PERFORMANCE AUDIT

Lehigh Career and Technical Institute

Lehigh County, Pennsylvania

November 2013

Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General

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EUGENE A. DEPASQUALE
AUDITOR GENERAL

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

Mr. David M. Kennedy
Joint Operating Committee Chairperson
Lehigh Career and Technical Institute
4500 Education Park Drive
Schnecksville, Pennsylvania 18078

Dear Governor Corbett and Mr. Kennedy:

We conducted a performance audit of the Lehigh Career and Technical Institute (Center) to determine its compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). Our audit covered the period March 18, 2011 through June 30, 2014, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2011 and June 30, 2012. Our audit was conducted pursuant to Section 403 of The Fiscal Code, 72 P.S. § 403, and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found that the Center complied, in all significant respects, with relevant requirements, except as detailed in one (1) finding noted in this report. In addition, we identified one (1) matter unrelated to compliance that is reported as an observation. A summary of the results is presented in the Executive Summary section of the audit report.

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

Sincerely,

Eugene A. DePasquale
Auditor General

November 13, 2014

cc: **LEHIGH CAREER AND TECHNICAL INSTITUTE** Joint Operating Committee Members

Table of Contents

Executive Summary

Audit Work

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

Our audit scope covered the period March 18, 2011 through June 30, 2014, except as otherwise indicated in the audit scope, objectives, and methodology section of the report. Compliance specific to state subsidies and reimbursements was determined for the 2010-11 and 2011-12 school years.

Center Background

According to Center officials, the Center provided educational services to 2,565 secondary pupils and 738 post-secondary pupils through the employment of 103 teachers, 94 full-time and part-time support personnel, and fifteen (15) administrators. A joint operating committee (JOC), which is comprised of 21 members from the following schools, directs the operation, administration, and management of the school:

Allentown City
Catasauqua Area
East Penn
Northern Lehigh
Northwestern Lehigh
Parkland
Salisbury Township
Southern Lehigh
Whitehall-Copley

The JOC members are appointed by the individual school boards at the December meeting, each to serve a two-year term. Lastly, the Center received approximately $3.8 million in state funding in the 2011-12 school year.

Audit Conclusion and Results

Our audit found that the Center complied, in all significant respects, with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures, except for one (1) compliance related matter reported as a finding. In addition, we identified one (1) matter unrelated to compliance that is reported as an observation.

Finding: Overpayments into Former Executive Director's Retirement Savings Account Violated Contract. During our audit of the Lehigh Career and Technical Institute's (Center) payroll records from July 1, 2008 through June 30, 2012, we found that the Center's former Executive Director directed Center staff to convert 41 unused vacation days into payments made into his retirement savings account during the 2011-12 school year. This violated his contract by exceeding the allowable number of 20 unused days eligible to be converted (see page 6).

Observation: Payments for Unused Vacations Days Were Unnecessarily Inflated. Our audit of the Lehigh Career and Technical Institute (Center) found that the Center inaccurately calculated the daily rates used to determine payments for unused vacation days (see page 10).

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

Audit Scope, Objectives, and Methodology

Scope

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

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

Our audit covered the period March 18, 2011 through June 30, 2014, except for the verification of professional employee certification, which was performed for the period July 1, 2013 through August 28, 2013.

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

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

Objectives

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

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

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

- ✓ In areas where the Center receives state subsidies and reimbursements based on payroll (e.g., Social Security and retirement), did it follow applicable laws and procedures?

- ✓ Were there any declining fund balances that may pose a risk to the Center's fiscal viability?

- ✓ Did the Center pursue a contract buy-out with an administrator and if so, what was the total cost of the buy-out, what were the reasons for the termination/ settlement, and does the current employment contract(s) contain adequate termination provisions?

- ✓ Did the Center take appropriate steps to ensure school safety?

- ✓ Did the Center have a properly executed and updated Memorandum of Understanding with local law enforcement?

- ✓ Were votes made by the Joint Operation Committee members free from apparent conflicts of interests?

- ✓ Were there any other areas of concern reported by independent auditors, citizens, or other interested parties?

Methodology

What are internal controls?

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

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

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

Center management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the Center is in compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). In conducting our audit, we obtained an understanding of the Center's internal controls, including any information technology controls, as they relate to the Center's compliance with relevant requirements that we consider to be significant within the context of our audit objectives. We assessed whether those controls were properly designed and implemented. Any deficiencies in internal controls that were identified during the conduct of our audit and determined to be significant within the context of our audit objectives are included in this report.

