

SUMMARY REPORT:
BERWICK AREA SCHOOL DISTRICT

September 2003

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 June 2002, the Department received a complaint concerning fund-raising for student activities in the Berwick Area School District (BASD). An investigation was conducted by the Department's Office of Special Investigations (OSI). During the inquiry, OSI learned of possible discrepancies in BASD's records and reporting concerning the duties of a school district employee. The investigation was expanded to cover those matters. The investigation included interviews of BASD school board members, officials and employees and reviews of records of BASD and, the Pennsylvania Department of Education (PDE).

The draft findings, conclusions and recommendations of this report were sent to BASD on July 23, 2003, to provide an opportunity for a response. The solicitor's response on behalf of BASD included additional information and records. After reviewing those materials, OSI reinterviewed the superintendent and the former school district employee and interviewed members of the BASD guidance counseling staff. As a result of the additional information and interviews, corrections were made to the draft report and Finding No. 1 was substantially revised. The information provided in the school district's responses has been incorporated into the final report.

¹ 72 P.S. § 403.

SUMMARY

A BASD employee whose primary activity was to serve as football coach also performed duties, at least nominally, as Director of Guidance without being properly certified to do so.

BASD has adequate policy and procedures in place to manage fund-raising for student activities. While no evidence of misuse of funds was found, BASD does not have records to verify that a sports booster group complied with the policy and procedures.

RECOMMENDATIONS

1. PDE should take appropriate action to collect the subsidy forfeitures proposed as a result of the previous audit and institute whatever further sanctions PDE may consider warranted related to any misleading information submitted in connection with the certification matter.
2. BASD should (a) document the compliance of booster groups with the school district's policy and procedures concerning such groups and (b) resolve the status of the Mom's Squad as an approved sports booster activity so that its activities can be monitored by the school district.

Finding No. 1 – A BASD employee whose primary activity was to serve as football coach also performed duties, at least nominally, as Director of Guidance without being properly certified to do so.

From at least 1984 to January 2003, BASD had as one of the members of its administrative staff an employee who served, primarily, as football coach. His position was listed, at various times, as “Director of Guidance” or “Assistant to the Superintendent.”

The Department conducted a regular audit of BASD for the fiscal (school) years 1994-95 through 1997-98. As part of the audit, auditors reviewed the employee’s qualifications for the duties listed in his job description based on certification requirements established by PDE. During the audit, the BASD superintendent gave the Department’s auditors a document entitled “Director of Guidance Job Description.” According to the document, the duties of the Director of Guidance at the time the audit was conducted included management and coordination of three secondary guidance counselors; assignment of responsibilities to, and observation and evaluation of, guidance counselors; and planning and implementation of improvements to the guidance curriculum.

The audit report, released in July 2001, contained a finding that the individual was employed as Director of Guidance without school board approval and without proper PDE certification. The detailed narrative of the finding included the following:

Review of professional employees’ certificates and assignments for the period July 1, 1994 through October 14, 1998, disclosed an individual was assigned to the position of Director of Guidance without holding proper certification. Furthermore, review of the minutes of the meetings of the board of directors, and conversation with the district superintendent revealed that no formal board action was ever taken to approve the appointment of the individual.

As was stated in the audit report, PDE (rather than the Department) exercises ultimate authority in determining whether certification irregularities exist. During the audit, the information relating to the employee’s assignment as Director of Guidance was submitted by the Department’s auditors to PDE’s Bureau of Teacher Certification and Preparation (BTCPC). BTCPC issued a citation stating that the duties and functions of the position of Director of Guidance specified managing, coordinating and delegating duties of three secondary guidance counselors and that the position was that of a “Supervisor of School Guidance Services” and “may not be filled by someone holding a principal’s certificate.”²

² Commonwealth of Pennsylvania, Department of Education, Final Audit Review, Berwick Area School District, Audit File #98-49 (January 4, 1999). PDE’s requirements for pupil personnel service programs, including guidance, are contained in 22 Pa. Code § 7.11. PDE’s regulations concerning certification of professional personnel are set out in 22 Pa. Code, Chapter 49. Section 49.111 contains requirements for supervisors. They include five years of satisfactory special experience in the area and completion of an approved graduate program.

As a result of the information obtained by the auditors and BTCP's Finding, BTCP determined that the school district was subject to forfeitures of state subsidies totaling \$2,201 for the school years 1994-95 through 1997-98. The proposed forfeiture was included in the audit report's Finding. The audit report recommended that PDE recover the forfeiture amount and that BASD should require the employee to obtain proper certification or remove or reassign him, ensure school board approval was obtained for all future appointments, and adopt procedures to ensure that staff certifications were compared to applicable requirements.

