DALLASTOWN AREA SCHOOL DISTRICT

YORK COUNTY, PENNSYLVANIA

PERFORMANCE AUDIT REPORT

NOVEMBER 2013

COMMONWEALTH OF PENNSYLVANIA

EUGENE A. DEPASQUALE - AUDITOR GENERAL

DEPARTMENT OF THE AUDITOR GENERAL

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EUGENE A. DePASQUALE
AUDITOR GENERAL

The Honorable Tom Corbett	Mr. Kenneth A. Potter, Jr., Board President
Governor	Dallastown Area School District
Commonwealth of Pennsylvania	700 New School Lane
Harrisburg, Pennsylvania 17120	Dallastown, Pennsylvania 17313

Dear Governor Corbett and Mr. Potter:

We conducted a performance audit of the Dallastown Area School District (District) to determine its compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). Our audit covered the period October 15, 2010 through July 24, 2012, except as otherwise indicated in the report. Additionally, compliance specific to state subsidies and reimbursements was determined for the school years ended June 30, 2010 and June 30, 2009. Our audit was conducted pursuant to Section 403 of The Fiscal Code, 72 P.S. § 403, and in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

Our audit found that the District complied, in all significant respects, with relevant requirements.

On May 14, 2012, the Pennsylvania Department of the Auditor General (Department) initiated a special audit of the details surrounding the former Superintendent for the District's premature separation from employment with the District on May 10, 2012. This performance audit covered the period July 1, 2004 through September 30, 2012, and 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. This performance audit was separate and distinct from the District's cyclical performance audit, which was conducted simultaneously and the results of which are described in the following pages of the audit report. The Department conducts its cyclical performance audits approximately every two years.

The objectives for this special audit were as follows:

- ✓ Did employment contracts with the former Superintendent or other administration officials contain adequate separation provisions sufficient to protect the interests of the local education agency (LEA), its students, and its taxpayers in the event the employment of the administrators ends prematurely for any reason?

- ✓ Did the LEA provide as much information as possible to its taxpayers explaining the reasons for the former Superintendent's separation and justifying the expenditure of funds by or through the LEA in order to terminate the contract early?

- ✓ Did the LEA enter into employment contracts with the former Superintendent at the three-year minimum provided by state law in order to limit potential financial liability by the LEA and its taxpayers in the event financial liability was not adequately limited through contract provisions?

- ✓ To the greatest degree possible, what is the total financial cost of the former Superintendent or other administration officials' early contract termination, including funds received by the LEA from private individuals or other entities to facilitate the buy-out?

- ✓ Was the separation agreement transparent and without confidentiality clauses so taxpayers are aware of why the termination occurred?

Our special audit found that the District complied, in all significant respects, with relevant requirements, except as detailed in two findings noted in this report. A summary of the results is presented in the Executive Summary section of the audit report.

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 administrative requirements. We appreciate the District's cooperation during the conduct of the audit.

Sincerely,

JOHN M. LORI
Deputy Auditor General for Audits

November 22, 2013

cc: **DALLASTOWN 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 Dallastown Area School District (District) in York County. Our audit sought to answer certain questions regarding the District's compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures and to determine the status of corrective action taken by the District in response to our prior audit recommendations.

Our audit scope covered the period October 15, 2010 through July 24, 2012, 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 2009-10 and 2008-09 school years.

District Background

The District encompasses approximately 53 square miles. According to 2010 federal census data, it serves a resident population of 41,093. According to District officials, the District provided basic educational services to 5,944 pupils through the employment of 437 teachers, 286 full-time and part-time support personnel, and 31 administrators during the 2009-10 school year. Lastly, the District received $16 million in state funding in the 2009-10 school year.

Audit Conclusion and Results

Our cyclical audit found that the District complied, in all significant respects, with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures (relevant requirements). Our special audit found that the District complied, in all significant respects, with relevant requirements, except for two compliance related matters reported as findings.

Finding No. 1: Former Superintendent Received Compensation Beyond Contract Provisions. Our review of the Dallastown Area School District's former Superintendent's cost for vehicle use from July 1, 2004 through February 9, 2012, found repairs and maintenance, rental of equipment, gasoline, and auto insurance expenditures were $8,324 in excess of the $500 per month allowance permitted by his employment contract (see page 6).

Finding No. 2: Possible Improper Reporting of Retirement Wages. Our audit of the Dallastown Area School District's (District) former Superintendent's employment agreements and payroll records found that the District may have reported ineligible retirement wages in the amount of $3,678 to the Public School Employees' Retirement System for the 2011-12 school year (see page 9).

Status of Prior Audit Findings and Observations. With regard to the status of our prior audit recommendations to the Dallastown Area School District (District) from an audit released on April 13, 2011, we found that the District had taken appropriate corrective action in implementing our recommendations pertaining to the transportation operations (see page 11) and Memoranda of Understanding (see page 12). However, the Pennsylvania Department of Education did not implement our recommendation pertaining to the adjustment of the District's transportation subsidy (see page 11).

