

COMPLIANCE AUDIT

College Township Non-Uniformed Pension Plan Centre County, Pennsylvania For the Period January 1, 2016 to December 31, 2019

June 2020



Commonwealth of Pennsylvania
Department of the Auditor General

Eugene A. DePasquale • Auditor General



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EUGENE A. DePASQUALE
AUDITOR GENERAL

Township Council
College Township
Centre County
State College, PA 16801

We have conducted a compliance audit of the College Township Non-Uniformed Pension Plan for the period January 1, 2016 to December 31, 2019. We also evaluated compliance with some requirements subsequent to that period when possible. The audit was conducted pursuant to authority derived from Section 402(j) of Act 205 and in accordance with the standards applicable to performance audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of the audit were:

1. To determine if municipal officials took appropriate corrective action to address the findings contained in our prior audit report; and
2. To determine if the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies.

Our audit was limited to the areas related to the objectives identified above. To determine if municipal officials took appropriate corrective action to address the findings contained in our prior audit report, we inquired of plan officials and evaluated supporting documentation provided by officials evidencing that the suggested corrective action has been appropriately taken. To determine whether the pension plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies, our methodology included the following:

- We determined whether state aid was properly determined and deposited in accordance with Act 205 requirements by verifying the annual deposit date of state aid and determining whether deposits were made within 30 days of receipt for all years within the period under audit. State aid allocations that were deposited into the pension plan for the years ended December 31, 2014 to December 31, 2019, are presented on the Summary of Deposited State Aid and Employer Contributions.
- We determined whether annual employer contributions were calculated and deposited in accordance with the plan's governing document and applicable laws and regulations by examining the municipality's calculation of the plan's annual financial requirements and minimum municipal obligation (MMO) and comparing these calculated amounts to amounts actually budgeted and deposited into the pension plan as evidenced by supporting documentation. Employer contributions that were deposited into the pension plan for the years ended December 31, 2014 to December 31, 2019, are presented on the Summary of Deposited State Aid and Employer Contributions.
- We determined that there were no employee contributions required by the plan's governing document and applicable laws and regulations for the years covered by our audit period.
- We determined whether benefits distributed to all ten plan members who elected to receive some form of pension benefit during the current audit period represent payments to all (and only) those entitled to receive them and were properly disbursed in accordance with the plan's governing document, applicable laws and regulations by comparing the distributed amounts to supporting documentation evidencing amounts accumulated and actually paid to the recipients.
- We determined whether the January 1, 2015 and January 1, 2017 actuarial valuation reports were prepared and submitted by March 31, 2016 and 2018, respectively, in accordance with Act 205 and whether selected information provided on these reports is accurate, complete, and in accordance with plan provisions to ensure compliance for participation in the state aid program by comparing selected information to supporting source documentation.

College Township contracted with an independent certified public accounting firm for annual audits of its basic financial statements for the years ended December 31, 2016, 2017 and 2018, which are available at the township's offices. Those financial statements were not audited by us and, accordingly, we express no opinion or other form of assurance on them.

Township officials are responsible for establishing and maintaining effective internal controls to provide reasonable assurance that the College Township Non-Uniformed Pension Plan is administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies. In conducting our audit, we obtained an understanding of the township's internal controls as they relate to the township's compliance with those requirements and that we considered to be significant within the context of our audit

objectives, and assessed whether those significant controls were properly designed and implemented. Additionally and as previously described, we tested transactions, assessed official actions, performed analytical procedures, and interviewed selected officials to provide reasonable assurance of detecting instances of noncompliance with legal and regulatory requirements or noncompliance with provisions of contracts, administrative procedures, and local ordinances and policies that are significant within the context of the audit objectives.

The results of our procedures indicated that, in all significant respects, the College Township Non-Uniformed Pension Plan was administered in compliance with applicable state laws, regulations, contracts, administrative procedures, and local ordinances and policies except as noted in the following finding further discussed later in this report:

Finding – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

The contents of this report were discussed with officials of College Township and, where appropriate, their responses have been included in the report. We would like to thank township officials for the cooperation extended to us during the conduct of the audit.

April 8, 2020

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale", with a long horizontal flourish extending to the right.

EUGENE A. DEPASQUALE
Auditor General

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BACKGROUND

On December 18, 1984, the Pennsylvania Legislature adopted the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, No. 205, as amended, 53 P.S. § 895.101 et seq.). The Act established mandatory actuarial reporting and funding requirements and a uniform basis for the distribution of state aid to Pennsylvania's public pension plans. Section 402(j) of Act 205 specifically requires the Auditor General, as deemed necessary, to make an audit of every municipality, which receives general municipal pension system state aid and of every municipal pension plan and fund in which general municipal pension system state aid is deposited.