BASD disagreed with the finding. Its response stated:

The questioned [employee] holds a secondary school principal's certificate. He was the assistant high school principal from 1979-80 through 1983-84. During that time period, part of the questioned employee's duties included overseeing of the guidance department.

DE procedures concerning the questioned certification changed about the time of this change of assignment. Previous guidelines allowed for the secondary school principal's certification to oversee an individual department.

Time has not been available to check for board approval records. Records will be reviewed and a meeting will be scheduled with the certification department in DE.

After the audit report was issued, BASD's superintendent and PDE reached an agreement on a new job description for the individual called "Supervisor of Secondary Pupil Personnel." BASD requested an administrative hearing on the forfeiture issue. As of the time of this investigation, the hearing had not yet taken place and PDE had taken no further action on the forfeiture.

From the 1998-99 school year until the 2002-03 school year, the employee was paid an annual salary of approximately \$54,000 to \$60,000 per year. During the same years, the employee was also paid approximately \$12,600 to \$13,900 per year to serve as the BASD head football coach. In January 2003, the individual retired from his position at BASD. He continues to serve as the school district's football coach pursuant to a personal services contract.

We reviewed the employee's professional history as shown in his personnel file and information submitted by the school district to PDE as part of annual summaries of all assignments of school district personnel. According to the BASD personnel file, for the school years 1984 through 1993, the employee was listed as "Assistant to the Superintendent"; from 1993 through 1999, his primary assignment was listed as "Guidance" and his secondary assignment was as "football coach"; from 2000 through January 2003 (when he retired) he was listed as "Assistant to the Superintendent." In the summary submitted to PDE the school district listed the employee's primary assignment for the years 1997 to 2003 as "driver education."

According to a job description adopted by the BASD school board on July 9, 1984, the employee held a position entitled “Administrative Assistant to the Superintendent in Charge of Cooperative Education and Driver Education.” The duties included driver training instruction, supervision of the cooperative education program, assisting in the development and operation of alternative education programs, coordination of community experience programs and fulfilling “other duties assigned by the superintendent.”

BASD discontinued its driver education program about five years ago. Since that time, the BASD school board has contracted with Intermediate Unit #16 for driver education services. The employee provided the training after school or on weekends and holidays up until the current school year. He was paid directly by the IU, not by BASD.

BASD staff members in charge of other programs and activities listed on the employee’s 1984 job description (cooperative education, alternative education, the Community Experience Program and staff and curriculum development) stated that the employee has never been involved in their programs or activities. The superintendent stated that he could not recall assigning special or other duties to the employee. When the superintendent was first asked about the employee’s duties by OSI, he stated that:³

- The employee’s job descriptions (i.e., the Director of Guidance job description given to the Department’s auditors during the audit in 2001 and the Administrative Assistant job description adopted by the school board in 1984) are not accurate. With the exception of driver education, the employee’s primary and almost exclusive activity has been to coach football.
- The superintendent informed the school board repeatedly about the discrepancy between the employee’s job description and his actual work but was told to “leave the situation alone.”
- The school board feared the political consequences of paying the employee such a large salary just for coaching football.
- The superintendent was unaware of discrepancies between the assignment listed in the individual’s personnel file and the information in the annual comprehensive summary filed with PDE.
- In connection with the Department’s audit for 1994-95 through 1997-98, the superintendent gave the Department’s auditors figures that were supposed to represent the percentage of time the employee worked as Director of Guidance. Those percentages were based on the amount of time the employee spent at the high school, not the time he spent as Director of Guidance.

³ These interviews with the superintendent were conducted in January 2003.

In OSI's initial interview of the employee, he stated that:⁴

- He never served as Director of Guidance at BASD. He coaches football or conducts football-related activities.
- He has never served in a guidance capacity except to counsel students informally as all teachers do.
- His office at BASD was located in the same area as the offices of the guidance staff; his involvement with those staff members was limited to having coffee with them.
- His official job title was "Assistant to the Superintendent."
- He did not perform any of the duties listed on his original (1984) job description for a number of years. In the years since the job description was written, the school board gradually took all responsibilities from him until his only activity was to coach football.
- He conducted driver education training for BASD until the school district contracted with IU #16; from that point on he conducted driver education instruction for the IU pursuant to the contract.
- Over the years, he has asked the school board and superintendent for more responsibility or other duties, including appointment as athletic director and assistant high school principal. The school board turned down those requests.

OSI interviewed three BASD school board members, each of whom have been on the board since at least 1997. Two of the members said they were under the impression the employee did more than coach football, were never informed that he was not performing the work listed in the job description and never had conversations with the superintendent regarding the employee's duties. The third board member stated that the school board was informed of the employee's actual duties; the board was told by the superintendent that all the employee was doing was coaching football and that the school board could "get into trouble" with the Department's auditors concerning the employee's job description.