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 October 15, 2010 through July 24, 2012, except for:

- the verification of professional employee certification, which was performed for the period October 16, 2010 through June 12, 2012; and
- the review of vehicle reimbursement costs paid to the former superintendent, which was performed for the period July 1, 2004 through February 9, 2012.

Regarding state subsidies and reimbursements, our audit covered the 2009-10 and 2008-09 school years.

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

Objectives

What is the difference between a finding and an observation?

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

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

✓ Were professional employees certified for the positions they held?

✓ In areas where the District received state subsidies and reimbursements based on pupil membership (e.g. basic education, special education, and vocational education), did it follow applicable laws and procedures?

- ✓ Did the District 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 District received state subsidies and reimbursements based on payroll (e.g. Social Security and retirement), did it follow applicable laws and procedures?

- ✓ In areas where the District received transportation subsidies, were the District, and any contracted vendors, in compliance with applicable state laws and procedures?

- ✓ Did the District, and any contracted vendors, ensure that current bus drivers were properly qualified, and did they have written policies and procedures governing the hiring of new bus drivers?

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

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

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

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

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

- ✓ Did the District take appropriate corrective action to address recommendations made in our prior audit?

Methodology

> *What are internal controls?*
>
> Internal controls are processes designed by management to provide reasonable assurance of achieving objectives in areas such as:
>
> - Effectiveness and efficiency of operations.
> - Relevance and reliability of operational and financial information.
> - Compliance with certain relevant state laws, regulations, contracts, grant requirements, and administrative procedures.

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

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

In order to properly plan our audit and to guide us in possible audit areas, we performed analytical procedures in the areas of state subsidies and reimbursements, pupil transportation, 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 board meeting minutes and policies and procedures.

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

Lastly, to determine the status of our audit recommendations made in a prior audit report released on April 13, 2011, we reviewed the District's response to PDE dated April 19, 2012. We then performed additional audit procedures targeting the previously reported matters.

Findings and Observations

Finding No. 1

Former Superintendent Received Compensation Beyond Contract Provisions

Criteria relevant to the finding:

The former Superintendent's contract provided for an automobile expense as follows:

"The District shall pay up to $500 per month toward the costs of an automobile for business use by the Superintendent. The parties contemplate that the District will lease, insure, maintain, and pay the fuel costs of the vehicle in a total amount not to exceed $500 per month (emphasis added). Superintendent shall report his personal use of the automobile as the District may require. If such arrangement should be unsatisfactory to either party, then the District will reimburse Superintendent for automobile expenses in an amount not to exceed $500 per month."

Internal Revenue Service Publication 463, Travel, Entertaining, Gift, and Car Expenses, states:

"To be an accountable plan, your employer's reimbursement or allowance arrangement must include all of the following rules:

1. Your expenses must have a business connection – that is, you must have paid or incurred deductible expenses while performing services as an employee of your employer.

Our review of the Dallastown Area School District's (District) former Superintendent's vehicle expenditures from July 1, 2004 through February 9, 2012, found that his costs for repairs and maintenance, rental of equipment, gasoline, and auto insurance were $8,324 in excess of the $500 per month allowance as follows:

	Total Spent	Total Permitted	Overpaid
2004-05	$ 6,856	$ 6,000	$ 856
2005-06	6,997	6,000	997
2006-07	7,041	6,000	1,041
2007-08	7,649	6,000	1,649
2008-09	6,281	6,000	281
2009-10	7,355	6,000	1,355
2010-11	7,828	6,000	1,828
2011-12	317	*	317
Total	$50,324	$42,000	$8,324

*Former Superintendent requested his $500 per month automobile allowance be added to his salary and paid through payroll beginning July 1, 2011.

It was noted that the District's business office was not empowered to oversee the implementation of the former Superintendent's contract. As a result, his vehicle costs were not monitored for compliance with the terms of his contract. Furthermore, the District did not obtain any reports regarding personal use of the leased vehicle. Since the former Superintendent had use of a District gas card and then reimbursed the District through payroll deductions, he could have personally benefited from purchasing tax-exempt gas for personal use.

In addition, based on our review of the Internal Revenue Service (IRS) Publication 463 *(Travel, Entertainment, Gift, and Car Expenses*) and the IRS Publication 15 (*Employer's Tax Guide*), we concluded that the former Superintendent's mileage allowance may be considered a nonaccountable plan. Specifically, because it was based on flat rates, with no record of mileage, any funds in excess of the District's

Criteria relevant to the finding (continued):

2. You must adequately account to your employer for these expenses within a reasonable period of time.

3. You must return any excess reimbursement or allowance within a reasonable period of time.

According to the federal Government Accountability Office's (formerly the General Accounting Office) *Standards for Internal Control in the Federal Government,* internal controls are key factors in an agency's ability to meet its mission, improve performance, and "minimize operational problems."