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

Our audit examined the following:

- Records pertaining to pupil transportation, pupil membership, bus driver qualifications, professional employee certification, state ethics compliance, financial stability, reimbursement applications, tuition receipts, and deposited state funds.

- Items such as Joint Operating Committee meeting minutes and policies and procedures.

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

Findings and Observations

Finding

Overpayments into Former Executive Director's Retirement Savings Account Violated Contract

During our audit of the Lehigh Career and Technical Institute's (Center) payroll records from July 1, 2008 through June 30, 2012, we found that the Center's former Executive Director directed Center staff to convert 41 unused vacation days into payments made into his retirement savings account during the 2011-12 school year. This violated his contract by exceeding the allowable number of 20 unused days eligible to be converted.

The former Executive Director's contract allowed for the conversion of up to 20 unused vacation days per year:

> *An annual employer contribution equal to the value of 20 unused vacation days or personal days which are valued at the per diem rate during the year of payment shall be made to a 403 (b) or 457 (b)* [retirement savings] *account on behalf of the employee. Each year the employee's balance of vacation days and/or personal days shall be reduced by the amount of days designated by the employee, but not to exceed 20 days for the contribution made to the 403 (b) or the 457 plan. If the balance of days is not sufficient, then this benefit will be reduced accordingly. The school contribution may be made directly into a qualified 403 (b) plan or into a 457 (b) non-qualified deferred compensation program at the discretion of the employee. This condition shall be implemented July 1, 2004.*

The number of days converted during the 2011-12 school year exceeded the allowable amount. On August 30, 2011, the former Executive Director directed Center personnel to convert eleven (11) unused vacation days into his retirement savings plan, and then again on January 10, 2012, he instructed personnel to convert 30 additional unused vacation days to the same plan.

This is a clear violation of the contract that only allowed a transfer of 20 unused vacation days per year. These combined contributions resulted in an overpayment of $15,543 into his retirement savings account.

Recommendations

The *Lehigh Career and Technical Institute* should:

1. Ensure all Joint Operating Committee-approved employment agreements be as transparent as possible, so that the Center's taxpayers and member districts can evaluate their appropriateness.

2. Observe the terms of its administrator's contracts.

Management Response

Management stated the following:

"The administration of Lehigh Career & Technical Institute (LCTI) respectfully disagrees with the finding that there was an overpayment of $15,543 into the former Executive Director's retirement savings account. Administration contends the former Executive Director was eligible for payout of all accrued vacation days. The school is responsible for this payment, and therefore, there was no financial detriment to the school.

The intent of the 20-day limit was for annual budgetary purposes only and was not meant to place limitations on or discriminate against an employee who is terminating employment. It is the standing practice at LCTI to permit all eligible employees terminating employment with LCTI to determine how they will receive their unpaid vacations days whether through check, use of the days, or contribution into a retirement savings account. It is within the employee's rights under IRS code that they may defer any amount up to the published IRS limits. Also, to utilize a 457 account, personal contributions (rather than employer contributions) can only be made via employee deductions, therefore personal contributions must be done while the person is still an employee.

The former Executive Director was originally scheduled to retire on December 31, 2011 but the Joint Operating Committee (JOC) requested him to stay longer until the new Executive Director was on board. The JOC approved an extension of his retirement date to be effective February 29, 2012. When he agreed to delay his retirement into a new tax calendar year, the ability to contribute additional funds into his retirement savings account became an option. It was the Executive Director's choice (as it would be for any employee from support staff to administration) to take payment of the unused days by requesting a contribution into a retirement savings account of which the former Executive Director chose his 457 account.

The administration contends that if it is anything, it is simply a procedural violation. There was no financial detriment to the school nor did the former Executive Director realize any advantage over any other employee in utilizing the retirement savings account to close out remaining accrued days. It should also be mentioned that the former Executive Director could have utilized the vacation days to extend his employment which would have increased costs to the school for healthcare, PSERS, life insurance, and long-term disability. The manner utilized was actually a savings to the school. It should also be mentioned the former Executive Director had never exceeded the vacation day payout limit in the past which is testament that this was done only to close out his reimbursable accounts with no intent to violate the contract.

Corrective action: LCTI will require the following language to all future applicable contracts. '*For all years except in the final employment year, payment for unused vacation days will be limited to a maximum of xxx days.'* LCTI has already enacted the clause in the recent renewal of the Human Resources Manager's contract."