All three of the board members we interviewed, and the superintendent, stated that the employee had requested additional work, including assignments as athletic director and as assistant high school principal.

⁴ The interview was conducted in January 2003.

After BASD received the draft report, the solicitor informed us that the employee had performed duties involving supervision and coordination of the BASD Guidance Department. The solicitor provided us with copies of forms used to rate members of the BASD guidance staff signed by the employee as the rater, and other records to document that the employee had served as Director of Guidance as well as carrying out other duties.

After reviewing the records, OSI interviewed four current/former guidance counselors at BASD. All four said that the employee performed supervisory duties in regard to guidance counselors, including rating job performance.

OSI reinterviewed the superintendent and the employee. These interviews were conducted in August 2003. The superintendent said he must have assigned the employee the duty of serving as Director of Guidance. He had misunderstood the question at the time of the original interview and had thought it pertained only to the employee's activities in the last few years before his retirement in January 2003.

OSI conducted two additional interviews of the employee. In the first one, he said he never served as Director of Guidance; he only oversaw the Guidance Department. In the second interview, he said the superintendent assigned him to rate the guidance counselors and he oversaw them only to the extent that any other principal would oversee a teacher in his school. He said that he recommended and signed approvals for the guidance staff trips as a matter of convenience.

Conclusions and Recommendations

Based on BASD records and information submitted to PDE and the Department's auditors concerning the duties of the employee, BASD was cited for a certification violation. During OSI's interviews in January 2003, the superintendent and the employee provided misleading information concerning the employee's actual duties. Whatever the reasons for the statements, it now appears that the employee performed duties for which proper certification was required, even if he performed those duties only nominally, and even if he was assigned the duties only to give the appearance that he had substantial responsibilities in addition to serving as football coach. Therefore, the certification citation was warranted.

Under the Public School Code, school board members and school district superintendents are responsible for the faithful performance of their duties.⁵ Superintendents, in particular, are responsible for the accuracy and completeness of information submitted to PDE, other state agencies and the school board. The report will be sent to PDE for review in regard to the statements and representations made in connection with this matter.

It is recommended that PDE take appropriate action to collect the subsidy forfeitures proposed as a result of the prior audit report and institute whatever further sanctions PDE may consider warranted related to any false and misleading information submitted in connection with the certification matter.

⁵ 24 P.S. §§ 3-321, 10-1004.

Finding No. 2 – BASD has adequate policy and procedures in place to manage fund-raising for student activities. While no evidence of misuse of funds was found, BASD does not have records to verify that a sports booster group complied with the policy and procedures.

Under the Public School Code, a school board is given the power to “prescribe, adopt and enforce such reasonable rules and regulations as it may deem proper” concerning athletics and other activities and clubs, organizations and groups related to the school program, including raising and disbursing funds for all such purposes.⁶

From the 1999-2000 school year to the present, fund-raising activities on behalf of the BASD high school football team have been conducted by a sports booster club or group known as the Berwick Football Parents/Mom’s Squad (the Mom’s Squad). There is also another booster group that supports the football team. That group is separate from the Mom’s Squad. The Mom’s Squad is composed of parents of BASD football players. According to BASD officials and members of the Mom’s Squad, its mission is to provide food for players after games and scrimmages and other support for the football program. The BASD football coach has worked closely with the Mom’s Squad. The Mom’s Squad was originally organized by the BASD football coach during the 1999-2000 school years in connection with the football team’s trip to Florida for a game. According to the Department of State’s Bureau of Charitable Organizations (BCO), the Mom’s Squad is not registered with BCO as a charitable fund-raising organization.

The Mom’s Squad maintains a bank checking account. OSI reviewed the group’s financial records. The football coach was not an authorized signatory on the bank account and did not sign any checks. One instance (described below in detail) was found of the Mom’s Squad’s failure to follow purchasing requirements of the Public School Code. We found no other evidence of misuse of funds. However, certain fund-raising activities in which the Mom’s Squad and its bank account were involved were conducted without the necessary approvals by BASD:

In the 1998-99 and 1999-2000 school years, BASD had a fund-raising policy that required permission of the appropriate building administrator and the superintendent and notification to the school board before any fund-raiser was undertaken. During the 1999-2000 school year, the football coach led an effort to raise funds for the football team to play in an exhibition game in Florida during the 2000 Thanksgiving vacation. The proposal was approved by the school board. No school district funds were to be used. Several fund-raising events were conducted to pay for the trip. One involved use of BASD volunteers, including football players, parents, coaches and teachers, to staff concessions at the Pocono Raceway during race events in June and July of 2000. The football coach made the arrangements with the firm that operates concessions at Pocono Raceway. The BASD band booster club also participated in the events. The Pocono Raceway fund-raising events were publicized in news articles; school board members and BASD staff appear to have been aware of them. There is no record of oral or written approval of the fund-raising event by BASD, or that notice of the event was given to the

⁶ 24 P.S. § 5-511(a).

school board. The football coach told OSI that he submitted a written request for approval. We found no record of the request at BASD.