In addition, this guidebook states that an "Internal control is not an event, but a series of actions and activities that occur throughout an entity's operations and on an ongoing basis . . . In this sense, internal control is management control that is built into the entity as a part of its infrastructure to help managers run the entity and achieve their aims on an ongoing basis." U.S. General Accounting Office. *Standards for Internal Control in the Federal Government.* (November 1999), pg 1.

mileage reimbursement rate could be kept by the administrator without accountability. If considered a nonaccountable plan, then the former Superintendent would not be required to return the excess funds.

The District's Board of School Directors (Board) should not have entered into a contract that permitted the former Superintendent to receive a vehicle allowance under a nonaccountable plan. In addition, the Board should have directed the business office to establish internal controls over the payment of the former Superintendent's contracted benefits and the benefits of any other separately contracted administrative employees. Without these accountability mechanisms, the Board needlessly put taxpayer dollars at risk of misuse. In this instance, the amount of funding that the District lost as a result of its poor oversight was small. However, such a lax internal control environment substantially increases the likelihood that much more of the District's public dollars could be misspent.

Recommendations

The *Dallastown Area School District* should:

1. Implement procedures to ensure the business office is provided and/or has access to all contracts with the District so payments and compliance with the contracts can be monitored for compliance.

2. Implement adequate procedures to ensure gas cards are used and monitored to ensure use is for business purposes only.

3. Replace the District's potentially nonaccountable mileage allowance plan with an accountable plan, which requires the submission of receipts and mileage driven.

4. Request repayment of the $8,324 from the former Superintendent who was paid beyond the contract provisions, if automobile expense is considered an accountable plan.

5. Ensure negotiations do not include compensation which is not earned or required by contract (i.e. automobile allowance when not employed by the District).

Management Response

Management stated the following:

"Management concurs with the determination of the auditors. The car allowance was not included in the contract for the current Superintendent, and no other District employee has a car allowance. Additionally, the District will review available options for obtaining reimbursement from the previous Superintendent in the amount of $8,324."

Auditor Conclusion

We are encouraged that the District concurs with our finding. We again stress the value of putting into place policies and procedures to ensure that contracts are followed and that gas cards are properly monitored. We will follow up on our recommendations during our next cyclical audit of the District.

Finding No. 2

Possible Improper Reporting of Retirement Wages

Criteria relevant to the finding:

The Public School Employees' Retirement System's (PSERS) Employer Reference Manual, Chapter 5, states, in part:

"Unqualified Earnings (Non Retirement Covered Compensation)

The PSERS Board's Regulations, *22 Pa. Code § 211.2* states that certain types of payments you make to your employees must not be included in a retirement calculation.

Reimbursements for expenses, including tuition" was included in the types of payments made to a school employee eligible for PSERS membership that are unqualified earnings.

The former Superintendent's contract provided for an automobile expense as a fringe benefit (reimbursement of an expense) which stated the following:

"The District shall pay up to $500 per month toward the costs of an automobile for business use by the Superintendent. The parties contemplate that the District will lease, insure, maintain, and pay the fuel costs of the vehicle in a total amount not to exceed $500 per month (emphasis added). Superintendent shall report his personal use of the automobile as the District may require. If such arrangement should be unsatisfactory to either party, then the District will reimburse Superintendent for automobile expenses in an amount not to exceed $500 per month."

Our audit of the Dallastown Area School District's (District) former Superintendent's employment agreements and payroll records found that the District might have reported ineligible retirement wages in the amount of $3,678 to the Public School Employees' Retirement System (PSERS) for the 2011-12 school year.

Beginning with the 2011-12 school year, the former Superintendent directed the business office to process his $500 per month, $6,000 per year, automobile allowance through payroll as salary. Since payroll pro-rated the automobile allowance over the entire year, the District may have incorrectly reported $22.99 per day to PSERS for the 160 days that the former Superintendent was employed from July 1, 2011 through February 9, 2012, his date of resignation. Payments made subsequent to February 9, 2012, were correctly reported to PSERS as non-eligible retirement wages.

Salary payments are used to determine the percentage of salary and average salary that a former employee would receive in retirement payments. District personnel stated that the former Superintendent instructed the business office to process the car allowance as salary, which would make it PSERS eligible.

Although the Board of School Directors has the authority to craft the terms of an employment agreement, it may not supersede PSERS' benefit structure. PSERS makes the final determination on the eligibility of all wages for inclusion in retirement credit. If PSERS determines that the former Superintendent's automobile allowance was not eligible for retirement wages, their inclusion in PSERS would result in reporting errors and overpayments to PSERS for the former Superintendent for the 2011-12 school year.