Auditor Conclusion

While we acknowledge that the overpayment may not have had a negative financial impact to the Center, the point that the payment violated the contract must not be lost. The language in any contract serves as protection for all involved parties. And though we appreciate the Center's point that the former Executive Director's decision to take the leave payout in the form of payments into their savings account actually saved the Center money, the Center itself makes the point that a departing employee could invoke the Center's "standing practice" and take the remaining leave—again violating the contract and costing the Center and taxpayers all associated costs.

In addition, we would recommend that the Center's Joint Operating Committee consider officially adopting as policy its "standing practice" of allowing employees to determine how they will receive their unpaid leave balances.

Nevertheless, we are encouraged that the Center has enacted the above clause to its employment contracts. We will follow up on our recommendations during the next cyclical audit of the Center.

Observation

Payments for Unused Vacation Days Were Unnecessarily Inflated

Our audit of the Lehigh Career and Technical Institute (Center) found that the Center inaccurately calculated the daily rates used to determine payments for unused vacation days.

Each administrator of the Center, including the positions of executive director and business manager, is a twelve (12) month employee and has a board-approved salary that is divided into biweekly payments. Payroll is based on 365 days less approximately 104 weekend days, or 260 or 261 work days (depending on how the calendar falls). Nevertheless, according to District personnel, at the time the Center administrators retire, payments for unused vacation leave are calculated using a daily rate—salary divided by work days—based off of 240 work days. There is no basis for this figure other than it is granted in the contracts.

On May 28, 2008, the Joint Operating Committee (JOC) entered into an Employment Agreement with the former Executive Director for a term of four (4) years—from June 1, 2008 through June 30, 2012. The JOC also entered into an agreement, on August 22, 2007, with the Business Manager for a term of five (5) years from July 1, 2007 through June 30, 2012. Both contracts included clauses that stated, "*The annual salary shall be based on a 240 day work year.*"

Using the 240 number, instead of 260 or 261, inflates payouts for unused leave. For example, we reviewed leave records for the two (2) administrators mentioned above, who retired on February 29, 2012 and July 1, 2012. In both instances, using 240 days instead of 260 or 261 days increased their unused vacation payouts by $4,953 and $193, respectively (see table below).

	Employee One (Retired 2/29/12)		**Employee Two (Retired 7/1/12)**	
	Audit	District	***Audit***	District
Days per Year	260	240	260	240
Daily Rate	$ 683.23	$ 740.16	$ 515.90	$ 558.89
Days Paid	87	87	4.5	4.5
	$59,441.01	$64,393.92	$2,321.55	$2,515.01
Overpayment:	**$ 4,952.91**		**$ 193.46**	

The taxpayers have the right to expect that their hard earned money will be spent on the education of the Center's students and not on inflated payments to individuals. Furthermore, the information in these agreements should be more transparent to the public so that the taxpayers can consider such information when determining whether the JOC has made decisions in the best interest of the Center, the member district, the taxpayers, and the students.

Recommendations

The *Lehigh Career and Technical Institute* should:

1. Ensure that all of the Center's employment agreements be as transparent as possible, so that the Center's taxpayers can evaluate their appropriateness.

2. Divide the yearly salary by 260 or 261 calendar days to determine the daily rate for payment of unused days.

Management Response

Management stated the following:

"Lehigh Career & Technical Institute (LCTI) administration respectfully disagrees with the auditor's observation that the daily rate was inflated. LCTI acted in compliance with the Pennsylvania School Code and all other applicable laws when determining this benefit. All items in the contract including the contracted days worked are considered negotiable benefits. Our teacher contract was negotiated to be a 190 or 191 day contract. They get paid only for days worked with no paid holidays. The 240-day administrator contract is the exact same concept; payment is only for those days actually worked with no paid holidays. All negotiated groups with 260-day contracts have paid holidays throughout the year.

Corrective action: All future contract benefits will be negotiated in a careful and calculated manner with the object in mind to be transparent, legal, and fair yet attractive enough to draw the most experienced and seasoned administrators to the LCTI administrative team to ensure the vision set by the Joint Operating Committee will be realized."

Auditor Conclusion

As stated above, the taxpayers have a right to know that their hard earned money is spent on the education of the students and not on excess benefits to individuals. We are encouraged that the Center is going to negotiate future contracts carefully. We will follow up on our recommendations during the next cyclical audit of the Center.

Status of Prior Audit Findings and Observations

Our prior audit of the Lehigh Career and Technical Institute resulted in no findings or observations.

Distribution List

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

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