Annual state aid allocations are provided from a 2 percent foreign (out-of-state) casualty insurance premium tax, a portion of the foreign (out-of-state) fire insurance tax designated for paid firefighters and any investment income earned on the collection of these taxes. Generally, municipal pension plans established prior to December 18, 1984, are eligible for state aid. For municipal pension plans established after that date, the sponsoring municipality must fund the plan for three plan years before it becomes eligible for state aid. In accordance with Act 205, a municipality's annual state aid allocation cannot exceed its actual pension costs.

In addition to Act 205, the College Township Non-Uniformed Pension Plan is also governed by implementing regulations adopted by the former Public Employee Retirement Commission published at Title 16, Part IV of the Pennsylvania Code and applicable provisions of various other state statutes including, but not limited to, the following:

Act 177 - General Local Government Code, Act of December 19, 1996 (P.L. 1158, No. 177), as amended, 53 Pa.C.S. § 101 et seq.

The College Township Non-Uniformed Pension Plan is a single-employer defined contribution pension plan locally controlled by the provisions of Resolution No. R-92-15, as amended. The plan was established July 7, 1970. Active members are not required to contribute to the plan. The municipality is required to contribute 7.5 percent of each participant's base wages. As of December 31, 2019, the plan had 24 active members, 2 terminated members eligible for vested benefits in the future, and 5 retirees receiving pension benefits.

COLLEGE TOWNSHIP NON-UNIFORMED PENSION PLAN
STATUS OF PRIOR FINDINGS

Compliance With Prior Audit Recommendations

College Township has complied with the prior audit recommendations concerning the following:

- Receipt Of State Aid In Excess Of Entitlement

During the current period, the township reimbursed \$1,377 to the Commonwealth for the excess state aid received in 2014.

- Failure To Properly Allocate Forfeitures

During the current period, the township allocated forfeitures in the amount of \$1,698 to other eligible members' accounts in accordance with the plan document.

COLLEGE TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – Incorrect Data On Certification Form AG 385 Resulting In An Overpayment Of State Aid

Condition: The township certified an ineligible non-uniformed employee (1 unit) and overstated payroll by \$61,131 on the Certification Form AG 385 filed in 2019. This employee elected to receive a partial distribution of accrued pension benefits from the township's non-uniformed pension plan during 2018 while still continuing to work as a full-time employee of the township. Although in-service distributions are permitted under the plan document when a participant attains normal retirement age, the member opted to receive a distribution in excess of the required minimum distribution (RMD) amounts mandated by the federal government and therefore is ineligible for certification purposes. The data contained on this certification form is based on prior calendar year information.

Criteria: Pursuant to Act 205, at Section 402(e)(2), in order to be eligible for certification, an employee must have been employed on a full-time basis for at least six consecutive months and must have been participating in a pension plan during the certification year. However, it is the opinion of this department that a member cannot be both active and retired at the same time. Since the employee received a pension distribution in excess of RMD amounts prescribed by the federal government during 2018, this individual is considered retired for pension purposes and therefore not eligible for state aid certification.

Cause: Plan officials were unaware that the full time, working employee was considered retired when election was made to receive a retirement distribution from the pension plan; and therefore, not eligible for state aid certification purposes.

Effect: The data submitted on this certification form is used, in part, to calculate the state aid due to the municipality for distribution to its pension plan. Because the township's state aid allocation was based on pension costs, the incorrect certification of pension data affected the township's state aid allocation, as identified below:

<u>Year</u>	<u>Normal Cost</u>	<u>Payroll Overstated</u>	<u>State Aid Overpayment</u>
2019	7.5%	\$ 61,131	\$ 4,585

It was noted that the township previously returned state aid in excess of defined contribution pension costs to the Commonwealth during 2019, which included \$207 of the excess state aid identified above, leaving a state aid overpayment balance remaining in the amount of \$4,378.

COLLEGE TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Recommendation: We recommend that the total overpayment of state aid, in the amount of \$4,378, plus interest, be returned to the Commonwealth. A check in this amount, with interest compounded annually from date of receipt to date of repayment, at a rate earned by the pension plan, should be made payable to: Commonwealth of Pennsylvania and mailed to: Department of the Auditor General, Municipal Pension & Fire Relief Programs Unit, 321 Finance Building, Harrisburg, PA 17120. A copy of the interest calculation must be submitted along with the check.

We also recommend that in the future, plan officials specifically exclude individuals receiving retirement distributions from the pension plan in excess of RMD amounts while still actively employed by the municipality, when reporting subsequent required data for certification purposes.

Management Response: The municipality provided the following response, which is included in its entirety, as follows:

We acknowledge that Act 205 is intended to assist municipalities with their pension funding obligations. It is a funding mechanism and not a pension plan, per se. The terms of the funded plans are as they are adopted by the respective municipal governments. In every respect, both the Township and the employee complied with those terms.