Recommendations

The *Dallastown Area School District* should:

1. Contingent upon PSERS' final determination, report to PSERS only those wages allowable for retirement

purposes, as provided for in the PSERS' Employer Reference Manual.

2. Implement procedures for reviewing all salary and contribution reports in order to ensure that only eligible wages are being reported to PSERS for retirement contributions.

The *Public School Employees' Retirement System* should:

3. Review the former Superintendent's salary payments and determine what action, if any, is necessary with regard to the District's inclusion of his $3,678 automobile allowance payments for retirement contributions.

Management Response

Management stated the following:

"Management concurs with the determination of the auditors that ineligible wages may have been reported to PSERS for the 2011-12 fiscal year. The District will wait for the final determination from PSERS on how the $3,678 in retirement wages is to be addressed."

Auditor Conclusion

While we are encouraged that the District concurs with our finding, we again reiterate our recommendation to implement procedures for reviewing all salary and contribution reports to ensure compliance with PSERS' Employer Reference Manual. We will follow up on our recommendations during our next cyclical audit of the District.

Status of Prior Audit Findings and Observations

Our prior audit of the Dallastown Area School District (District), released on April 13, 2011, resulted in two findings. The first finding pertained to the District's transportation operations, and the second finding pertained to Memoranda of Understanding. As part of our current audit, we determined the status of corrective action taken by the District to implement our prior audit recommendations. We analyzed the District's written response provided to the Pennsylvania Department of Education (PDE), performed audit procedures, and interviewed District personnel regarding the prior findings. As shown below, we found that the District did implement our recommendations related to both findings. However, we also found that PDE did not resolve the District's transportation underpayments, as recommended.

Auditor General Performance Audit Report Released on April 13, 2011

Finding No. 1: **Transportation Reimbursement Underpayments**

Finding Summary: Our prior audit of the District's transportation data for the 2007-08 and 2006-07 school years found that the District had not reported activity runs for three vehicles to PDE for either year, resulting in underpayments to the District totaling $60,197. The District employee responsible for transportation reporting did not realize that activity runs were reimbursable.

Recommendations: Our audit finding recommended that the District:

1. Establish an internal review procedure to ensure that all vehicles and routes eligible for reimbursement are reported to PDE.

2. Obtain and review PDE's annual end-of-the-year reporting instructions.

3. Review reports for years subsequent to the current audit period and, if errors are found, submit revised reports to PDE.

We also recommended that PDE:

4. Adjust the District's allocations to resolve the underpayments of $60,197.

Current Status: During our current audit, we found that the District did implement our prior recommendations. The District's corrective action was as follows:

1. The District has established procedures to ensure all vehicles and routes eligible for reimbursement are reported. The District has established a system in which two individuals are responsible for ensuring all transportation information is properly reported.

2. According to District officials, personnel responsible for transportation reimbursement obtain and review PDE's annual end-of-the-year reporting instructions to ensure proper reporting.

3. The District has reviewed subsequent years to the prior audit and submitted changes. As of June 21, 2012, PDE confirmed receipt of the District's changes but had not processed the subsidy.

At the end of the fieldwork for our current audit, PDE had not resolved the underpayments of $60,197 and had not adjusted the District's subsidy. Consequently, we again recommend that PDE make these adjustments, and we suggest that the District's management follow up with PDE to ensure that the District recoups its additional subsidy.

Finding No. 2: Internal Control Weakness Regarding Memoranda of Understanding

Finding Summary: Our prior audit of the District's records found that the current Memoranda of Understanding (MOU) between the District and the two local law enforcement agencies were dated August 25, 2006, and had not been updated since.

Recommendations: Our audit finding recommended that the District:

1. Review, update, and re-execute the current MOUs between the District and the local law enforcement agencies.

2. Follow the General Provisions of the District's MOU requiring that the MOUs be reviewed and re-executed within two years of the date of their original execution and every two years thereafter.

3. Adopt an official board policy requiring the administration to review and re-execute the MOU every two years, as stated in the current MOU.

<u>Current Status:</u> During our current audit, we found that the District did implement our prior recommendations. The District's corrective action was as follows:

1. The District updated its MOU with the first local law enforcement agency as of May 19, 2011, and it updated its MOU with the second local law enforcement agency as of June 2011.

2. The District updated all of its MOUs as of June 2011. Since two years has not passed since these were updated, we could not confirm whether the District is reviewing the MOU every two years. We will follow up on this issue again during our next cyclical audit.

3. The District's personnel provided auditors with the District's process for ensuring staff update the MOUs every two years. While this process is not an official board policy, implementing these procedures does address our prior recommendations.

Distribution List

This report was initially distributed to the Superintendent of the District, the Board of School Directors, our website at www.auditorgen.state.pa.us, and the following stakeholders:

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