The operator of the concessions issued a check in the amount of \$30,372.74 for the volunteers' work during the 2000 racing events. The check was deposited into the BASD student activity account. We found no evidence of misuse of the funds. Similar fundraisers were also held at Pocono Raceway in the summer of 2001 and 2002. BASD football players, parents, coaches and BASD staff members again served as the volunteers. The BASD band and swim booster clubs also participated. For both years' events, checks were issued by the concession operator.⁷ Those checks were made payable to the Mom's Squad and deposited into its account, from which funds were later withdrawn and paid to vendors for purchases on behalf of specific student activities. There is no record of approvals of the 2001 and 2002 Pocono Raceway fund-raising events by BASD officials or that notice of the events was given to the BASD school board.

With the exception of the above-mentioned checks, there are no records of the fundraisers' transactions with the concessions operator and no written agreement between the parties. Therefore, it cannot be determined whether the reimbursement received for the volunteers' work was reasonable and appropriate.

In August 2001, BASD adopted a new policy concerning booster club activities. Among other things, the policy requires that such clubs apply for recognition, submit bylaws, a budget and a business plan, file an accounting of expenditures and agree to comply with school district policies. As of June 1, 2003, the Mom's Squad was not listed in BASD's records as being in compliance with the new policy. According to the superintendent, the Mom's Squad has submitted all of the necessary paperwork to be approved but the school board has not yet approved the organization as a booster club. The Mom's Squad continues to conduct booster club activities.

The Public School Code requires that all purchases of materials or supplies by any student activity organization, club, society or group, school or class shall be made in accordance with the Code's requirements for purchases of supplies and equipment by school districts.⁸ Those requirements call for purchases costing \$10,000 or more to be made only after public notice and opportunity for competitive bidding.⁹ In February 2002, 93 jackets for the football team were purchased with a \$10,789 check from the Mom's Squad account. According to the football coach and representatives of the Mom's Squad, there was no formal advertisement or solicitation of bids for the jackets; the football coach contacted four local vendors and asked them to submit sealed bid quotes to the BASD high school principal. The high school principal gave a verbal confirmation that the bids were received and that the purchase was made from the lowest bidder. No records of the quotes were available.

⁷ The checks were in the amounts of \$28,000 (dated August 22, 2001) and \$19,381.28 (dated August 7, 2002).

⁸ 24 P.S. § 5-511(e).

⁹ 24 P.S. § 8-807.1(a).

Conclusions and Recommendations

BASD has an adequate policy and procedures in place to manage fund-raising for student activities. However, the school district does not have records to verify that the Mom's Squad has complied with the policy and procedures.

It appears that school district officials have been aware of the Mom's Squad fund-raising at Pocono Raceway and approved it tacitly by not taking steps to halt the school district's participation or prevent the use of the funds by student activities. However, there are no records of approvals, discussion, review or monitoring of the events. There was also an apparent failure to follow the competitive bidding requirements of the Public School Code in connection with use of the funds and failure by BASD to resolve the question of the Mom's Squad status as a booster club in a timely manner.

The Public School Code gives school districts broad authority to manage booster clubs. While no evidence of misuse of funds was found during the investigation, the absence of records and the failure to resolve the status of the Mom's Squad increase the possibility for misuse of funds due to lack of monitoring and may undermine support for booster group activities. Additionally, as a matter of prudent financial management, BASD should not continue to place itself in the position of accepting student activity funds from, and giving tacit support to, a fund-raising organization it does not monitor.

It is recommended that BASD document the compliance of booster groups with the school district's policy concerning such groups and resolve the status of the Mom's Squad as an approved sports activity so that its fund-raising efforts can be monitored by the school district.

In response to the draft report, BASD's solicitor sent us a copy of minutes of a February 22, 2002, BASD school board meeting in special session. The minutes reflect that the board voted by a 7 to 2 vote to enforce the current booster club policy.

THE DEPARTMENT OF THE AUDITOR GENERAL'S COMMENT:

The February 22, 2002, vote did not address the primary concern of the Finding, i.e., BASD does not have records to verify the Mom's Squad's compliance with the school district's policies and procedures. Additionally, it appears that while the booster group remains outside of the effective control of the school district, BASD student activities continue to accept funds raised by the group. Thus, BASD continues to tacitly endorse the group's activities without monitoring them.

REPORT DISTRIBUTION LIST

This report was distributed initially to the members of the BASD school board, the superintendent, the solicitor, the football coach and to the following:

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

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