We contend that we have met each and every one of the requirements for certification of the wages as set forth in the Act's "Criteria" section. **How would we know there was an additional criterion since this additional criterion is stated neither in the Act nor in the form instructions?** The following excerpts from the Act discuss the criteria for participant certification and please note that the township did not have the referenced promulgated rules and regulations:

(2) The applicable number of units shall be attributable to each **active employee** who was employed on a full-time basis for a minimum of six consecutive months prior to December 31 preceding the date of certification and who was participating in a pension plan maintained by that municipality, provided that the municipality maintains a generally applicable pension plan for that type of employee which was either established on or prior to December 31, 1984, or, if established after December 31, 1984, has been maintained by that municipality for at least three plan years.

(h) Certification of employees by eligible recipient municipalities.--Each eligible recipient county of the second class shall certify annually to the Auditor General the number of police officers and each other eligible recipient municipality shall certify annually to the Auditor General the number of police officers, firefighters and municipal employees other than police officers and firefighters **who meet the qualification requirements specified in subsection (e)(2)**, and whatever additional information the Auditor General requires to verify the number of units attributable to the municipality.

COLLEGE TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

We appreciate a position, by the department, that an employee could not in fact "retire", start collecting benefits, and then resume working to somehow create a "double-dip" on their benefits. That is certainly NOT the case here. In fact, the employee in question is still working, and still meets each of the aforementioned "criteria" for inclusion.

Moreover, we cannot control the extent to which the Commonwealth is occasionally inconvenienced by Federal law.

The imposition of penalties under the Internal Revenue Code for failing to take a required minimum distribution (RMD) certainly must change one's view of whether the employee took an "elective" withdrawal from the Plan. In addition, it should be noted that such withdrawal in no way increases the burden on the Township, or the Commonwealth, for current or future contributions to the Plan. It is a defined contribution plan, not a defined benefit plan.

Finally, and perhaps more appropriate as an opening comment, the employee is not/ has not retired. We reviewed Act 205, especially Section 102 Definitions. "Retired" does not appear as a defined term. Nor does any description of the term appear in the text of the Act, as far as we could find. Therefore, it only makes sense to look to a plain definition of the word.

We find "withdrawn from one's position or occupation: having concluded one's working or professional career" and "having left one's job and ceased to work" as common definitions.

For the many reasons set forth above, we respectfully disagree with the Department's stated condition, in part, that "a member is considered retired or severed from employment when an election is made to receive distributions from the plan." And, with its criteria, in part, "However, it is the opinion of this department that a member cannot be both active and retired at the same time." The isolated withdrawal of a sum of money from a defined contribution plan account should in no way serve to define a participant as "retired" when all the facts circumstances, and common sense, say otherwise.

The Commonwealth needs go no further than the U.S. Social Security Administration to find, we dare say, thousands, if not millions of people who have qualified for Social Security retirement benefits and have, in fact, continued working.

COLLEGE TOWNSHIP NON-UNIFORMED PENSION PLAN
FINDING AND RECOMMENDATION

Finding – (Continued)

Auditor Conclusion: Based on the management response, the department appreciates the township's efforts in stating its position regarding this issue.

In 1984, the Commonwealth enacted Act 205, the Municipal Pension Plan Funding Standard & Recovery Act that developed funding standards for all municipal pension systems. Additionally, the General Municipal Pension System State Aid Program was established pursuant to Section 402 of the act to assist municipalities in funding their required obligations under the act. Moreover, according to Section 102 of Act 205, a defined contribution pension plan is described as a type of pension benefit plan which provides for a fixed contribution rate or amount and which provides for periodic benefit payments calculable at retirement dependent on the accumulated contributions, investment income, experience gains and losses credited to the member and the expected mortality of the member.

Section 402(j) of Act 205 provides that the Auditor General may promulgate rules and regulations necessary for the efficient administration of this program. In addition, it is the role of this department to determine whether state aid is utilized in accordance with Act 205, accordingly. Since state aid allocated under Act 205 is intended to assist municipalities in funding of pension plans to provide future retirement benefit payments to individuals upon retirement, and not for distributions prior to such retirement, it has been the position of the department that a participant cannot be both active and retired at the same time for state aid certification purposes. Moreover, the department does not take exception to an individual's receiving an RMD from a pension plan as mandated under federal statute, merely, the department disqualifies an individual who elects to withdraw more than the RMD because of eligibility to draw benefits based on age and service but continues working full-time for state aid certification purposes. Therefore, the finding and recommendation remain as stated and compliance will be monitored subsequent to the release of the report and through our next plan engagement.

COLLEGE TOWNSHIP NON-UNIFORMED PENSION PLAN
SUMMARY OF DEPOSITED STATE AID AND EMPLOYER CONTRIBUTIONS

Year Ended December 31	State Aid	Employer Contributions
2014	\$ 98,323	None
2015	103,509	\$ 1,388
2016	105,045	1,784
2017	106,232	None
2018	102,157	\$ 9,912
2019	107,536	None

COLLEGE TOWNSHIP NON-UNIFORMED PENSION PLAN
REPORT DISTRIBUTION LIST

This report was initially distributed to the following:

The Honorable Tom W. Wolf
Governor
Commonwealth of Pennsylvania

Mr. Anthony Fragola
Chairman, Township Council

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Council Member

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