District Attorney

Connie Huber
Acting Comptroller
Labor, Education and Community Services

John J. Contino, Executive Director
State Ethics Commission

Jeffrey B. Clay, Executive Director
Public School Employees' Retirement System

Ann Boyko
School Personnel Services Administrator
Pennsylvania School Boards Association

Copies are also being distributed to the Bureau of Individual Taxes and the Office of Criminal Tax Investigation, Pennsylvania Department of Revenue, the Internal Revenue Service and the Bureau of Professional and Occupational Affairs, Pennsylvania Department of State.

Auditor General Web Site Address:

www.auditorgen.state.pa.us

This report is a matter of public record. Copies of this report are available on the Department of the Auditor General's web site and from the Department's Office of Communications, 318 Finance Building, Harrisburg, Pennsylvania 17120.